



County of Fairfax, Virginia

MEMORANDUM

DATE: February 22, 2021

TO: Board of Supervisors

FROM: Bryan J. Hill, County Executive *[Signature]*

SUBJECT: 2021 Legislative Report No. 3 – Board Legislative Committee Meetings of February 12, 2021, and February 19, 2021

With less than a week remaining in the 2021 General Assembly session, negotiations on the state budget are now a top priority for both chambers, although additional legislation is still under consideration ahead of the March 1 scheduled adjournment. The House Appropriations and Senate Finance Committees reported their respective budgets on February 10, and the full House and Senate approved these proposals on February 12. The Budget is now in conference, and staff is working with the County's representatives on the conference committee on the County priorities and will keep the Board informed as negotiations unfold.

The Legislative Committee met on February 12 and 19 to consider several issues of importance to the County. The Committee offers the following report and recommendations for action to the Board.

Legislative Committee Actions of February 12, 2021:

Legislative Committee Actions of February 19, 2021, begin on page 30

Members Present: Legislative Chairman Walkinshaw
Chairman McKay
Supervisor Alcorn
Supervisor Gross
Supervisor Lusk
Supervisor Palchik
Supervisor Smith
Supervisor Storck

Specific Issues

House and Senate Budget Amendments: The Committee received an overview of key House and Senate budget amendments of interest to the County. See handout on “Supplementary Documents,” page 64.

Report from the Commission to Examine Racial Inequity in Virginia Law: The Committee received an overview of the recently released report from the Commission to Examine Racial Inequity in Virginia Law. See handout on “Supplementary Documents,” page 73.

Priority Principles for Reviewing Legislation

- 1. Adequately fund K-12 education.**
- 2. Restore funding to the Northern Virginia Transportation Authority (NVTA) in an amount equal to what was diverted, to ensure that transportation projects continue to advance in Northern Virginia after decades of state underfunding.**
- 3. Build upon the successful enactment of significant transportation revenues by the 2013 and 2020 GAs to ensure sufficient funding for transportation needs.**
- 4. Restore the funding partnership between the state and localities through adequate state funding.**
- 5. Preserve local government authority, particularly in taxation and land use; allow greater flexibility in the administration of government.**

Legislation Provided for Discussion

SB 1468 (Surovell) (Passed Senate; HCT) establishes a process for a state or local law-enforcement agency, an attorney for the Commonwealth, the Attorney General, or any other agency or department employing law-enforcement officers to complete a certification form or declaration that is required by federal immigration law certifying that a person is a victim of qualifying criminal activity. Monitor. (21103854D-S1)

Fairfax County Legislative Summary

The Committee discussed the status of legislation on which the Committee had previously taken positions and discussed changing the positions on three bills. The Committee’s positions on these bills are noted in the attached tracking chart (see “Supplementary Documents” on pages 1-63).

Legislation Requiring Further Review

HB 2221 (Hayes) (Passed House; SACNR) requires the applicant for any (i) new or major modified stationary air pollution source, (ii) new landfill or transfer station, (iii) certification of site approval for a hazardous waste facility, (iv) new individual Virginia Pollutant Discharge Elimination System permit, (v) new individual Virginia Water Protection permit, (vi) new individual Virginia Stormwater Management Program permit, (vii) new individual Virginia Pollution Abatement permit, or (viii) individual ground water withdrawal permit for a new ground water withdrawal to complete certain public notice requirements, including (a) holding a public hearing; (b) publishing notices in English and Spanish in a newspaper, on social media, and on signage at the site location at least 60 days prior to such public meeting; (c) mailing notices to interested parties; (d) accepting written comments; (e) transcribing meeting information; and (f) responding to community concerns to the satisfaction of the Department of Environmental Quality. The bill removes an exemption for applicants for a permit to operate a new captive industrial landfill or a new construction-demolition-debris landfill from certain provisions relating to new landfills or transfer stations. The bill also removes an exemption from certain public notice requirements granted to local government or public authority applicants for a permit to operate a landfill or transfer station. (21104396D-H1)

“Watch List”/May Have State Revenue/Policy Implications

Courts/Public Safety

HB 1806 (Kilgore) (Passed House; SJUD) provides that if a motion to suspend or otherwise modify a person's sentence is filed with the court that heard the case at any time before the person is transferred to the Department of Corrections (the Department), the court may enter an order to retain jurisdiction over the matter for up to 60 days in order to consider and rule on such motion. If the court enters such order, the transfer of the person to the Department shall not affect the jurisdiction of the court under the terms of the order. Upon entry of an order to retain jurisdiction, the clerk of the court shall forthwith forward an attested copy of the order to the Department. (21101785D)

HB 1895 (Hudson) (Passed House; SJUD) provides that no interest shall accrue on any fine or costs imposed in a criminal case or in a case involving a traffic infraction (i) for a period of 180 days following the date of the final judgment imposing such fine or costs; (ii) during any period the defendant is incarcerated; and (iii) for a period of 180 days following the date of the defendant's release from incarceration if the sentence includes an active term of incarceration. Current law prohibits interest from accruing on such fines or costs for a period of 40 days from the date of the final judgement imposing such fine or costs or during any period the defendant is incarcerated. The bill also removes the requirement that a defendant be unable to make payment of a fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing in order to be eligible to enter into a deferred or installment payment agreement and allows any defendant to enter such payment agreements. The bill provides that no fee shall be assessed in connection

with a defendant's participation in a deferred or installment payment agreement and removes the requirement that a defendant make a down payment upon entering a deferred, modified deferred, or installment payment agreement. (21102438D-E)

HB 2017 (Mullin) (Passed House; SJUD) authorizes any jurisdiction to establish a youth justice diversion program, defined in the bill as a diversionary program that (i) is monitored by a local youth justice diversion program advisory committee; (ii) uses juvenile volunteers as lawyers, jurors, and other court personnel; (iii) uses volunteer attorneys as judges; (iv) conducts peer trials, subject to the juvenile and domestic relations court's jurisdiction, of juveniles who are referred to the program by an intake officer; and (v) imposes various sentences emphasizing restitution, rehabilitation, accountability, competency building, and education, but not incarceration. The bill provides that a jurisdiction may establish a youth justice diversion program upon establishment of a local youth justice diversion program advisory committee and approval of the program by the chief judge of the juvenile and domestic relations court that serves such jurisdiction. The bill requires each local youth justice diversion program advisory committee to establish criteria for the eligibility and participation of juveniles alleged to have committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult, with the consent of the juvenile's parent or legal guardian, and to establish policies and procedures for the operation of such program. The bill provides that whenever an intake officer takes informal action on a complaint alleging that a child committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult, the intake officer may refer the juvenile to a youth justice diversion program. The bill also adds provisions that the Department of Juvenile Justice shall develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of youth justice diversion programs and report these evaluations to the General Assembly by December 1 of each year. (21102998D-H1)

HB 2029 (Krizek) (Passed House; SGL) prohibits the burning by any person, local government, or agency of the Commonwealth of Class A fuel materials that contain oriented strand board, defined in the bill, during fire training activities. (21102658D-E)

HB 2031 (Aird) (Passed House; SGL) allows a locality or a public institution of higher education to authorize a local law-enforcement agency or campus police department to purchase or deploy facial recognition technology, which is defined in the bill. The bill prohibits a local law-enforcement agency or public institution of higher education currently using facial recognition technology from continuing to use such technology without such authorization after July 1, 2021. (21101718D-E)

HB 2073 (Convriss-Fowler) (Passed House; SJUD) provides that, in a civil action for the wrongful death of an injured person, such an action may be brought by a personal representative of a decedent within two years after the death of the person or, if applicable, within two years of the conclusion of a criminal investigation by law enforcement of such death, whichever is longer. Under current law, a wrongful death action must be brought within two years of the death of the decedent. The bill contains an emergency clause. (21103581D-H1)

HB 2099 (Coyner) (Passed House; SJUD) reduces from 20 years to 10 years from the date of a judgment the period of time within which an execution may be issued or action may be taken on such judgment. The bill provides that the limitation of the enforcement of a judgment may be extended by a recordation of a certificate prior to the expiration period in the clerk's office in which a judgment lien is recorded. The bill provides that such recordation shall extend the limitations period for 10 years from the date of such recordation. Under current law, such limitation period may be extended on motion of the judgment creditor or his assignee. The bill allows a settlement agent or title insurance company to release a judgment lien, in addition to a deed of trust as provided under current law, provided that the obligation secured by such judgment lien has been satisfied by payment made by the settlement agent and whether or not the settlement agent or title insurance company is named as a trustee under such lien or received authority to release such lien. The bill has a delayed effective date of January 1, 2022. (21103747D-H3)

HB 2168 (Scott) (Passed House; SJUD) provides that any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of \$25,000. The bill provides that the Attorney General, an attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to enjoin the operation of a gambling device in violation of this section and may request attachment against all such devices and any moneys within such devices. The bill provides that any civil penalties brought in the name of the Commonwealth shall be paid into the Literary Fund and that any civil penalties brought in the name of a locality shall be paid into the general fund of the locality. (21101270D-E)

SB 1465 (Reeves) (Passed Senate; HCT) provides that any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of up to \$25,000. The bill provides that the Attorney General, an attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to enjoin the operation of a gambling device in violation of this section and may request attachment against all such devices and any moneys within such devices. The bill provides that any civil penalties brought in the name of the Commonwealth shall be paid into the Literary Fund and that any civil penalties brought in the name of a locality shall be paid into the general fund of the locality. (21102212D-E)

HB 2236 (Bell) (Passed House; SJUD) provides that if an offender determined to be eligible to participate in a behavioral health docket resides in a locality other than that in which the behavioral health docket is located, or such offender desires to move to a locality other than that in which the behavioral health docket is located, and the court determines it is practicable and appropriate, the supervision of such offender may be transferred to a supervising agency in the new locality. The bill states that if the receiving agency accepts the transfer, it shall confirm in writing that it can and will comply with all of the conditions of supervision of the behavioral health docket, including the frequency of in-person and other contact with the offender and updates from the offender's treatment providers and that if the receiving agency cannot comply

with the conditions of supervision, the agency shall deny the transfer in writing and the sending agency shall notify the court. The bill also provides that where supervision is transferred, the sending agency shall be responsible for providing to the court reports on an offender's conduct, treatment, and compliance with the conditions of supervision. Additionally, the bill provides that the standards prescribed by the Department of Criminal Justice Services for the development, implementation, operation, and evaluation of local community-based probation services and facilities shall include standards for the transfer of supervision between local community-based probation agencies. (21103541D-H1)

HB 2291 (Williams Graves) (Passed House; SJUD) adds a sheriff's office to those law-enforcement agencies that may be overseen by a law-enforcement civilian oversight body created by a locality and adds a nonprobationary deputy sheriff of a sheriff's office to those law-enforcement officers who are subject to such body if created by a locality. The bill provides that any disciplinary determinations made by the law-enforcement civilian oversight body on any nonprobationary deputy sheriff shall be advisory only and that if the sheriff's office declines to implement such disciplinary determination, the office shall create a public written record of its rationale for declining to implement the recommended disciplinary determination. (21101778D-E)

SB 1119 (Reeves) (Passed Senate; HPS) creates a special nonreverting fund to be known as the Body-Worn Camera System Fund to assist state or local law-enforcement agencies with the costs of purchasing, operating, and maintaining body-worn camera systems. (21100957D)

SB 1261 (Edwards) (Passed Senate; HCT) expands the jurisdiction of the Court of Appeals of Virginia by providing for an appeal of right in every civil case and provides that the granting of further appeal to the Supreme Court of Virginia shall be within the discretion of the Supreme Court. The bill provides for an appeal of right in criminal cases by a defendant, but leaves unchanged the current requirement that in criminal cases the Commonwealth must petition the Court of Appeals for granting of an appeal. The bill increases from 11 to 17 the number of judges on the Court of Appeals. The bill also (i) provides jurisdiction to the Court of Appeals over interlocutory appeals and petitions for review of injunctions; (ii) allows for oral arguments to be dispensed with if the panel of judges makes a unanimous decision that the appeal is wholly without merit or that the dispositive issues on appeal have already been authoritatively decided and the appellant has not argued that the case law should be overturned, extended, or reversed; (iii) provides that the Attorney General shall represent the Commonwealth in criminal appeals unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the case files a notice of appearance; (iv) eliminates the requirement for an appeal bond in criminal appeals; (v) requires all criminal cases in a court of record to be recorded and requires the clerk of the circuit court to prepare a transcript of any trial for which an appeal is noticed to him; and (vi) requires an expedited review of appeals of permanent protective orders and of bond validation proceedings. The bill has a delayed effective date of October 1, 2021, which is applicable to all provisions of the bill except for those increasing the number of judges on the Court of Appeals. The provisions of the bill are contingent on funding in a general appropriation act. (21103599D-ES1)

Data and Technology

HJ 578 (Price) (Agreed to by House; SRUL) requests the Department of Behavioral Health and Developmental Services to establish a work group to study the feasibility of developing a secure, de-identified, renewable, and relational database of criminal justice, behavioral health, and other human services records to facilitate development of more effective interventions. (21102974D)

HB 2307 (Hayes) (Passed House; SGL) establishes a framework for controlling and processing personal data in the Commonwealth. The bill applies to all persons that conduct business in the Commonwealth and either (i) control or process personal data of at least 100,000 consumers or (ii) derive over 50 percent of gross revenue from the sale of personal data and control or process personal data of at least 25,000 consumers. The bill outlines responsibilities and privacy protection standards for data controllers and processors. The bill does not apply to state or local governmental entities and contains exceptions for certain types of data and information governed by federal law. The bill grants consumer rights to access, correct, delete, and obtain a copy of personal data and to opt out of the processing of personal data for the purposes of targeted advertising. The bill provides that the Attorney General has exclusive authority to enforce violations of the law, and the Consumer Privacy Fund is created to support this effort. The bill has a delayed effective date of January 1, 2023. (21103642D-H1)

SB 1392 (Marsden) (Passed Senate; HTECH) establishes a framework for controlling and processing personal data in the Commonwealth. The bill applies to all persons that conduct business in the Commonwealth and either (i) control or process personal data of at least 100,000 consumers or (ii) derive over 50 percent of gross revenue from the sale of personal data and control or process personal data of at least 25,000 consumers. The bill outlines responsibilities and privacy protection standards for data controllers and processors. The bill does not apply to state or local governmental entities and contains exceptions for certain types of data and information governed by federal law. The bill grants consumer rights to access, correct, delete, obtain a copy of personal data, and to opt out of the processing of personal data for the purposes of targeted advertising. The bill provides that the Attorney General has exclusive authority to enforce violations of the law, and the Consumer Privacy Fund is created to support this effort. The bill has a delayed effective date of January 1, 2023. (21103367D-ES1)

SB 1225 (Boysko) (Passed Senate; HED) authorizes school boards to appropriate funds for the purposes of promoting, facilitating, and encouraging the expansion and operation of broadband services for educational purposes. The bill authorizes school boards to partner with private broadband service providers to promote, implement, and subsidize broadband for educational purposes to the households of students who would qualify for (i) a child nutrition program or (ii) any other program recognized or adopted by the local school board as a measuring standard to identify at-risk students. (21101489D)

Education/Schools

HB 2305 (Tyler) (Passed House; SEH) requires the Board of Education to issue guidance on the governance of academic year Governor's Schools, including communication and outreach

practices, admissions policies, and guidelines on diversity, equity, and inclusion training. The bill requires such guidance to focus on the importance of increasing access to Governor's Schools for historically underserved students and to include best practices on (i) conducting information sessions about the school and the availability of gifted, advanced, and specialty education program opportunities for feeder public middle schools; (ii) strengthening the student pipeline in feeder public middle schools, prioritizing the most underserved and underrepresented students and public middle schools; and (iii) conducting programs related to and evaluations of diversity, equity, and inclusion. The bill requires the Board of Education, in developing such guidance, to collaborate with relevant stakeholders representing the geographical areas served by the Regional Governor's Schools, including local school boards representing the geographical areas served by the Regional Governor's Schools, Regional Governor's School boards, and Governor's School directors. (21103341D-E)

HJ 549 (Guy) (Agreed to by House; SRUL)/**SJ 308** (Lucas) (Agreed to by Senate; HRUL) directs the Joint Legislative Audit and Review Commission to study the impact of COVID-19 on Virginia's public schools, students, and school employees, including (i) examining and determining reasons for barriers to student success in virtual and hybrid models as well as the overall impact of COVID-19 face-to-face learning restrictions on previously existing student achievement gaps, student achievement, and student well-being, including any disproportionate impact on at-risk populations; (ii) determining the impact of the COVID-19 pandemic on staffing levels, including the impact of teacher and school employee retirements and resignations on delivery of instruction and the ability of local school boards to fully staff their needs, employment levels, and local budgets; (iii) determining the short-term and projected long-term changes in student enrollment in response to the COVID-19 pandemic and the impact of such changes on funding levels; (iv) determining the impact of implementing COVID-19 health and safety measures in public schools; (v) evaluating public schools' level of emergency preparedness to face another pandemic or statewide crisis and making recommendations to help guide planning for such events and (vi) examining programs that can address learning loss and identifying barriers to implementing those programs, including resource gaps. (21101153D-E, 21102905D-E)

SB 1303 (Dunnavant) (Passed Senate; HED) requires each local school division to make virtual and in-person learning available to all students by choice of the student's parent or guardian. (21102517D-E)

SJ 275 (Stanley) (Agreed to by Senate; HPE) requires the General Assembly to provide for a system of public schools in the Commonwealth with equitable educational opportunities for all children and to ensure that all school-age children are provided with equitable educational opportunities. (21100836D-E)

Elections

HB 2082 (Levine) (Passed House; SPE) requires meetings and hearings of the Virginia Redistricting Commission to be livestreamed, whether held virtually or in person, and to allow for public comment. Meetings and hearings that are held in person are required to be conducted

in different regions of the Commonwealth, including the Northern Virginia region, the Central Virginia region, the Hampton Roads region, the Southside region, and the Southwest region. An additional public hearing is required to be held in the event that the initial plan for districts submitted by the Commission is rejected by the General Assembly. If adjustments are made to a proposed plan at any stage in response to public comment, the adjusted proposed plan is required to be published on the Commission's website. The bill requires all meetings and hearings of the Supreme Court of Virginia regarding the establishment of districts to be open to the public. (21104053D-H1)

HB 2125 (Lopez) (Passed House; SPE) permits a person who is otherwise qualified to register to vote and is 16 years of age or older, but who will not be 18 years of age on or before the day of the next general election, to preregister to vote. The preregistration does not entitle such person to vote in any election except as already permitted by law. The bill requires the Department of Elections to maintain a record of all preregistered voters in the Virginia voter registration system, which shall automatically register a person who is preregistered upon that person reaching 18 years of age or becoming eligible for advance registration as already permitted by law, whichever comes first. The bill requires the Department to provide to the general registrars voter confirmation documents for such voters. The bill has a delayed effective date of October 1, 2022. (21100907D-E)

SB 1111 (Spruill) (Passed Senate; HPE) removes the power of officers of election, in the event that no law-enforcement officer is in attendance, to appoint a person who is not a law-enforcement officer to have all the powers of a law-enforcement officer within the polling place and the prohibited area. (21101169D)

SB 1281 (Morrissey) (Passed Senate; HPE) removes the requirement that the general registrar of a locality be a resident of that locality or an adjacent locality. (21101704D-E)

SB 1331 (Reeves) (Passed Senate; HPE) requires the Department of Elections to make available to all localities a tool to allow voters with a visual impairment or print disability to electronically and accessibly receive and mark his absentee ballot using screen reader assistive technology. On receipt of an application for an absentee ballot from an applicant who indicates that he will require assistance due to a visual impairment or print disability, the general registrar is required to offer to provide to the applicant the ballot marking tool with screen reader assistive technology. (21102849D)

Absentee Voting

HB 1968 (Bagby) (Passed House; SPE) permits the electoral board or general registrar of a county or city to provide absentee voting in person in the office of the general registrar or voter satellite office on Sundays. (21102134D)

SB 1097 (Favola) (Passed Senate; HPE) repeals the requirement that an absentee ballot be opened in the presence of a witness and signed by such witness. (21100137D)

SB 1239 (Bell) (Passed Senate; HPE) permits a general registrar to contract with a third party for the printing, assembly, and mailing of absentee ballots. The bill directs the State Board of Elections to adopt emergency regulations to implement the provisions of the bill and for those regulations to include processes to ensure secure and timely delivery of voter information to contractors and reports of mailed absentee ballots from contractors. (21100930D)

SB 1246 (Deeds) (Passed Senate; HPE) requires certain actions to be taken to process absentee ballots that are returned by mail before election day. The general registrar is required to (i) examine the ballot envelopes to verify completion of the required voter affirmation; (ii) mark the pollbook, or the absentee voter applicant list if the pollbook is not available, that the voter has voted; and (iii) direct the officers of election at a central absentee precinct to open the sealed ballot envelopes and insert the ballots in optical scan counting equipment or other secure ballot containers without initiating any ballot count totals. Under current law, the general registrar is required to conduct preprocessing of absentee ballots before election day only as needed. To facilitate preprocessing as provided in the bill, the bill requires a central absentee voter precinct to be established and maintained in each locality. Additional central absentee voter precincts may be established at the discretion of the governing body. (21103760D-S1)

Employment Issues

HB 1862 (Helmer) (Passed House; SCL) prohibits an employer from discharging, disciplining, or discriminating against an employee for such employee's lawful use of cannabis oil pursuant to a valid written certification issued by a practitioner for the treatment or to eliminate the symptoms of the employee's diagnosed condition or disease. The bill provides that such prohibition does not (i) restrict an employer's ability to take any adverse employment action for any work impairment caused by the use of cannabis oil or to prohibit possession during work hours or (ii) require an employer to commit any act that would cause the employer to be in violation of federal law or that would result in the loss of a federal contract or federal funding. (21101426D-E)

HB 2040 (Hudson) (Passed House; SCL) provides that an employer shall be deemed to have established a pattern of failing to respond timely or adequately to written requests for information relating to claims if the Virginia Employment Commission determines that the employer has failed to respond timely or adequately to a written request for information relating to a claim on two or more occasions within a 48-month window and requires such employer to pay a penalty upon his second such failure to respond timely or adequately. Under current law, such pattern is established after four failures, and the penalty is assessed after the third failure. The bill provides that if an employer fails to respond timely or adequately to a written request by the Commission for information relating to a claim, the employer forfeits any appeal rights to that claim. The bill provides that when a claimant has had a determination of initial eligibility for benefits, as determined by the issuance of compensation or waiting-week credit, payments shall continue, subject to a presumption of continued eligibility, until a determination is made that provides the claimant notice and an opportunity to be heard. The bill provides that the Commission shall waive the obligation to repay any overpayment if (i) the overpayment was made without fault on the part of the individual and (ii) requiring repayment would be contrary to equity and good

conscience. The Commission shall have authority to negotiate the terms of repayment for any overpayment where repayment is not forgiven. Overpayments shall not be considered "without fault" if the overpayment was the result of (i) a reversal in the appeals process, unless the employer failed to respond or timely respond or (ii) a programming, technological, or automated system error that results in erroneous payments to a group of individuals. The bill also provides that the Commission shall notify each person with an unpaid overpayment of benefits that they may be entitled to a waiver of repayment and provide 30 days to request such a waiver. The bill applies to overpayments established for the week commencing March 15, 2020 through the week commencing June 26, 2021 and only to those overpayments that have not been fully or partially repaid. Finally, the bill allows the Commission to suspend or forego referring any overpayment to the collections process until June 30, 2022. (21104300D-H2)

HB 2063 (Mullin) (Passed House; SCL) requires an employer to compensate its employees who are entitled to overtime compensation under the federal Fair Labor Standards Act at a rate not less than one and one-half times the employee's regular rate of pay, defined in the bill, for any hours worked in excess of 40 hours in any one workweek. The bill includes provisions for calculating overtime premiums due to fire protection and law-enforcement employees by certain public sector employers. The penalties provided by the bill for an employer's failure to pay such overtime wages, including civil and criminal penalties, are the same as currently provided for failing to pay wages generally. The statute of limitations for bringing a claim for a violation of the bill is three years. (21103929D-H1)

HB 2134 (Batten) (Passed House; SCL) prohibits the consideration, in any determination regarding whether an individual is an employee or independent contractor, for the purposes of a civil action for employment misclassification, unemployment compensation, and workers' compensation, of the provision of personal protective equipment by a hiring party to the individual in response to a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared. (21101448D)

Paid Family and Medical Leave

HB 2137 (Guzman) (Passed House; SCL) requires employers to provide certain employees paid sick leave. An employee is eligible for paid sick leave under the bill if the employee is an essential worker and works on average at least 20 hours per week or 90 hours per month. The bill provides for an employee to earn at least one hour of paid sick leave benefit for every 30 hours worked. An employee shall not use more than 40 hours of earned paid sick leave in a year, unless the employer selects a higher limit. The bill provides that earned paid sick leave may be used for (i) an employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care or (ii) care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care of a family member who needs preventive medical care. The bill prohibits employers from taking certain retaliatory actions against employees related to leave. The bill provides for a hardship waiver for employers that demonstrate that providing paid sick leave threatens the

financial viability of the employer, jeopardizes the ability of the employer to sustain operations, significantly degrades the quality of the employer's business operations, or creates a significant negative financial impact on the employer. The bill requires the Commissioner of Labor and Industry to promulgate regulations that (a) identify workers as essential based on the categories listed in the bill; (b) include reasonable requirements for recordkeeping, confidentiality, and notifying employees of their rights under provisions of the bill; (c) establish complaint, investigation, and enforcement procedures that include fines, not to exceed \$500, for violations of provisions of the bill; (d) establish requirements for compensation and accrual of paid sick leave for employees employed and compensated on a fee-for-service basis; and (e) include procedures and requirements for an employer to qualify for a hardship waiver. The provisions of the bill do not apply to a retail business with fewer than 25 employees. (21101625D-E)

Workers' Compensation

HB 1985 (Hurst) (Passed House; SCL) establishes a presumption that COVID-19 causing the death or disability of health care providers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment. The bill provides that such presumption applies to any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2021, the claimant received a positive diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory-confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment. The bill provides that such presumptions do not apply to any person offered by his employer a vaccine for the prevention of COVID-19 unless the person's physician determines in writing that immunization would pose a significant risk to the person's health. (21103301D-EH1)

HB 2207 (Jones) (Passed House; SCL) establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, and correctional officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment. The bill provides that such presumption applies to any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment. (21100861D)

SB 1375 (Saslaw) (Passed Senate; HLC) establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, and correctional officers is an occupational disease compensable under the Workers'

Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment and only applies to a person who was diagnosed a person who was diagnosed with the COVID-19 virus on or after July 1, 2021, and whose death or disability caused by infection from the COVID-19 virus occurred on or after July 1, 2021. This bill incorporates SB 1342. (21104340D-S1)

Environment/Energy

HB 2001 (Helmer) (Passed House; SGL) requires that any executive branch agency or institution or locality entering the design phase for the construction of a new building greater than 5,000 gross square feet in size or the renovation of a building where the cost of the renovation exceeds 50 percent of the value of the building ensure that such building has sufficient electric vehicle charging infrastructure, defined in the bill, and has features that permit the agency or institution to track the building's energy efficiency and carbon emissions. The bill authorizes the Director of the Department of General Services to grant exemptions to such standards, in writing and with certain terms. The bill requires agencies to annually report to the Governor the energy efficiency and carbon emissions metrics for each such building built or renovated. The bill requires localities to design such building projects according to the same or similar standards, or more stringent standards if adopted by ordinance. The bill also requires that localities incorporate appropriate resilience and distributed energy features. The bill requires that any exemption from the standards granted by resolution of the governing body of a locality be made in writing and explain the basis for granting the exemption. (21103607D-H2)

FOIA

HB 2004 (Hurst) (Passed House; SGL) adds criminal investigative files, defined in the bill, relating to a criminal investigation, or proceeding that is not ongoing, also defined in the bill, to the types of law-enforcement and criminal records required to be released in accordance with the provisions of the Virginia Freedom of Information Act. Under current law, the release of criminal investigative files is discretionary. The bill also provides that the mandatory release of criminal incident information relating to felony offenses and criminal investigative files shall be enjoined if a court finds by a preponderance of the evidence that the release of such information would likely effect certain results, outlined in the bill. The bill contains technical amendments. This bill is a recommendation of the Virginia Freedom of Information Advisory Council. (21101252D)

HB 2025 (Gooditis) (Passed House; SGL) provides that personal contact information provided to a public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members is excluded from the mandatory disclosure provisions of FOIA, unless the recipient of such electronic communications indicates his approval for the public body to disclose such information. Currently, the law provides protections for personal contact information provided to a public body, not to its members; only applies to electronic mail; and requires the electronic mail recipient to request the public body not to disclose his personal contact information in order for the information to be exempt from mandatory

disclosure. This bill is a recommendation of the Virginia Freedom of Information Advisory Council. (21101440D)

Health and Human Services

HB 1963 (Bagby) (Passed House; SEH) provides that funding for local health departments shall consist of such state funds as may be allocated for the operation of the local health department together with local matching funds and estimated self-generated local service revenues, the total amount of which shall constitute the cooperative local health budget available to a local department of health, and that the amount of local matching funds for which a county or city is responsible shall be based on the county's or city's revenue generation capacity factor, as defined in the bill; in no case, however, shall the amount of local matching funds required be greater than 45 percent or less than 18 percent of the total amount of the cooperative local health budget for the local health department that serves the county or city, after deducting estimated self-generated local service revenues. The bill directs the Department of Health to biennially review the local matching fund amount for each county and city, determine whether such amount should be revised as a result of changes to the county's or city's revenue generation capacity, and report the results of such review and any recommendations for changes to a county's or city's local matching fund amount to the Governor and the General Assembly. (21102417D)

HB 2061 (Willett) (Passed House; SEH) requires any health care provider in the Commonwealth that administers immunizations to participate in the Virginia Immunization Information System (VIIS) and report patient immunization history and information to VIIS. Under current law, participation in VIIS is optional for authorized health care entities. The bill has a delayed effective date of January 1, 2022. (21102411D)

HB 2212 (Plum) (Passed House; SRSS) requires the director of the Office of Children's Services to provide for the effective implementation of the Children's Services Act (§ 2.2-5200 et seq.) in all localities by (i) regularly monitoring local performance measures and child and family outcomes; (ii) using audit, performance, and outcomes data to identify local programs that need technical assistance; and (iii) working with local programs that are consistently underperforming to develop a corrective action plan for submission to the Office and the State Executive Council for Children's Services. (21101765D)

HB 2333 (Bagby) (Passed Both Houses)/**SB 1445** (Dunnavant) (Passed Both Houses) facilitates the administration of the COVID-19 vaccine. The bill requires the Department of Health (the Department) to establish a program to enable eligible health care providers to volunteer to administer the COVID-19 vaccine to residents of the Commonwealth during a state of emergency related to the COVID-19 pandemic declared by the Governor. The bill defines "eligible health care provider" and provides that the program shall include (i) a process by which an eligible health care provider may register to participate in the program and (ii) the training requirements for participating eligible health care providers related to the administration of the COVID-19 vaccine, including training on the intramuscular injection of the COVID-19 vaccine and contraindications and side effects of the COVID-19 vaccine. The bill specifies requirements that the Department shall ensure that each site at which COVID-19 vaccinations are administered

by eligible health care providers satisfies. The bill also requires the Department to establish a process by which entities, including medical care facilities, hospitals, hospital systems, corporations, businesses, pharmacies, public and private institutions of higher education, localities, and any other professional or community entity operating in the Commonwealth, may volunteer their facilities as sites at which the COVID-19 vaccine may be administered to residents of the Commonwealth. The bill permits a public institution of higher education or a private institution of higher education in the Commonwealth to volunteer to provide assistance to the Department and local health departments for data processing, analytics, and program development related to the COVID-19 vaccine through the use of its employees, students, technology, and facilities. The bill also permits localities with fire departments, emergency medical services departments, and volunteer rescue squads to establish and staff vaccine administration clinics. The bill provides civil and criminal immunity to individuals and professional entities acting pursuant to the bill and contains an emergency clause. (HB2333ER, SB1445ER)

SB 1125 (Obenshain) (Passed Senate; HCT) requires the Parole Board, within seven days of making any decision regarding the parole of a prisoner, to provide written or electronic notice of such decision to the victim of the crime for which the prisoner was incarcerated, unless the victim has submitted a written request to forgo such notice. (21101811D-E)

SB 1176 (Ruff) (Passed Senate; HHWI) amends the current barrier crimes requirements for the Department of Behavioral Health and Developmental Services (the Department) to provide that the Department, community services boards, children's residential facilities, and licensed providers shall not hire for compensated employment at a state facility, permit to be hired as a private provider, approve as a sponsored residential service provider, approve to be a volunteer, approve to provide contractual services, or permit to enter into a shared living arrangement with a person receiving medical assistance services any person who has been convicted of any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 (i) within the 10 years prior to the application date for employment, and may hire a person who has been convicted of such offenses more than 10 years prior only if he has not been convicted of any other crime within the 10 years prior to the application date, or (ii) if such person continues on probation or parole or has failed to pay required court costs for such offenses set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02. Under current law, with some exceptions, the Department, community services boards, and licensed providers shall not hire for compensated employment persons who have been convicted of any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02. (21103913D-S1)

SB 1237 (Petersen) (Passed Senate; HHWI) provides that any person who is affected by an order of quarantine may file an appeal in the circuit court for the city or county in which he resides or is located or the circuit court for the jurisdiction or jurisdictions for any affected area; currently, only a person who is subject to an order of quarantine may appeal the order. The bill also provides that in any case in which the Governor has issued an emergency order that includes any measure that closes schools or businesses or restricts the movement of healthy persons within the area to which the order applies, all of the rights, protections, and procedures applicable in the case of an order of quarantine issued by the Commissioner of Health shall apply. (21102644D)

SB 1273 (Deeds) (Passed Senate; HRUL) creates the Behavioral Health Commission in the legislative branch of state government for the purpose of (i) studying and making recommendations for the improvement of behavioral health services and the behavioral health service system in the Commonwealth to encourage the adoption of policies to increase the quality and availability of and ensure access to the full continuum of high-quality, effective, and efficient behavioral health services for all persons in the Commonwealth and (ii) providing ongoing oversight of behavioral health services and the behavioral health service system in the Commonwealth, including monitoring and evaluation of established programs, services, and delivery and payment structures and implementation of new services and initiatives in the Commonwealth and development of recommendations for improving such programs, services, structures, and implementation. (21101274D-E)

SB 1302 (McPike) (Passed Senate; HHWI) provides that the crisis call center, which under current law is administered by the Department of Behavioral Health and Developmental Services (the Department), shall be designated as the 9-8-8 Crisis Hotline Center for purposes of participating in the National Suicide Prevention Lifeline. The bill directs the Department, in its development of the crisis call center, community care teams, and mobile crisis teams, to comply with any applicable requirements of the National Suicide Hotline Designation Act of 2020 and to provide for consistency with federal guidelines promulgated under such law. The bill contains immunity provisions for any originating service provider and its employees and agents acting pursuant to the act. The bill increases from \$0.75 to \$0.94 the wireless E-911 surcharge and increases from \$0.50 to \$0.63 the prepaid wireless E-911 charge. The bill provides that part of the revenue attributable to the increase would be distributed to the Crisis Call Center Fund, established by the bill, to fund the Department's costs in establishing and administering the call center, and that the remainder of the revenue would be distributed to public safety answering points (PSAPs). (21103475D-S1)

Land Use

HB 1775 (Kilgore) (Passed House; SCL) adds the State Corporation Commission to the list of agencies that are exempt from paying fees for remote access to local land records. (21100750D)

HB 2046 (Bourne) (Passed House; SGL) prohibits any locality, its employees, or its appointed commissions from discriminating (i) in the application of local land use ordinances or guidelines, or in the permitting of housing developments, on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability; (ii) in the permitting of housing developments because the housing development contains or is expected to contain affordable housing units occupied or intended for occupancy by families or individuals with incomes at or below 80 percent of the median income of the area where the housing development is located or is proposed to be located; or (iii) by prohibiting or imposing conditions upon the rental or sale of dwelling units, provided that the provisions of this subsection shall not be construed to prohibit ordinances related to short-term rentals. The bill provides that it shall not be a violation of the Virginia Fair Housing Law if land use decisions or decisions relating to the permitting of housing developments are based upon considerations of limiting high concentrations of affordable housing. The bill also requires the

Fair Housing Board, after determining the existence of an unlawful discriminatory housing practice and after consultation with the Attorney General, to immediately refer the matter to the Attorney General for civil action. (21103489D-H1)

SB 1270 (Cosgrove) (Passed Senate; HCT) provides that the notice required to be sent to a landowner prior to an authorized condemnor recording a certificate of take or certificate of deposit shall state that (i) the certificate of take or certificate of deposit will be recorded between 30 and 45 days from the date of the notice and (ii) that the property will transfer to the condemnor upon recordation and that the owner has the right to petition the court for distribution of the funds represented in the certificate. (21101493D)

SJ 289 (Mason) (Agreed to by Senate; HPE) allows easements on public property to be granted in perpetuity to a public body, political subdivision, or authority of the Commonwealth or to the United States of America or any of its departments or agencies. The requirement to advertise and publicly receive bids does not apply to easements conveyed to any such governmental entity. (21102069D)

Taxation

SB 1326 (Hanger) (Passed Senate; HFIN) states that it is the policy of the Commonwealth, where practical, to encourage local cigarette stamping and tax collection to be accomplished through regional cigarette tax boards, defined in the bill. The bill directs the Department of Taxation to establish a task force to develop methods for modernizing the local cigarette tax collection system and provide assistance as appropriate to localities seeking to form new regional cigarette tax boards. (21104442D-ES1)

Transportation

HB 2163 (Tran) (Passed House; STRAN) limits the release of Department of Motor Vehicles (DMV) privileged information to government entities and law-enforcement agencies for the purpose of civil immigration enforcement unless (i) the subject of the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena, or judicial warrant. The bill requires the DMV to notify the subject of the request that such a request was made and the identity of the entity that made the request. The bill requires any entity receiving privileged information from the DMV to enter into a written agreement with the DMV prior to such release of such information and prohibits any entity from rereleasing any such DMV information to any third party unless explicitly permitted to do so in the entity's agreement with the DMV. The bill contains requirements for any such written agreement between the DMV and the Department of State Police. (21103639D-H1)

SB 1260 (Bell) (Passed Senate; HTRAN) requires that for any project wherein the power of eminent domain may be exercised, any locality or the Commissioner of Highways to provide a landowner with a request to enter and inspect property at least 30 days in advance. The request must be on official letterhead, and shall notify the landowner that even if permission is

withheld, the locality or the Commissioner of Highways will be permitted to enter the property on the proposed date. (21103931D-S1)

Legislation Provided for Information

SB 1298 (Bell) (Passed Senate; HCCT) authorizes any locality to create a local tourism improvement district plan, consisting of fees charged to businesses and used to fund tourism promotion activities and capital improvements. Under the bill, the locality is authorized to contract with a nonprofit entity to administer the activities and improvements. (21102381D)

Animals

SB 1135 (Marsden) (Passed Senate; HAG) restructures the procedure for adjudication of a dog as a dangerous dog to provide for (i) written notice by an animal control officer to the owner of the dog that he has applied for a summons, and a prohibition on disposal of the dog by the owner for 30 days; (ii) the issuance of a summons with an option rather than a requirement that the officer confine the dog, a prohibition on the disposal of the dog other than by euthanasia, and an authorization for the court to compel the implanting of electronic identification; (iii) the holding of a hearing within 30 days unless good cause is shown; (iv) the authority of the court if deferring further proceedings without adjudicating to compel the implanting of electronic identification; and (v) a limit of 30 days for any appeal of a dangerous dog adjudication. The bill authorizes an officer to obtain a summons for a hearing to determine whether a dog that has been surrendered is a dangerous dog and provides that any dangerous dog not reclaimed from the animal control officer within 10 days of notice shall be considered abandoned. The bill imposes new requirements for the transfer of dangerous dogs, requiring a releasing agency that is transferring or releasing for adoption a dangerous dog in the Commonwealth to notify the receiving party of the legal requirements for keeping a dangerous dog. If the agency is transferring the dog outside the Commonwealth, it is required to notify the appropriate animal control officer of the dog's adjudication as dangerous. An owner who is bringing a dog found to be dangerous in another state to reside in the Commonwealth shall notify the local animal control officer. Any owner who disposes of a dangerous dog by gift, sale, transfer, trade, or surrender shall notify the receiver in writing of the dog's adjudication as dangerous, with a violation penalized as a Class 3 misdemeanor. Finally, the bill provides that if a dangerous dog adjudication occurred within 60 days of the end of the calendar year, the first renewal of the dangerous dog registration shall be included in the initial registration at no additional charge. The bill contains technical amendments. (21104008D-S2)

SB 1390 (Lewis) (Passed Senate; HAG) authorizes any public or private animal shelter, releasing agency, or hospital or clinic that is operated under the immediate supervision of a duly licensed veterinarian to operate a trap, neuter, and return program, as defined in the bill. The bill exempts volunteers of such program from provisions related to abandonment and licensing of animals and exempts the operator from general requirements of shelters related to holding periods, release of animals, and recordkeeping. A person who violates certain required provisions for such a program is subject to a civil penalty not to exceed \$150 brought by any animal control

officer, humane investigator, releasing agency, or the State Veterinarian or State Veterinarian's representative. (21102789D-E)

Constitutional Amendments

Marriage

HJ 582 (Sickles) (Agreed to by House; SPE) repeals the constitutional provision defining marriage as only a union between one man and one woman as well as the related provisions that are no longer valid as a result of the United States Supreme Court decision in Obergefell v. Hodges, 576 U.S. 644 (2015). The amendment provides that the right to marry is a fundamental right inherent in the liberty of persons and requires the Commonwealth and its political subdivisions and agents to issue marriage licenses, recognize marriages, and treat all marriages equally under the law, regardless of the sex or gender of the parties to the marriage. Religious organizations and clergy acting in their religious capacity have the right to refuse to perform any marriage. This resolution incorporates HJ 539 and HJ 557. (21104282D-H1)

SJ 270 (Ebbin) (Agreed to by Senate; HPE) repeals the constitutional provision defining marriage as only a union between one man and one woman, as well as the related provisions that are no longer valid as a result of the United States Supreme Court decision in Obergefell v. Hodges, 576 U.S. 644 (2015). The amendment provides that the Commonwealth and its political subdivisions and its agents are required to issue marriage licenses, recognize marriages, and treat all marriages equally under the law, regardless of the gender of the two parties to the marriage. The amendment further provides that religious organizations and clergy acting in their religious capacity have the right to refuse to perform any marriage. (21100733D-S1)

Voting

HJ 555 (Herring) (Agreed to by House; SPE) provides that no person who has been convicted of a felony shall be qualified to vote until the completion of his sentence of imprisonment, at which time, without further action required of him, his political rights, including the right to vote, shall be restored. A person convicted of a felony may also have his civil rights restored by the Governor or other appropriate authority. This resolution incorporates HJ 546. (21104281D-H1)

SJ 272 (Locke) (Agreed to by Senate; HPE) establishes that the sole qualifications to vote in the Commonwealth are being a United States citizen, at least 18 years of age, a resident of the Commonwealth, and registered to vote in accordance with the requirements set out in the Constitution of Virginia. The amendment further provides that any person who meets those qualifications has the right to vote and that such right cannot be abridged by law. The bill lifts restrictions on qualifications to vote for those who have been convicted of a felony or adjudicated to be mentally incompetent. (21104430D-S1)

Courts

HB 1878 (Jenkins) (Passed House; SJUD) limits the ability to appeal a decision by an intake officer not to authorize a petition relating to an offense that, if committed by an adult, would be punishable as a Class 1 misdemeanor or felony, when the decision is based solely upon a finding of no probable cause. The bill requires the application for a warrant to the magistrate to be filed within 10 days of the issuance of the written notification from the intake officer to the complainant of the refusal to authorize a petition. The bill also provides that such written notification shall indicate that the intake officer made a finding that no probable cause exists and provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The bill requires the complainant to provide the magistrate with a copy of the written notification upon application to the magistrate. The bill also specifies that if an intake officer finds (i) probable cause and (ii) that the matter is appropriate for diversion, this decision is final, and the complainant shall not have the right to appeal the decision to a magistrate. (21101948D-E)

SB 1180 (Surovell) (Passed Senate; HCT) provides that a circuit court may enter an order joining, coordinating, consolidating, or transferring civil actions upon finding that separate civil actions brought by a plaintiff on behalf of multiple similarly situated persons involve common questions of law or fact and arise out of the same transaction, occurrence, or series of transactions or occurrences. The bill requires the Supreme Court to promulgate rules no later than November 1, 2021, governing such actions. The bill has a delayed effective date of July 1, 2022. (21103326D-ES1)

SB 1181 (Surovell) (Passed Senate; HCT) permits the Juvenile and Domestic Relations District Court to retain jurisdiction in cases where a child has petitioned the court to make findings of fact that would allow the child to apply for or receive a state or federal benefit until such child reaches 21 years of age for the purpose of entering findings of fact or amending past orders, to include findings of fact necessary for the person to petition the federal government for status as a special immigrant juvenile. (21102430D)

Education/Schools

HB 1776 (Ward) (Passed House; SEH) requires the Board of Education to grant a two-year extension of the license of any individual licensed by the Board whose license expires on June 30, 2021, in order to provide the individual with sufficient additional time to complete the requirements for licensure. (21101678D-E)

HB 1790 (McNamara) (Passed House; SEH) provides that when severe weather conditions or other emergency situations have resulted in the closing of any school in a school division for in-person instruction, the school division may declare an unscheduled remote learning day whereby the school provides instruction and student services, consistent with guidelines established by the Department of Education to ensure the equitable provision of such services, without a reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. The bill prohibits any school division from claiming more than 10 unscheduled remote learning days in

a school year unless the Superintendent of Public Instruction grants an extension. (21101395D-E)

HB 1865 (Delaney) (Passed House; SEH) requires reading intervention services for students in kindergarten through grade three who demonstrate deficiencies based on their individual performance on the Standards of Learning reading test or any reading diagnostic test that meets criteria established by the Department of Education to be evidence-based, including services that are grounded in the science of reading, and include explicit, systematic, sequential, and cumulative instruction, to include phonemic awareness, systematic phonics, fluency, vocabulary development, and text comprehension as appropriate based on the student's demonstrated reading deficiencies. The bill requires the parent of each student who receives such reading intervention services to be notified before the services begin and the progress of each such student to be monitored throughout the provision of services. (21101101D-E)

HB 1904 (Jenkins) (Passed House; SEH)/**SB 1196** (Locke) (Passed Senate; HED) requires teacher, principal, and division superintendent evaluations to include an evaluation of cultural competency. The bill requires every person seeking initial licensure or renewal of a license from the Board of Education (i) to complete instruction or training in cultural competency and (ii) with an endorsement in history and social sciences to complete instruction in African American history, as prescribed by the Board. The bill also requires each school board to adopt and implement policies that require each teacher and any other school board employee holding a license issued by the Board to complete cultural competency training, in accordance with guidance issued by the Board, at least every two years. (21101996D, 21101992D)

HB 1918 (Mugler) (Passed House; SEH) requires (i) driver education programs to include instruction on the dangers of distracted driving and speeding and (ii) a student to submit a standard application form developed by the Department of Education by which the student provides evidence that he possesses of a valid driver's license or driver privilege card before being issued a pass to park a vehicle on high school property. (21103086D-H1)

SB 1109 (Stanley) (Passed Senate; HPE) provides for a statewide referendum on the question of whether the General Assembly shall issue state general obligation bonds in the amount of \$3 billion for the purpose of K-12 school building construction, repair, or other capital projects related to the modernization of school facilities. The results would be advisory only and are intended only to demonstrate the preference of the citizens of the Commonwealth on the issuance of such bonds. The bill provides that the referendum be held at the November 2022 general election. (21100844D-E)

SB 1204 (Barker) (Passed Senate; HED) provides a management agreement between the Commonwealth and George Mason University pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.). (21101124D-E)

Elections

SB 1157 (Spruill) (Passed Senate; HPE) shifts all municipal elections for city and town council and school board from May to November, beginning with elections held after January 1, 2022. (21100131D)

Emergency Operations and Services

HB 2085 (Askew) (Passed House; SGL) requires local and interjurisdictional agencies to include provisions in their emergency operations plans to ensure that such plans are applied equitably and that the needs of minority and vulnerable communities are met during emergencies. (21102351D)

Environment and Energy

HB 1760 (Webert) (Passed House; SACNR) provides that an easement held pursuant to the Virginia Conservation Easement Act or the Open-Space Land Act shall be construed in favor of achieving the conservation purposes for which it was created. (21102392D-H1)

SB 1199 (Petersen) (Passed Senate; HAG) provides that an easement held pursuant to the Virginia Conservation Easement Act or the Open-Space Land Act be construed in favor of achieving the conservation purposes for which it was created. (21100906D-E)

HB 1902 (Carr) (Passed House; SACNR) prohibits the dispensing by a food vendor of prepared food to a customer in a single-use expanded polystyrene food service container, as defined in the bill. The bill requires certain chain restaurants to stop using such containers by July 1, 2023, and sets the date for compliance by all food vendors as July 1, 2025. The bill exempts nonprofit organizations from the definition of "food vendor" and provides a process by which a locality may grant consecutive one-year exemptions to individual food vendors on the basis of undue economic hardship. The bill provides a civil penalty of not more than \$50 for each day of violation, to be collected in a civil action brought by the Attorney General or the relevant locality. The penalties collected are to be deposited in the Litter Control and Recycling Fund or to the treasury of the relevant locality, as appropriate. A portion of the penalties deposited in the Fund are to be used for public information campaigns to discourage the sale and use of expanded polystyrene products. Finally, the bill directs the Department of Environmental Quality to post to its website information on compliance and the filing of complaints. This bill is a reenactment of Chapter 1104 of the Acts of Assembly of 2020. (21100816D-E)

HB 1965 (Bagby) (Passed House; SCL) directs the State Air Pollution Control Board to implement a low-emissions and zero-emissions vehicle program for motor vehicles with a model year of 2025 and later. Regulations adopted by the Board to implement the program are exempt from the Administrative Process Act and shall not become effective prior to January 1, 2024. The bill also authorizes the State Corporation Commission to exclude sales related to such vehicles from certain energy efficiency calculations. (21101651D-E)

HB 1983 (Bulova) (Passed House; SACNR) provides that when a water protection permit applicant is required to purchase wetland or stream mitigation bank credits but no credits are available (i) in any mitigation provider's primary service area or (ii) at a cost of less than 200 percent of the price of credits available from a fund dedicated to achieving no net loss of wetland acreage and functions, the applicant may purchase or use credits from a mitigation provider's secondary service area. The bill provides certain requirements that the permit applicant must comply with in order to purchase or use such credits from a secondary service area, including minimum tree canopy requirements. (21102632D-E)

HB 2030 (Krizek) (Passed House; SACNR) prohibits any person from applying an aerosolized neonicotinoid insecticide for personal use unless the person (i) is certified or under the direct supervision of a certified applicator or (ii) provides 24 hours' notice to the owner of any managed beehive within the line of sight of the application area. A person who violates the prohibition shall be subject to a civil penalty of \$100. (21103859D-H1)

SB 1265 (Deeds) (Passed Senate; HAG) authorizes the Department of Environmental Quality to conduct inspections of the land-disturbing activities related to construction of any natural gas transmission pipeline equal to or greater than 24 inches inside diameter. Current law authorizes such inspections only if such inside diameter is greater than 36 inches. The bill also specifies certain instances that may give rise to such inspection and authorizes the Department to issue a stop work order for every work area in Virginia in the event that substantial adverse impacts or likely adverse impacts are found on a repeated, frequent, and widespread basis. (21103789D-S1)

SB 1290 (Mason) (Passed Senate; HAG) establishes in the Department of Conservation and Recreation a data-driven Geographical Information Systems model to prioritize potential conservation areas across the Commonwealth that would provide quantifiable benefits to the citizens of Virginia, known as ConserveVirginia. Aspects of the program include (i) the synthesis of multiple mapped data inputs, divided into categories, each representing a different overarching conservation value, and periodic revision of such values; (ii) access to the model by the public and all state and federal agencies; and (iii) incorporation of the model into acquisition or grant decisions when appropriate. The bill requires the Virginia Land Conservation Foundation to report on the success of the program and incorporate the program into needs assessments for expenditures from the Virginia Land Conservation Fund. (21103330D-S1)

Firearms

HB 2128 (Lopez) (Passed House; SJUD) increases from three business days to five business days the time provided for the Department of State Police to complete a background check before a firearm may be transferred. If a dealer who has otherwise fulfilled all requirements is told by the State Police that a response will not be available by the end of the dealer's fifth business day, the dealer may complete the sale or transfer without being deemed in violation. (21102376D)

HB 2295 (Levine) (Passed House; SRUL) makes it a Class 1 misdemeanor for a person to carry any firearm within (i) the Capitol of Virginia; (ii) Capitol Square and the surrounding area, as

described in the bill; (iii) any building, parking lot, or parking structure owned or leased by the Commonwealth or any agency thereof; (iv) any building owned or leased by the Commonwealth where employees of the Commonwealth perform their official duties; or (v) any building where the General Assembly meets or conducts its business. The bill provides exceptions for law-enforcement officers, court officers, authorized security personnel, and active military personnel while in the conduct of such person's official duties; any retired law-enforcement officer who is visiting a gun range owned or leased by the Commonwealth; and any state employee of a state or juvenile correctional facility who is authorized to carry a firearm while in the conduct of such employee's official duties. The bill provides that an individual who lawfully possesses a firearm may keep such firearm in his locked vehicle in a parking lot or parking structure described in clause (iii) so long as the firearm is (a) secured, (b) not visible, and (c) in a container or compartment inside of the vehicle. The bill requires that notice of the provisions prohibiting the carrying of such firearms be posted at each of the public entrances to Capitol Square and such buildings, parking lots, and parking structures. The bill also provides that any firearm carried in violation of these provisions is subject to seizure by a law-enforcement officer and forfeiture to the Commonwealth. (21104055D-H3)

HB 2310 (Runion) (Passed House; SJUD) provides that any applicant for a concealed handgun permit who completed an online course to demonstrate competence with a handgun and contacted the circuit court clerk's office prior to January 1, 2021, but was prohibited from appearing in person at a circuit court clerk's office because of COVID-19 restrictions is eligible to apply for such permit through April 30, 2021. The bill contains an emergency clause. (21104074D-H1)

HB 2319 (Guzman) (Passed House; SJUD) makes it unlawful for an individual residing or cohabitating with any person who such individual knows or has reason to believe is prohibited from possessing or transporting a firearm to allow such person access to any firearm. The bill requires such individual to store such firearm in a manner that is inaccessible to such co-resident. If an individual violates any provision of the bill and the co-resident uses such firearm during the commission of a crime, such individual will be subject to a civil penalty of not more than \$500, except for any crime committed against such individual. The bill further provides that an individual who lawfully possesses a firearm is not in violation of the provisions of the bill if he carries the firearm on or about his person or exercises control of the firearm. (21104015D-H1)

Health and Human Services

HB 2053 (Samirah) (Passed House; SGL) directs the Department of Housing and Community Development (Department) to convene a stakeholder advisory group to evaluate the construction of internal, attached, and detached accessory dwelling units as a strategy to address the Commonwealth's growing demand for affordable and market-rate housing. The bill requires the stakeholder advisory group to report its findings and recommendations, including any legislative recommendations, to the Director of the Department, the Secretary of Commerce and Trade, the commissioners of the Virginia Housing Development Authority, and the Virginia Housing Commission no later than November 1, 2021. (21104312D-H1)

HB 2124 (Lopez) (Passed House; SEH) directs the Department of Medical Assistance Services to, during a public health emergency related to COVID-19 declared by the United States Secretary of Health and Human Services, deem testing for, treatment of, and vaccination against COVID-19 to be emergency services for which payment may be made pursuant to federal law for certain aliens not lawfully admitted for permanent residence. (21102611D-E)

HB 2154 (Adams, L.) (Passed House; SRSS) directs the Board of Health to amend regulations governing hospitals, nursing homes, and certified nursing facilities to require each hospital, nursing home, and certified nursing facility to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by the patient while receiving inpatient services. "Intelligent personal assistant" is defined in the bill as a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants." (21103464D-H1)

HB 2230 (Bell) (Passed House; SEH) directs the Department of Behavioral Health and Developmental Services (the Department) to develop and implement a program to educate individuals with intellectual and developmental disabilities, their families, and others regarding the availability of supported decision-making agreements, the process by which an individual with an intellectual or developmental disability may enter into a supported decision-making agreement with a supporter, and the rights and responsibilities of principals and supporters who are parties to a supported decision-making agreement, which shall include specific training opportunities, development of model supported decision-making agreements, and development of information about and protocols for preventing, identifying, and addressing abuse and exploitation of individuals with intellectual and developmental disabilities who enter into supported decision-making agreements. The bill directs the Department to collect data regarding the utilization of supported decision-making agreements in the Commonwealth and report such information, together with recommendations to enhance the utilization of supported decision-making agreements, annually to the Governor and the General Assembly by November 1. (21101478D)

SB 1235 (Peake) (Passed Senate; HHWI) prohibits any person employed by or who has entered into a contract to provide services on behalf of the Department of Health or a local department of health from initiating communication regarding the following matters with a minor on behalf of the Department or local department of health without the consent of the minor's parent or guardian or person serving in loco parentis: family living and community relationships; the benefits, challenges, responsibilities, and value of marriage for men, women, children, and communities; the value of family relationships; abstinence education; the value of postponing sexual activity; the benefits of adoption as a positive choice in the event of an unwanted pregnancy; human sexuality; human reproduction; the prevention of human trafficking; dating violence, the characteristics of abusive relationships, steps to take to deter sexual assault, the availability of counseling and legal resources, and, in the event of such sexual assault, the importance of immediate medical attention and advice, as well as the requirements of the law; the etiology, prevention, and effects of sexually transmitted diseases; and mental health education and awareness. The bill clarifies that its provisions do not apply to school nurses,

physicians, or Department employees or agents who are inquiring about medical conditions, outbreaks, pandemics, or any other declared state of emergency relating to a communicable disease or public health threat. (21101145D-E2)

Land Use

HB 2054 (Samirah) (Passed House; SLG) adds reducing, modifying, or waiving local parking requirements or ratios to the strategies that may be included when certain larger localities consider incorporating strategies to promote transit-oriented development in reviews of their comprehensive plans. The bill removes from the existing strategy of increasing development density in certain areas to reduce density in others the phrase "to reduce density in others." (21101042D)

SB 1143 (Cosgrove) (Passed Senate; HAG) retroactively extends until January 1, 2022, certain wetlands permits set to expire between March 1, 2020, and July 1, 2021. (21101885D)

Public Safety/Criminal Justice

HB 2263 (Mullin) (Passed House; SJUD) abolishes the death penalty, including for those persons currently under a death sentence. The bill incorporates HB 1779. (21104346D-H1)

SB 1165 (Surovell) (Passed Senate; HCT) abolishes the death penalty, including for those persons currently under a death sentence. The bill provides that no person may be sentenced to death or put to death on or after its effective date for any violation of law. (21103949D-S4)

HB 1821 (Bulova) (Passed House; SJUD) prohibits the arrest or prosecution of an individual for the unlawful purchase, possession, or consumption of alcohol, possession of a controlled substance, possession of marijuana, intoxication in public, or possession of controlled paraphernalia if (i) such individual, in good faith, renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or obtains emergency medical attention; (ii) such individual remains at the scene of the overdose or at any location to which he or the individual requiring emergency medical attention has been transported; (iii) such individual identifies himself to the law-enforcement officer who responds; and (iv) the evidence for a prosecution of one of the enumerated offenses would have been obtained only as a result of the individual's rendering emergency care or assistance. Current law prohibits arrest or prosecution for such offenses only to an individual who seeks or obtains emergency medical attention for himself or another individual or who is experiencing an overdose when another individual seeks or obtains emergency medical attention for him. (21102028D-E)

HB 1894 (Kory) (Passed House; SEH) authorizes employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers to possess and administer naloxone or other opioid antagonist for overdose reversal pursuant to an oral or

written order or standing protocol issued by the prescriber within the course of his professional practice. (21101928D)

HB 1909 (Subramanyam) (Passed House; SEH) permits any school board to deem any non-school zone property that it owns or leases as a gun-free zone and prohibit any individual from knowingly possessing, purchasing, transferring, carrying, storing, or transporting firearms, ammunition, or components or combination thereof while such individual is upon such property, except certain individuals such as law-enforcement officers and qualified retired law-enforcement officers. (21103262D-H1)

HB 1936 (Watts) (Passed House; SJUD) creates degrees of punishment corresponding to the severity of a robbery offense. Any person who commits a robbery and causes serious bodily injury to or the death of another person is guilty of a Class 2 felony. Any person who commits robbery by using or displaying a firearm in a threatening manner is guilty of a Class 3 felony. Any person who commits robbery by using physical force not resulting in serious bodily injury, or by using or displaying a deadly weapon other than a firearm in a threatening manner, is guilty of a Class 5 felony. Any person who commits robbery by using threat or intimidation not involving a deadly weapon is guilty of a Class 6 felony. Under current law, any robbery is punishable by confinement in a state correctional facility for life or any term not less than five years. (21103380D-H1)

HB 1948 (Levine) (Passed House; SJUD) requires any law-enforcement officer on duty who witnesses another person suffering from a serious bodily injury or a life-threatening condition to render aid and makes it a duty to report acts of wrongdoing, defined in the bill and including bias-based profiling, committed by another law-enforcement officer on duty. Any law-enforcement officer who fails to render such aid or report such wrongdoing committed by another law-enforcement officer shall be subject to disciplinary action, including dismissal, demotion, suspension, or transfer of the law-enforcement officer. The bill also expands the definition of "bias-based profiling," a practice banned for sheriffs, deputy sheriffs, other local law-enforcement officers, and State Police officers in the performance of their official duties, to include sexual orientation and gender identity. (21102665D)

HB 1951 (Simon) (Passed House; SJUD) abolishes the common-law crime of suicide. Suicide is currently a common-law crime in Virginia, although there is no statutorily prescribed punishment. (21100986D)

HB 2331 (Mullin) (Passed House; SJUD) eliminates mandatory minimum sentences of confinement for certain crimes. The bill also provides a petition process for a person who was convicted or adjudicated delinquent of certain felony offenses committed prior to July 1, 2021, sentenced to a mandatory minimum term of confinement for any such felony offense, and remains incarcerated in a state or local correctional facility serving the mandatory minimum term of confinement for any such felony offense to petition the circuit court that entered the original judgment or order to (i) suspend the unserved portion of such mandatory minimum sentence, (ii) place such person on probation for such time as the court shall determine, or (iii) otherwise

modify the sentence imposed. The bill provides that such petition shall be filed by July 1, 2024. (21103590D-E)

SB 1138 (Locke) (Passed Senate; HCT) provides that any person who is diagnosed with a sexually transmitted infection and engages in sexual behavior that poses a substantial risk of transmission to another person according to current Centers for Disease Control and Prevention recommendations regarding such risk of transmission with the intent to transmit the infection to another person and transmits such infection to that person is guilty of infected sexual battery, punishable as Class 1 misdemeanor. Under current law, the crime of infected battery is punishable as a Class 6 felony. The bill also repeals the crime of donating or selling blood, body fluids, organs, and tissues by persons infected with human immunodeficiency virus and the provisions regarding the testing of certain persons for human immunodeficiency virus or hepatitis B or C viruses. The bill contains technical amendments. (21104447D-S1)

SB 1306 (Morrissey) (Passed Senate; HCT) eliminates the mandatory minimum term of confinement of six months for an assault and battery committed against a judge, magistrate, law-enforcement officer, correctional officer, person directly involved in the care, treatment, or supervision of inmates, firefighter or volunteer firefighter, or emergency medical services personnel. The bill removes simple assault from enhanced punishment and provides that the enhanced punishment applies for assault and battery only when it results in bodily injury. The bill also provides that a jury or the court may find any person charged with such offense (i) whose physical or mental capacity is diminished to the extent that he needs counseling or supervisory assistance or assistance with activities of daily living or instrumental activities of daily living or (ii) who has been diagnosed with an autism spectrum disorder, a developmental disability, or an intellectual disability, not guilty of such offense but guilty of a simple assault or assault and battery, punishable as a Class 1 misdemeanor. The bill also provides that before any arrest, indictment, or service of a petition in the case of a juvenile is made for an alleged assault and battery against a law-enforcement officer, (a) such alleged assault and battery shall be investigated by another law-enforcement officer who was not the subject of such alleged assault and battery and (b) the arrest, indictment, or service of a petition shall be approved by the attorney for the Commonwealth. (21103079D-ES1)

SB 1443 (Edwards) (Passed Senate; HCT) eliminates all mandatory minimum sentences of confinement from the Code of Virginia. The bill directs the Secretary of Public Safety and Homeland Security to establish a work group to evaluate the feasibility of resentencing persons previously convicted of a felony offense that was punishable by a mandatory minimum term of confinement. The work group would report on its findings by November 1, 2021. As introduced, this bill was a recommendation of the Virginia State Crime Commission. (21103563D-ES1)

SB 1461 (Lewis) (Passed Senate; HCT) provides that any person who (i) offers, confers, or agrees to confer upon another any pecuniary benefit as consideration for the recipient to act in the unlawful delivery of items or contraband to prisoners or (ii) receives any pecuniary benefit or other consideration to act in in the unlawful delivery of items or contraband to prisoners shall be guilty of bribery, punishable as a Class 4 felony. The bill also provides that any law-enforcement officer, jail officer, or correctional officer who violates the provisions of the bill

shall be decertified and shall be forever ineligible for reemployment as a law-enforcement officer, jail officer, or correctional officer in the Commonwealth. (21102737D)

SB 1475 (Stuart) (Passed Senate; HCT) provides that a search warrant for the search of any place of abode shall be executed by initial entry of the abode only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a magistrate, if a judge is not available, authorizes the execution of such search warrant at another time for good cause shown by particularized facts in an affidavit; or (ii) prior to the issuance of the search warrant, law-enforcement officers lawfully entered and secured the place to be searched and remained at such place continuously. The bill also provides that a law-enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to execute the warrant at another time, unless the warrant was issued after 5 p.m., in which case the law-enforcement officer may seek such authorization from a magistrate without first making reasonable efforts to locate a judge. (21104245D-S1)

Legislative Committee Actions of February 19, 2021:

Members Present: Legislative Chairman Walkinshaw
 Chairman McKay
 Supervisor Alcorn
 Supervisor Foust
 Supervisor Gross
 Supervisor Lusk
 Supervisor Palchik
 Supervisor Smith
 Supervisor Storck

Specific Issues

House Substitute for SB 1303 (Dunnivant): The Committee received copies of the House Education subcommittee substitute for SB 1303 to reference during the Board’s discussion. See handout on “Supplementary Documents,” pages 177-178.

State Budget Analysis: The Committee received an update on the state budget, including an overview of the House and Senate budget amendments. See handout on “Supplementary Documents,” pages 179-199.

Priority Principles for Reviewing Legislation

- 1. Adequately fund K-12 education.**
- 2. Restore funding to the Northern Virginia Transportation Authority (NVTa) in an amount equal to what was diverted, to ensure that transportation projects continue to advance in Northern Virginia after decades of state underfunding.**
- 3. Build upon the successful enactment of significant transportation revenues by the 2013 and 2020 GAs to ensure sufficient funding for transportation needs.**
- 4. Restore the funding partnership between the state and localities through adequate state funding.**
- 5. Preserve local government authority, particularly in taxation and land use; allow greater flexibility in the administration of government.**

Fairfax County Legislative Summary

The Committee discussed the status of legislation on which the Committee had previously taken positions and discussed changing positions on four bills. The Committee’s positions on these bills are noted in the attached tracking chart (see “Supplementary Documents,” on pages 1-63).

Legislation Provided for Discussion

SB 1303 (Dunnavant) (Passed Senate; HED) requires each local school division to make virtual and in-person learning available to all students by choice of the student's parent or guardian. Monitor. (21200203D)

“Watch List”/May Have State Revenue/Policy Implications

Courts/Public Safety

HB 1806 (Kilgore) (Passed House; Passed Senate with Amendments) provides that if a motion to suspend or otherwise modify a person's sentence is filed with the court that heard the case at any time before the person is transferred to the Department of Corrections (the Department), the court may enter an order to retain jurisdiction over the matter for up to 60 days in order to consider and rule on such motion. If the court enters such order, the transfer of the person to the Department shall not affect the jurisdiction of the court under the terms of the order. Upon entry of an order to retain jurisdiction, the clerk of the court shall forthwith forward an attested copy of the order to the Department. (21101785D)

HB 1895 (Hudson) (Passed Both Houses) provides that no interest shall accrue on any fine or costs imposed in a criminal case or in a case involving a traffic infraction (i) for a period of 180 days following the date of the final judgment imposing such fine or costs; (ii) during any period the defendant is incarcerated; and (iii) for a period of 180 days following the date of the defendant's release from incarceration if the sentence includes an active term of incarceration. Current law prohibits interest from accruing on such fines or costs for a period of 40 days from the date of the final judgement imposing such fine or costs or during any period the defendant is incarcerated. The bill also removes the requirement that a defendant be unable to make payment of a fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing in order to be eligible to enter into a deferred or installment payment agreement and allows any defendant to enter such payment agreements. The bill provides that no fee shall be assessed in connection with a defendant's participation in a deferred or installment payment agreement and removes the requirement that a defendant make a down payment upon entering a deferred, modified deferred, or installment payment agreement. (21102438D-E)

HB 2017 (Mullin) (Passed House; SFIN) authorizes any jurisdiction to establish a youth justice diversion program, defined in the bill as a diversionary program that (i) is monitored by a local youth justice diversion program advisory committee; (ii) uses juvenile volunteers as lawyers, jurors, and other court personnel; (iii) uses volunteer attorneys as judges; (iv) conducts peer trials, subject to the juvenile and domestic relations court's jurisdiction, of juveniles who are referred to the program by an intake officer; and (v) imposes various sentences emphasizing restitution, rehabilitation, accountability, competency building, and education, but not incarceration. The bill provides that a jurisdiction may establish a youth justice diversion program upon establishment of a local youth justice diversion program advisory committee and approval of the program by the chief judge of the juvenile and domestic relations court that serves such jurisdiction. The bill requires each local youth justice diversion program advisory

committee to establish criteria for the eligibility and participation of juveniles alleged to have committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult, with the consent of the juvenile's parent or legal guardian, and to establish policies and procedures for the operation of such program. The bill provides that whenever an intake officer takes informal action on a complaint alleging that a child committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult, the intake officer may refer the juvenile to a youth justice diversion program. The bill also adds provisions that the Department of Juvenile Justice shall develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of youth justice diversion programs and report these evaluations to the General Assembly by December 1 of each year. (21102998D-H1)

HB 2029 (Krizek) (Passed House; Reported from SGL) prohibits the burning by any person, local government, or agency of the Commonwealth of Class A fuel materials that contain oriented strand board, defined in the bill, during fire training activities. (21104491D-S1)

HB 2031 (Aird) (Passed Both Houses) allows a locality or a public institution of higher education to authorize a local law-enforcement agency or campus police department to purchase or deploy facial recognition technology, which is defined in the bill. The bill prohibits a local law-enforcement agency or public institution of higher education currently using facial recognition technology from continuing to use such technology without such authorization after July 1, 2021. (21101718D-E)

HB 2099 (Coyner) (Passed House; SFIN) reduces from 20 years to 10 years from the date of a judgment the period of time within which an execution may be issued or action may be taken on such judgment. The bill provides that the limitation of the enforcement of a judgment may be extended by a recordation of a certificate prior to the expiration period in the clerk's office in which a judgment lien is recorded. The bill provides that such recordation shall extend the limitations period for 10 years from the date of such recordation. Under current law, such limitation period may be extended on motion of the judgment creditor or his assignee. The bill allows a settlement agent or title insurance company to release a judgment lien, in addition to a deed of trust as provided under current law, provided that the obligation secured by such judgment lien has been satisfied by payment made by the settlement agent and whether or not the settlement agent or title insurance company is named as a trustee under such lien or received authority to release such lien. The bill has a delayed effective date of January 1, 2022. (21200278D-S1)

HB 2168 (Scott) (Passed House; Passed Senate with Amendments; Senate amendments rejected by House) provides that any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of \$25,000. The bill provides that the Attorney General, an attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to enjoin the operation of a gambling device in violation of this section and may request attachment against all such devices and any moneys within such devices. The bill provides that any civil penalties brought in the name of the

Commonwealth shall be paid into the Literary Fund and that any civil penalties brought in the name of a locality shall be paid into the general fund of the locality. (21101270D-E)

SB 1465 (Reeves) (Passed Senate; Passed House with Amendments) provides that any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of up to \$25,000. The bill provides that the Attorney General, an attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to enjoin the operation of a gambling device in violation of this section and may request attachment against all such devices and any moneys within such devices. The bill provides that any civil penalties brought in the name of the Commonwealth shall be paid into the Literary Fund and that any civil penalties brought in the name of a locality shall be paid into the general fund of the locality. (21102212D-E)

HB 2236 (Bell) (Passed Both Houses) provides that if an offender determined to be eligible to participate in a behavioral health docket resides in a locality other than that in which the behavioral health docket is located, or such offender desires to move to a locality other than that in which the behavioral health docket is located, and the court determines it is practicable and appropriate, the supervision of such offender may be transferred to a supervising agency in the new locality. The bill states that if the receiving agency accepts the transfer, it shall confirm in writing that it can and will comply with all of the conditions of supervision of the behavioral health docket, including the frequency of in-person and other contact with the offender and updates from the offender's treatment providers and that if the receiving agency cannot comply with the conditions of supervision, the agency shall deny the transfer in writing and the sending agency shall notify the court. The bill also provides that where supervision is transferred, the sending agency shall be responsible for providing to the court reports on an offender's conduct, treatment, and compliance with the conditions of supervision. Additionally, the bill provides that the standards prescribed by the Department of Criminal Justice Services for the development, implementation, operation, and evaluation of local community-based probation services and facilities shall include standards for the transfer of supervision between local community-based probation agencies. (21103541D-H1)

SB 1119 (Reeves) (Passed Senate; HAPP) creates a special nonreverting fund to be known as the Body-Worn Camera System Fund to assist state or local law-enforcement agencies with the costs of purchasing, operating, and maintaining body-worn camera systems. (21100957D)

SB 1261 (Edwards) (Passed Senate; HCT) expands the jurisdiction of the Court of Appeals of Virginia by providing for an appeal of right in every civil case and provides that the granting of further appeal to the Supreme Court of Virginia shall be within the discretion of the Supreme Court. The bill provides for an appeal of right in criminal cases by a defendant, but leaves unchanged the current requirement that in criminal cases the Commonwealth must petition the Court of Appeals for granting of an appeal. The bill increases from 11 to 17 the number of judges on the Court of Appeals. The bill also (i) provides jurisdiction to the Court of Appeals over interlocutory appeals and petitions for review of injunctions; (ii) allows for oral arguments to be dispensed with if the panel of judges makes a unanimous decision that the appeal is wholly

without merit or that the dispositive issues on appeal have already been authoritatively decided and the appellant has not argued that the case law should be overturned, extended, or reversed; (iii) provides that the Attorney General shall represent the Commonwealth in criminal appeals unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the case files a notice of appearance; (iv) eliminates the requirement for an appeal bond in criminal appeals; (v) requires all criminal cases in a court of record to be recorded and requires the clerk of the circuit court to prepare a transcript of any trial for which an appeal is noticed to him; and (vi) requires an expedited review of appeals of permanent protective orders and of bond validation proceedings. The bill has a delayed effective date of October 1, 2021, which is applicable to all provisions of the bill except for those increasing the number of judges on the Court of Appeals. The provisions of the bill are contingent on funding in a general appropriation act. (21103599D-ES1)

Data and Technology

HJ 578 (Price) (Agreed to by House; SRUL) requests the Department of Behavioral Health and Developmental Services to establish a work group to study the feasibility of developing a secure, de-identified, renewable, and relational database of criminal justice, behavioral health, and other human services records to facilitate development of more effective interventions. (21102974D)

HB 2307 (Hayes) (Passed House; Senate Floor) establishes a framework for controlling and processing personal data in the Commonwealth. The bill applies to all persons that conduct business in the Commonwealth and either (i) control or process personal data of at least 100,000 consumers or (ii) derive over 50 percent of gross revenue from the sale of personal data and control or process personal data of at least 25,000 consumers. The bill outlines responsibilities and privacy protection standards for data controllers and processors. The bill does not apply to state or local governmental entities and contains exceptions for certain types of data and information governed by federal law. The bill grants consumer rights to access, correct, delete, and obtain a copy of personal data and to opt out of the processing of personal data for the purposes of targeted advertising. The bill provides that the Attorney General has exclusive authority to enforce violations of the law, and the Consumer Privacy Fund is created to support this effort. The bill has a delayed effective date of January 1, 2023. (21200206D-S1)

SB 1392 (Marsden) (Passed Senate; Passed House with substitute) establishes a framework for controlling and processing personal data in the Commonwealth. The bill applies to all persons that conduct business in the Commonwealth and either (i) control or process personal data of at least 100,000 consumers or (ii) derive over 50 percent of gross revenue from the sale of personal data and control or process personal data of at least 25,000 consumers. The bill outlines responsibilities and privacy protection standards for data controllers and processors. The bill does not apply to state or local governmental entities and contains exceptions for certain types of data and information governed by federal law. The bill grants consumer rights to access, correct, delete, obtain a copy of personal data, and to opt out of the processing of personal data for the purposes of targeted advertising. The bill provides that the Attorney General has exclusive authority to enforce violations of the law, and the Consumer Privacy Fund is created to support this effort. The bill has a delayed effective date of January 1, 2023. (21200213D-H1)

SB 1225 (Boysko) (Passed Both Houses) authorizes school boards to appropriate funds for the purposes of promoting, facilitating, and encouraging the expansion and operation of broadband services for educational purposes. The bill authorizes school boards to partner with private broadband service providers to promote, implement, and subsidize broadband for educational purposes to the households of students who would qualify for (i) a child nutrition program or (ii) any other program recognized or adopted by the local school board as a measuring standard to identify at-risk students. (21101489D)

Education/Schools

HJ 549 (Guy) (Agreed to by House; SRUL)/**SJ 308** (Lucas) (Agreed to by Senate; HRUL) directs the Joint Legislative Audit and Review Commission to study the impact of COVID-19 on Virginia's public schools, students, and school employees, including (i) examining and determining reasons for barriers to student success in virtual and hybrid models as well as the overall impact of COVID-19 face-to-face learning restrictions on previously existing student achievement gaps, student achievement, and student well-being, including any disproportionate impact on at-risk populations; (ii) determining the impact of the COVID-19 pandemic on staffing levels, including the impact of teacher and school employee retirements and resignations on delivery of instruction and the ability of local school boards to fully staff their needs, employment levels, and local budgets; (iii) determining the short-term and projected long-term changes in student enrollment in response to the COVID-19 pandemic and the impact of such changes on funding levels; (iv) determining the impact of implementing COVID-19 health and safety measures in public schools; (v) evaluating public schools' level of emergency preparedness to face another pandemic or statewide crisis and making recommendations to help guide planning for such events and (vi) examining programs that can address learning loss and identifying barriers to implementing those programs, including resource gaps. (21101153D-E, 21102905D-E)

SB 1257 (McClellan) (Passed Senate; Reported from HAPP) modifies a school personnel requirement in Standard 2 of the Standards of Quality. It requires each school board to provide at least three specialized student support positions, including school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, per 1,000 students. The provisions of the bill are contingent on funding in a general appropriation act. (21104370D-ES1)

Elections

HB 2125 (Lopez) (Passed House; Senate Floor) permits a person who is otherwise qualified to register to vote and is 16 years of age or older, but who will not be 18 years of age on or before the day of the next general election, to preregister to vote. The preregistration does not entitle such person to vote in any election except as already permitted by law. The bill requires the Department of Elections to maintain a record of all preregistered voters in the Virginia voter registration system, which shall automatically register a person who is preregistered upon that person reaching 18 years of age or becoming eligible for advance registration as already permitted by law, whichever comes first. The bill requires the Department to provide to the

general registrars voter confirmation documents for such voters. The bill has a delayed effective date of October 1, 2022. (21100907D-E)

SB 1111 (Spruill) (Passed Both Houses) removes the power of officers of election, in the event that no law-enforcement officer is in attendance, to appoint a person who is not a law-enforcement officer to have all the powers of a law-enforcement officer within the polling place and the prohibited area. (SB1111ER)

SB 1281 (Morrissey) (Passed Both Houses) allows a county or city with a population of 50,000 or less to appoint a general registrar that is not a qualified voter of the county or city. Under current law, only counties or cities with a population of 25,000 or less may do so. (SB1281ER)

SB 1331 (Reeves) (Passed Senate; Reported from HPE) requires the Department of Elections to make available to all localities a tool to allow voters with a visual impairment or print disability to electronically and accessibly receive and mark his absentee ballot using screen reader assistive technology. On receipt of an application for an absentee ballot from an applicant who indicates that he will require assistance due to a visual impairment or print disability, the general registrar is required to offer to provide to the applicant the ballot marking tool with screen reader assistive technology. (21102849D)

Absentee Voting

HB 1968 (Bagby) (Passed House; Senate Floor) permits the electoral board or general registrar of a county or city to provide absentee voting in person in the office of the general registrar or voter satellite office on Sundays. (21102134D)

SB 1097 (Favola) (Passed Senate; Reported from HPE) repeals the requirement that an absentee ballot be opened in the presence of a witness and signed by such witness. (21200289D-H1)

SB 1239 (Bell) (Passed Senate; Reported from HPE) permits a general registrar to contract with a third party for the printing, assembly, and mailing of absentee ballots. The bill directs the State Board of Elections to adopt emergency regulations to implement the provisions of the bill and for those regulations to include processes to ensure secure and timely delivery of voter information to contractors and reports of mailed absentee ballots from contractors. (21100930D)

Employment Issues

HB 1862 (Helmer) (Passed House; SCL) prohibits an employer from discharging, disciplining, or discriminating against an employee for such employee's lawful use of cannabis oil pursuant to a valid written certification issued by a practitioner for the treatment or to eliminate the symptoms of the employee's diagnosed condition or disease. The bill provides that such prohibition does not (i) restrict an employer's ability to take any adverse employment action for any work impairment caused by the use of cannabis oil or to prohibit possession during work hours or (ii) require an employer to commit any act that would cause the employer to be in

violation of federal law or that would result in the loss of a federal contract or federal funding. (21101426D-E)

HB 2040 (Hudson) (Passed House; Senate Floor) provides that an employer shall be deemed to have established a pattern of failing to respond timely or adequately to written requests for information relating to claims if the Virginia Employment Commission determines that the employer has failed to respond timely or adequately to a written request for information relating to a claim on two or more occasions within a 48-month window and requires such employer to pay a penalty upon his second such failure to respond timely or adequately. Under current law, such pattern is established after four failures, and the penalty is assessed after the third failure. The bill provides that if an employer fails to respond timely or adequately to a written request by the Commission for information relating to a claim, the employer forfeits any appeal rights to that claim. The bill provides that when a claimant has had a determination of initial eligibility for benefits, as determined by the issuance of compensation or waiting-week credit, payments shall continue, subject to a presumption of continued eligibility, until a determination is made that provides the claimant notice and an opportunity to be heard. The bill provides that the Commission shall waive the obligation to repay any overpayment if (i) the overpayment was made without fault on the part of the individual and (ii) requiring repayment would be contrary to equity and good conscience. The Commission shall have authority to negotiate the terms of repayment for any overpayment where repayment is not forgiven. Overpayments shall not be considered "without fault" if the overpayment was the result of (i) a reversal in the appeals process, unless the employer failed to respond or timely respond or (ii) a programming, technological, or automated system error that results in erroneous payments to a group of individuals. The bill also provides that the Commission shall notify each person with an unpaid overpayment of benefits that they may be entitled to a waiver of repayment and provide 30 days to request such a waiver. The bill applies to overpayments established for the week commencing March 15, 2020 through the week commencing June 26, 2021 and only to those overpayments that have not been fully or partially repaid. Finally, the bill allows the Commission to suspend or forego referring any overpayment to the collections process until June 30, 2022. (21200382D-S2)

HB 2063 (Mullin) (Passed House; SCL) requires an employer to compensate its employees who are entitled to overtime compensation under the federal Fair Labor Standards Act at a rate not less than one and one-half times the employee's regular rate of pay, defined in the bill, for any hours worked in excess of 40 hours in any one workweek. The bill includes provisions for calculating overtime premiums due to fire protection and law-enforcement employees by certain public sector employers. The penalties provided by the bill for an employer's failure to pay such overtime wages, including civil and criminal penalties, are the same as currently provided for failing to pay wages generally. The statute of limitations for bringing a claim for a violation of the bill is three years. (21103929D-H1)

HB 2134 (Batten) (Passed House; SCL) prohibits the consideration, in any determination regarding whether an individual is an employee or independent contractor, for the purposes of a civil action for employment misclassification, unemployment compensation, and workers' compensation, of the provision of personal protective equipment by a hiring party to the

individual in response to a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared. (21101448D)

Paid Family and Medical Leave

HB 2137 (Guzman) (Passed House; SCL) requires employers to provide certain employees paid sick leave. An employee is eligible for paid sick leave under the bill if the employee is an essential worker and works on average at least 20 hours per week or 90 hours per month. The bill provides for an employee to earn at least one hour of paid sick leave benefit for every 30 hours worked. An employee shall not use more than 40 hours of earned paid sick leave in a year, unless the employer selects a higher limit. The bill provides that earned paid sick leave may be used for (i) an employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care or (ii) care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care of a family member who needs preventive medical care. The bill prohibits employers from taking certain retaliatory actions against employees related to leave. The bill provides for a hardship waiver for employers that demonstrate that providing paid sick leave threatens the financial viability of the employer, jeopardizes the ability of the employer to sustain operations, significantly degrades the quality of the employer's business operations, or creates a significant negative financial impact on the employer. The bill requires the Commissioner of Labor and Industry to promulgate regulations that (a) identify workers as essential based on the categories listed in the bill; (b) include reasonable requirements for recordkeeping, confidentiality, and notifying employees of their rights under provisions of the bill; (c) establish complaint, investigation, and enforcement procedures that include fines, not to exceed \$500, for violations of provisions of the bill; (d) establish requirements for compensation and accrual of paid sick leave for employees employed and compensated on a fee-for-service basis; and (e) include procedures and requirements for an employer to qualify for a hardship waiver. The provisions of the bill do not apply to a retail business with fewer than 25 employees. (21101625D-E)

SB 1219 (Favola) (Passed Senate; Reported from HLC) directs the State Corporation Commission's Bureau of Insurance (the Bureau) to review and make recommendations, including any necessary statutory and regulatory changes, to authorize the State Corporation Commission to approve the sale of individual and group paid family leave plans in Virginia. The bill requires the Bureau to also identify options and make recommendations for encouraging or incentivizing employers to voluntarily offer up to 12 weeks of paid family leave. The bill requires the Bureau to convene a stakeholder group to participate in the process, which is required to include representatives from the insurance industry and the business community, advocates for paid family leave, and other interested parties. The bill requires the Bureau to report its findings and recommendations to the Senate Committees on Commerce and Labor and Finance and Appropriations and the House Committees on Labor and Commerce and Appropriations by November 30, 2021. (21200399D-H1)

Workers' Compensation

HB 1985 (Hurst) (Passed House; Passed Senate with substitute) establishes a presumption that COVID-19 causing the death or disability of health care providers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment. The bill provides that such presumption applies to any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2021, the claimant received a positive diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory-confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment. The bill provides that such presumptions do not apply to any person offered by his employer a vaccine for the prevention of COVID-19 unless the person's physician determines in writing that immunization would pose a significant risk to the person's health. (21200277D-S1)

HB 2207 (Jones) (Passed House; Passed Senate with substitute) establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, and correctional officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment. The bill provides that such presumption applies to any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment. (21200212D-S1)

SB 1375 (Saslaw) (Passed Senate; Passed House with substitute; House substitute rejected by Senate) establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, and correctional officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment and only applies to a person who was diagnosed a person who was diagnosed with the COVID-19 virus on or after July 1, 2021, and whose death or disability caused by infection from the COVID-19 virus occurred on or after July 1, 2021. This bill incorporates SB 1342. (21200130D-H1)

Environment/Energy

HB 2001 (Helmer) (Passed House; SFIN) requires that any executive branch agency or institution or locality entering the design phase for the construction of a new building greater

than 5,000 gross square feet in size or the renovation of a building where the cost of the renovation exceeds 50 percent of the value of the building ensure that such building has sufficient electric vehicle charging infrastructure, defined in the bill, and has features that permit the agency or institution to track the building's energy efficiency and carbon emissions. The bill authorizes the Director of the Department of General Services to grant exemptions to such standards, in writing and with certain terms. The bill requires agencies to annually report to the Governor the energy efficiency and carbon emissions metrics for each such building built or renovated. The bill requires localities to design such building projects according to the same or similar standards, or more stringent standards if adopted by ordinance. The bill also requires that localities incorporate appropriate resilience and distributed energy features. The bill requires that any exemption from the standards granted by resolution of the governing body of a locality be made in writing and explain the basis for granting the exemption. (21103607D-H2)

SB 1223 (Boysko) (Passed Senate; House Floor) amends the Virginia Energy Plan to include an analysis of electric vehicle charging infrastructure and other infrastructure needed to support the 2045 net-zero carbon target in the transportation sector. (21101437D)

SB 1318 (Hashmi) (Passed Senate; Reported from HGL) establishes the Interagency Environmental Justice Working Group as an advisory council in the executive branch of state government to further environmental justice in the Commonwealth and directs each of the Governor's Secretaries to designate at least one environmental justice coordinator to represent the secretariat as a member of the Working Group. The bill provides that the Working Group shall expire on July 1, 2031. (21200450D-H1)

FOIA

HB 2004 (Hurst) (Passed House; SFIN) adds criminal investigative files, defined in the bill, relating to a criminal investigation or proceeding that is not ongoing, also defined in the bill, to the types of law-enforcement and criminal records required to be released in accordance with the provisions of the Virginia Freedom of Information Act. Under current law, the release of criminal investigative files is discretionary. The bill also provides that the mandatory release of criminal incident information relating to felony offenses and criminal investigative files shall be enjoined if a court finds by a preponderance of the evidence that the release of such information would likely effect certain results, outlined in the bill. The bill contains technical amendments. This bill is a recommendation of the Virginia Freedom of Information Advisory Council. (21200329D-S1)

HB 2025 (Gooditis) (Passed House; Reported from SGL) provides that personal contact information provided to a public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members is excluded from the mandatory disclosure provisions of FOIA, unless the recipient of such electronic communications indicates his approval for the public body to disclose such information. Currently, the law provides protections for personal contact information provided to a public body, not to its members; only applies to electronic mail; and requires the electronic mail recipient to request the public body not to disclose his personal contact information in order for

the information to be exempt from mandatory disclosure. This bill is a recommendation of the Virginia Freedom of Information Advisory Council. (21101440D)

Health and Human Services

HB 1963 (Bagby) (Passed House; Reported from SEH) provides that funding for local health departments shall consist of such state funds as may be allocated for the operation of the local health department together with local matching funds and estimated self-generated local service revenues, the total amount of which shall constitute the cooperative local health budget available to a local department of health, and that the amount of local matching funds for which a county or city is responsible shall be based on the county's or city's revenue generation capacity factor, as defined in the bill; in no case, however, shall the amount of local matching funds required be greater than 45 percent or less than 18 percent of the total amount of the cooperative local health budget for the local health department that serves the county or city, after deducting estimated self-generated local service revenues. The bill directs the Department of Health to biennially review the local matching fund amount for each county and city, determine whether such amount should be revised as a result of changes to the county's or city's revenue generation capacity, and report the results of such review and any recommendations for changes to a county's or city's local matching fund amount to the Governor and the General Assembly. (21102417D)

HB 2061 (Willett) (Passed House; Reported from SEH) requires any health care provider in the Commonwealth that administers immunizations to participate in the Virginia Immunization Information System (VIIS) and report patient immunization history and information to VIIS. Under current law, participation in VIIS is optional for authorized health care entities. The bill has a delayed effective date of January 1, 2022. (21102411D)

HB 2212 (Plum) (Passed Both Houses) requires the director of the Office of Children's Services to provide for the effective implementation of the Children's Services Act (§ 2.2-5200 et seq.) in all localities by (i) regularly monitoring local performance measures and child and family outcomes; (ii) using audit, performance, and outcomes data to identify local programs that need technical assistance; and (iii) working with local programs that are consistently underperforming to develop a corrective action plan for submission to the Office and the State Executive Council for Children's Services. (21101765D)

HB 2333 (Bagby) (Approved by Governor)/**SB 1445** (Dunnavant) (Approved by Governor) facilitates the administration of the COVID-19 vaccine. The bill requires the Department of Health (the Department) to establish a program to enable eligible health care providers to volunteer to administer the COVID-19 vaccine to residents of the Commonwealth during a state of emergency related to the COVID-19 pandemic declared by the Governor. The bill defines "eligible health care provider" and provides that the program shall include (i) a process by which an eligible health care provider may register to participate in the program and (ii) the training requirements for participating eligible health care providers related to the administration of the COVID-19 vaccine, including training on the intramuscular injection of the COVID-19 vaccine and contraindications and side effects of the COVID-19 vaccine. The bill specifies requirements that the Department shall ensure that each site at which COVID-19 vaccinations are administered

by eligible health care providers satisfies. The bill also requires the Department to establish a process by which entities, including medical care facilities, hospitals, hospital systems, corporations, businesses, pharmacies, public and private institutions of higher education, localities, and any other professional or community entity operating in the Commonwealth, may volunteer their facilities as sites at which the COVID-19 vaccine may be administered to residents of the Commonwealth. The bill permits a public institution of higher education or a private institution of higher education in the Commonwealth to volunteer to provide assistance to the Department and local health departments for data processing, analytics, and program development related to the COVID-19 vaccine through the use of its employees, students, technology, and facilities. The bill also permits localities with fire departments, emergency medical services departments, and volunteer rescue squads to establish and staff vaccine administration clinics. The bill provides civil and criminal immunity to individuals and professional entities acting pursuant to the bill and contains an emergency clause. (CHAP0001, CHAP0002)

SB 1125 (Obenshain) (Passed Senate; HCT) requires the Parole Board, within seven days of making any decision regarding the parole of a prisoner, to provide written or electronic notice of such decision to the victim of the crime for which the prisoner was incarcerated, unless the victim has submitted a written request to forgo such notice. (21101811D-E)

SB 1273 (Deeds) (Passed Senate; HRUL) creates the Behavioral Health Commission in the legislative branch of state government for the purpose of (i) studying and making recommendations for the improvement of behavioral health services and the behavioral health service system in the Commonwealth to encourage the adoption of policies to increase the quality and availability of and ensure access to the full continuum of high-quality, effective, and efficient behavioral health services for all persons in the Commonwealth and (ii) providing ongoing oversight of behavioral health services and the behavioral health service system in the Commonwealth, including monitoring and evaluation of established programs, services, and delivery and payment structures and implementation of new services and initiatives in the Commonwealth and development of recommendations for improving such programs, services, structures, and implementation. (21101274D-E)

SB 1302 (McPike) (Passed Senate; House Floor) provides that the crisis call center, which under current law is administered by the Department of Behavioral Health and Developmental Services (the Department), shall be designated as the 9-8-8 Crisis Hotline Center for purposes of participating in the National Suicide Prevention Lifeline. The bill directs the Department, in its development of the crisis call center, community care teams, and mobile crisis teams, to comply with any applicable requirements of the National Suicide Hotline Designation Act of 2020 and to provide for consistency with federal guidelines promulgated under such law. The bill contains immunity provisions for any originating service provider and its employees and agents acting pursuant to the act. The bill increases from \$0.75 to \$0.94 the wireless E-911 surcharge and increases from \$0.50 to \$0.63 the prepaid wireless E-911 charge. The bill provides that part of the revenue attributable to the increase would be distributed to the Crisis Call Center Fund, established by the bill, to fund the Department's costs in establishing and administering the call

center, and that the remainder of the revenue would be distributed to public safety answering points (PSAPs). (21200378D-H2)

Housing

HB 2053 (Samirah) (Passed House; SFIN) directs the Department of Housing and Community Development (Department) to convene a stakeholder advisory group to evaluate the construction of internal, attached, and detached accessory dwelling units as a strategy to address the Commonwealth's growing demand for affordable and market-rate housing. The bill requires the stakeholder advisory group to report its findings and recommendations, including any legislative recommendations, to the Director of the Department, the Secretary of Commerce and Trade, the commissioners of the Virginia Housing Development Authority, and the Virginia Housing Commission no later than November 1, 2021. (21104312D-H1)

HB 2175 (Torian) (Passed Both Houses)/**SB 1327** (McClellan) (Passed Both Houses) provides for various protections for homeowners and tenants of manufactured home parks, including (i) restricting the circumstances under which a court may order a person's primary residence to be sold to enforce a judgment lien; (ii) requiring localities to incorporate into their comprehensive plans strategies to promote manufactured housing as a source of affordable housing; (iii) requiring the Director of Housing and Community Development to develop a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Manufactured Home Lot Rental Act; (iv) prohibiting a trustee from selling a property in a foreclosure sale without receiving an affidavit signed by the party that provided the notice confirming the notice was sent to the owner, with a copy of such notice attached to the affidavit; (v) increasing the notice period for a foreclosure sale from 14 to 60 days and requiring such notice to provide the grantor with information regarding housing counseling; and (vi) requiring the landlord of a manufactured home park to provide tenants who own their manufactured home information about housing assistance and legal aid organizations. The bill also requires the Department of Housing and Community Development to convene a stakeholder group to assist in the development of the statement of tenant rights and responsibilities. The provisions of the bill related to the specifics of the notice that is required before a trustee can sell a property in a foreclosure sale has a delayed effective date of October 1, 2021. (21200012D-S1, 21200022D-H1)

Land Use

HB 1775 (Kilgore) (Passed House; SCL) adds the State Corporation Commission to the list of agencies that are exempt from paying fees for remote access to local land records. (21100750D)

HB 2046 (Bourne) (Passed Both Houses) prohibits any locality, its employees, or its appointed commissions from discriminating (i) in the application of local land use ordinances or guidelines, or in the permitting of housing developments, on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability; (ii) in the permitting of housing developments because the housing development contains or is expected to contain affordable housing units occupied or intended

for occupancy by families or individuals with incomes at or below 80 percent of the median income of the area where the housing development is located or is proposed to be located; or (iii) by prohibiting or imposing conditions upon the rental or sale of dwelling units, provided that the provisions of this subsection shall not be construed to prohibit ordinances related to short-term rentals. The bill provides that it shall not be a violation of the Virginia Fair Housing Law if land use decisions or decisions relating to the permitting of housing developments are based upon considerations of limiting high concentrations of affordable housing. The bill also requires the Fair Housing Board, after determining the existence of an unlawful discriminatory housing practice and after consultation with the Attorney General, to immediately refer the matter to the Attorney General for civil action. (21103489D-H1)

SB 1270 (Cosgrove) (Passed Senate; Reported from HCT) provides that the notice required to be sent to a landowner prior to an authorized condemnor recording a certificate of take or certificate of deposit shall state that (i) the certificate of take or certificate of deposit will be recorded between 30 and 45 days from the date of the notice and (ii) that the property will transfer to the condemnor upon recordation and that the owner has the right to petition the court for distribution of the funds represented in the certificate. (21101493D)

Taxation

SB 1326 (Hanger) (Passed Senate; Reported from HFIN) states that it is the policy of the Commonwealth, where practical, to encourage local cigarette stamping and tax collection to be accomplished through regional cigarette tax boards, defined in the bill. The bill directs the Department of Taxation to establish a task force to develop methods for modernizing the local cigarette tax collection system and provide assistance as appropriate to localities seeking to form new regional cigarette tax boards. (21104442D-ES1)

Transportation

HB 2163 (Tran) (Passed House; SFIN) limits the release of Department of Motor Vehicles (DMV) privileged information to government entities and law-enforcement agencies for the purpose of civil immigration enforcement unless (i) the subject of the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena, or judicial warrant. The bill requires the DMV to notify the subject of the request that such a request was made and the identity of the entity that made the request. The bill requires any entity receiving privileged information from the DMV to enter into a written agreement with the DMV prior to such release of such information and prohibits any entity from rereleasing any such DMV information to any third party unless explicitly permitted to do so in the entity's agreement with the DMV. The bill contains requirements for any such written agreement between the DMV and the Department of State Police. (21103639D-H1)

Legislation Provided for Information

SB 1183 (Dunnavant) (Passed Both Houses) allows meetings of property owners' associations, boards of directors, unit owners' associations, executive boards, and committees to be held entirely or partially by electronic means, provided that the board of directors, unit owners' association, or executive board, as applicable, has adopted guidelines for the use of electronic means for such meetings. The bill requires that such guidelines ensure that persons accessing such meetings are authorized to do so and that persons entitled to participate in such meetings have an opportunity to do so. The bill grants authority for determining whether any such meeting may be held entirely or partially by electronic means with the board of directors or executive board, as applicable. Under current law, if a meeting of a board of directors or executive board is conducted by telephone conference or video conference, at least two members of the board of directors or executive board, as applicable, are required to be physically present at the meeting place included in the meeting notice. The bill amends the definition of "electronic means" to provide that meeting conducted by electronic means includes a meeting conducted via teleconference, videoconference, Internet exchange, or other electronic methods. The bill allows members of property owners' associations or unit owners' associations to vote at meetings of such associations by absentee ballot, and allows such members to vote in person, by proxy, or by absentee ballot by electronic means, provided that the board of directors or executive board, as applicable, has adopted guidelines for such voting. Finally, the bill provides that if a vote, consent, or approval required to be obtained by secret ballot is accomplished through electronic means, the electronic means shall protect the identity of the voter, and that if the electronic means cannot protect the identity of the voter, another means of voting shall be used. (21101391D)

SB 1279 (Bell) (Passed Senate; House Floor) requires the Department of Veterans Services to develop a comprehensive program to assist military service members, veterans, and their spouses in making a successful transition from military to civilian life in Virginia. The program promotes strategies and services for connecting transitioning service members, veterans, and spouses to local, regional, state, and federal employment resources in Virginia, including (i) skills and workforce assessments and (ii) internship and apprenticeship programs. The bill also requires that the program prioritize assistance to military service members, veterans, and their spouses who have not sought services from or do not qualify for services under certain federal programs administered by the Commonwealth. (21101920D)

SB 1298 (Bell) (Passed Both Houses) authorizes any locality to create a local tourism improvement district plan, consisting of fees charged to businesses and used to fund tourism promotion activities and capital improvements. Under the bill, the locality is authorized to contract with a nonprofit entity to administer the activities and improvements. (21102381D)

SB 1299 (Bell) (Passed Both Houses) allows distillers that have been appointed as agents of the Board of Directors (the Board) of the Virginia Alcoholic Beverage Control Authority (the Authority), mixed beverage restaurant licensees, and limited mixed beverage restaurant licensees to sell mixed beverages for off-premises consumption and deliver such mixed beverages to consumers subject to requirements set forth in the bill. The bill allows the Board to summarily revoke a licensee's privileges to sell and deliver mixed beverages for off-premises consumption

for noncompliance with the requirements set forth in the bill or applicable provisions of current law. The bill also allows farm winery licensees to sell pre-mixed wine for off-premises consumption. The bill directs the Authority to convene a work group to study the sale and delivery of mixed beverages and pre-mixed wine for off-premises consumption and report its findings to the Chairmen of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services by November 1, 2021. The provisions of the bill sunset on July 1, 2022. This bill incorporates SB 1388. (21103122D-S1)

SB 1428 (Locke) (Passed Senate; HAPP) prohibits the Board of Directors (the Board) of the Virginia Alcoholic Beverage Control Authority from selling in government stores low alcohol beverage coolers not manufactured by licensed distillers. Under current law, the Board may sell any low alcohol beverage coolers in government stores. The bill has a delayed effective date of January 1, 2022. (21102262D-E)

Animals

SB 1135 (Marsden) (Passed Senate; Reported from HAG) restructures the procedure for adjudication of a dog as a dangerous dog to provide for (i) written notice by an animal control officer to the owner of the dog that he has applied for a summons, and a prohibition on disposal of the dog by the owner for 30 days; (ii) the issuance of a summons with an option rather than a requirement that the officer confine the dog, a prohibition on the disposal of the dog other than by euthanasia, and an authorization for the court to compel the implanting of electronic identification; (iii) the holding of a hearing within 30 days unless good cause is shown; (iv) the authority of the court if deferring further proceedings without adjudicating to compel the implanting of electronic identification; and (v) a limit of 30 days for any appeal of a dangerous dog adjudication. The bill authorizes an officer to obtain a summons for a hearing to determine whether a dog that has been surrendered is a dangerous dog and provides that any dangerous dog not reclaimed from the animal control officer within 10 days of notice shall be considered abandoned. The bill imposes new requirements for the transfer of dangerous dogs, requiring a releasing agency that is transferring or releasing for adoption a dangerous dog in the Commonwealth to notify the receiving party of the legal requirements for keeping a dangerous dog. If the agency is transferring the dog outside the Commonwealth, it is required to notify the appropriate animal control officer of the dog's adjudication as dangerous. An owner who is bringing a dog found to be dangerous in another state to reside in the Commonwealth shall notify the local animal control officer. Any owner who disposes of a dangerous dog by gift, sale, transfer, trade, or surrender shall notify the receiver in writing of the dog's adjudication as dangerous, with a violation penalized as a Class 3 misdemeanor. Finally, the bill provides that if a dangerous dog adjudication occurred within 60 days of the end of the calendar year, the first renewal of the dangerous dog registration shall be included in the initial registration at no additional charge. The bill contains technical amendments. (21104008D-S2)

Constitutional Amendments

Marriage

HJ 582 (Sickles) (Agreed to by House; Senate Floor) repeals the constitutional provision defining marriage as only a union between one man and one woman as well as the related provisions that are no longer valid as a result of the United States Supreme Court decision in Obergefell v. Hodges, 576 U.S. 644 (2015). The amendment provides that the right to marry is a fundamental right inherent in the liberty of persons and requires the Commonwealth and its political subdivisions and agents to issue marriage licenses, recognize marriages, and treat all marriages equally under the law, regardless of the sex or gender of the parties to the marriage. Religious organizations and clergy acting in their religious capacity have the right to refuse to perform any marriage. This resolution incorporates HJ 539 and HJ 557. (21104282D-H1)

SJ 270 (Ebbin) (Agreed to by Both Houses) repeals the constitutional provision defining marriage as only a union between one man and one woman, as well as the related provisions that are no longer valid as a result of the United States Supreme Court decision in Obergefell v. Hodges, 576 U.S. 644 (2015). The amendment provides that the Commonwealth and its political subdivisions and its agents are required to issue marriage licenses, recognize marriages, and treat all marriages equally under the law, regardless of the gender of the two parties to the marriage. The amendment further provides that religious organizations and clergy acting in their religious capacity have the right to refuse to perform any marriage. (21100733D-S1)

Voting

HJ 555 (Herring) (Agreed to by House; Senate Floor) provides that no person who has been convicted of a felony shall be qualified to vote until the completion of his sentence of imprisonment, at which time, without further action required of him, his political rights, including the right to vote, shall be restored. A person convicted of a felony may also have his civil rights restored by the Governor or other appropriate authority. This resolution incorporates HJ 546. (21200032D-S1)

SJ 272 (Locke) (House Requested Conference Committee) establishes that a person who meets the constitutional qualifications for voters has the fundamental right to vote and that such right cannot be abridged by law, except in the case of persons convicted of a felony and persons adjudicated to lack the capacity to understand the act of voting. A person convicted of a felony shall not be entitled to vote during any period of imprisonment and a person adjudicated to lack the capacity to understand the act of voting shall not be entitled to vote until his capacity has been reestablished. (21200087D-H1)

Courts

HB 1878 (Jenkins) (Passed Both Houses) limits the ability to appeal a decision by an intake officer not to authorize a petition relating to an offense that, if committed by an adult, would be punishable as a Class 1 misdemeanor or felony, when the decision is based solely upon a finding

of no probable cause. The bill requires the application for a warrant to the magistrate to be filed within 10 days of the issuance of the written notification from the intake officer to the complainant of the refusal to authorize a petition. The bill also provides that such written notification shall indicate that the intake officer made a finding that no probable cause exists and provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The bill requires the complainant to provide the magistrate with a copy of the written notification upon application to the magistrate. The bill also specifies that if an intake officer finds (i) probable cause and (ii) that the matter is appropriate for diversion, this decision is final, and the complainant shall not have the right to appeal the decision to a magistrate. (HB1878ER)

SB 1180 (Surovell) (Passed Senate; HCT) provides that a circuit court may enter an order joining, coordinating, consolidating, or transferring civil actions upon finding that separate civil actions brought by a plaintiff on behalf of multiple similarly situated persons involve common questions of law or fact and arise out of the same transaction, occurrence, or series of transactions or occurrences. The bill requires the Supreme Court to promulgate rules no later than November 1, 2021, governing such actions. The bill has a delayed effective date of July 1, 2022. (21103326D-ES1)

SB 1181 (Surovell) (Passed Senate; HCT) permits the Juvenile and Domestic Relations District Court to retain jurisdiction in cases where a child has petitioned the court to make findings of fact that would allow the child to apply for or receive a state or federal benefit until such child reaches 21 years of age for the purpose of entering findings of fact or amending past orders, to include findings of fact necessary for the person to petition the federal government for status as a special immigrant juvenile. (21102430D)

Education/Schools

HB 1776 (Ward) (Passed Both Houses) requires the Board of Education to grant a two-year extension of the license of any individual licensed by the Board whose license expires on June 30, 2021, in order to provide the individual with sufficient additional time to complete the requirements for licensure. (21101678D-E)

HB 1790 (McNamara) (Passed Both Houses) provides that when severe weather conditions or other emergency situations have resulted in the closing of any school in a school division for in-person instruction, the school division may declare an unscheduled remote learning day whereby the school provides instruction and student services, consistent with guidelines established by the Department of Education to ensure the equitable provision of such services, without a reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. The bill prohibits any school division from claiming more than 10 unscheduled remote learning days in a school year unless the Superintendent of Public Instruction grants an extension. (HB1790ER)

HB 1865 (Delaney) (Passed House; Reported from SEH) requires reading intervention services for students in kindergarten through grade three who demonstrate deficiencies based on their individual performance on the Standards of Learning reading test or any reading diagnostic test that meets criteria established by the Department of Education to be evidence-based, including

services that are grounded in the science of reading, and include explicit, systematic, sequential, and cumulative instruction, to include phonemic awareness, systematic phonics, fluency, vocabulary development, and text comprehension as appropriate based on the student's demonstrated reading deficiencies. The bill requires the parent of each student who receives such reading intervention services to be notified before the services begin and the progress of each such student to be monitored throughout the provision of services. (21101101D-E)

HB 1904 (Jenkins) (Passed Both Houses)/**SB 1196** (Locke) (Passed Both Houses) requires teacher, principal, and division superintendent evaluations to include an evaluation of cultural competency. The bill requires every person seeking initial licensure or renewal of a license from the Board of Education (i) to complete instruction or training in cultural competency and (ii) with an endorsement in history and social sciences to complete instruction in African American history, as prescribed by the Board. The bill also requires each school board to adopt and implement policies that require each teacher and any other school board employee holding a license issued by the Board to complete cultural competency training, in accordance with guidance issued by the Board, at least every two years. (HB1904ER, SB1196ER)

HB 1918 (Mugler) (Passed Both Houses) requires (i) driver education programs to include instruction on the dangers of distracted driving and speeding and (ii) a student to submit a standard application form developed by the Department of Education by which the student provides evidence that he possesses of a valid driver's license or driver privilege card before being issued a pass to park a vehicle on high school property. (21200179D-S2)

SB 1109 (Stanley) (Passed Senate; HAPP) provides for a statewide referendum on the question of whether the General Assembly shall issue state general obligation bonds in the amount of \$3 billion for the purpose of K-12 school building construction, repair, or other capital projects related to the modernization of school facilities. The results would be advisory only and are intended only to demonstrate the preference of the citizens of the Commonwealth on the issuance of such bonds. The bill provides that the referendum be held at the November 2022 general election. (21100844D-E)

SB 1204 (Barker) (Passed Both Houses) provides a management agreement between the Commonwealth and George Mason University pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.). (21101124D-E)

Elections

SB 1157 (Spruill) (Passed Both Houses) shifts all municipal elections for city and town council and school board from May to November, beginning with elections held after January 1, 2022. (SB1157ER)

Emergency Operations and Services

HB 2085 (Askew) (Passed Both Houses) requires local and interjurisdictional agencies to include provisions in their emergency operations plans to ensure that such plans are applied

equitably and that the needs of minority and vulnerable communities are met during emergencies. (HB2085ER)

Environment and Energy

HB 1760 (Webert) (Passed House; Senate Floor)/**SB 1199** (Petersen) (Passed Both Houses) provides that an easement held pursuant to the Virginia Conservation Easement Act or the Open-Space Land Act shall be construed in favor of achieving the conservation purposes for which it was created. (21102392D-H1, SB1199ER)

HB 1902 (Carr) (Passed House; Senate Floor) prohibits the dispensing by a food vendor of prepared food to a customer in a single-use expanded polystyrene food service container, as defined in the bill. The bill requires certain chain restaurants to stop using such containers by July 1, 2023, and sets the date for compliance by all food vendors as July 1, 2025. The bill exempts nonprofit organizations from the definition of "food vendor" and provides a process by which a locality may grant consecutive one-year exemptions to individual food vendors on the basis of undue economic hardship. The bill provides a civil penalty of not more than \$50 for each day of violation, to be collected in a civil action brought by the Attorney General or the relevant locality. The penalties collected are to be deposited in the Litter Control and Recycling Fund or to the treasury of the relevant locality, as appropriate. A portion of the penalties deposited in the Fund are to be used for public information campaigns to discourage the sale and use of expanded polystyrene products. Finally, the bill directs the Department of Environmental Quality to post to its website information on compliance and the filing of complaints. This bill is a reenactment of Chapter 1104 of the Acts of Assembly of 2020. (21100816D-E)

HB 1965 (Bagby) (Passed House; Senate Floor) directs the State Air Pollution Control Board to implement a low-emissions and zero-emissions vehicle program for motor vehicles with a model year of 2025 and later. Regulations adopted by the Board to implement the program are exempt from the Administrative Process Act and shall not become effective prior to January 1, 2024. The bill also authorizes the State Corporation Commission to exclude sales related to such vehicles from certain energy efficiency calculations. (21101651D-E)

HB 1983 (Bulova) (Passed House; Senate Floor) provides that when a water protection permit applicant is required to purchase wetland or stream mitigation bank credits but no credits are available (i) in any mitigation provider's primary service area or (ii) at a cost of less than 200 percent of the price of credits available from a fund dedicated to achieving no net loss of wetland acreage and functions, the applicant may purchase or use credits from a mitigation provider's secondary service area. The bill provides certain requirements that the permit applicant must comply with in order to purchase or use such credits from a secondary service area, including minimum tree canopy requirements. (21102632D-E)

HB 2030 (Krizek) (Passed House; Senate Floor) prohibits any person from applying an aerosolized neonicotinoid insecticide for personal use unless the person (i) is certified or under the direct supervision of a certified applicator or (ii) provides 24 hours' notice to the owner of

any managed beehive within the line of sight of the application area. A person who violates the prohibition shall be subject to a civil penalty of \$100. (21200338D-S1)

SB 1265 (Deeds) (Passed Senate; Reported from HAG) authorizes the Department of Environmental Quality to conduct inspections of the land-disturbing activities related to construction of any natural gas transmission pipeline equal to or greater than 24 inches inside diameter. Current law authorizes such inspections only if such inside diameter is greater than 36 inches. The bill also specifies certain instances that may give rise to such inspection and authorizes the Department to issue a stop work order for every work area in Virginia in the event that substantial adverse impacts or likely adverse impacts are found on a repeated, frequent, and widespread basis. (21103789D-S1)

SB 1290 (Mason) (Passed Senate; Reported from HAG) establishes in the Department of Conservation and Recreation a data-driven Geographical Information Systems model to prioritize potential conservation areas across the Commonwealth that would provide quantifiable benefits to the citizens of Virginia, known as ConserveVirginia. Aspects of the program include (i) the synthesis of multiple mapped data inputs, divided into categories, each representing a different overarching conservation value, and periodic revision of such values; (ii) access to the model by the public and all state and federal agencies; and (iii) incorporation of the model into acquisition or grant decisions when appropriate. The bill requires the Virginia Land Conservation Foundation to report on the success of the program and incorporate the program into needs assessments for expenditures from the Virginia Land Conservation Fund. (21103330D-S1)

Firearms

HB 2128 (Lopez) (Passed Both Houses) increases from three business days to five business days the time provided for the Department of State Police to complete a background check before a firearm may be transferred. If a dealer who has otherwise fulfilled all requirements is told by the State Police that a response will not be available by the end of the dealer's fifth business day, the dealer may complete the sale or transfer without being deemed in violation. (HB2128ER)

HB 2295 (Levine) (Passed House; Reported from SJUD) makes it a Class 1 misdemeanor for a person to carry any firearm within (i) the Capitol of Virginia; (ii) Capitol Square and the surrounding area, as described in the bill; (iii) any building, parking lot, or parking structure owned or leased by the Commonwealth or any agency thereof; (iv) any building owned or leased by the Commonwealth where employees of the Commonwealth perform their official duties; or (v) any building where the General Assembly meets or conducts its business. The bill provides exceptions for law-enforcement officers, court officers, authorized security personnel, and active military personnel while in the conduct of such person's official duties; any retired law-enforcement officer who is visiting a gun range owned or leased by the Commonwealth; and any state employee of a state or juvenile correctional facility who is authorized to carry a firearm while in the conduct of such employee's official duties. The bill provides that an individual who lawfully possesses a firearm may keep such firearm in his locked vehicle in a parking lot or parking structure described in clause (iii) so long as the firearm is (a) secured, (b) not visible,

and (c) in a container or compartment inside of the vehicle. The bill requires that notice of the provisions prohibiting the carrying of such firearms be posted at each of the public entrances to Capitol Square and such buildings, parking lots, and parking structures. The bill also provides that any firearm carried in violation of these provisions is subject to seizure by a law-enforcement officer and forfeiture to the Commonwealth. (21200409D-S1)

HB 2310 (Runion) (Passed Both Houses) provides that any applicant for a concealed handgun permit who completed an online course to demonstrate competence with a handgun and contacted the circuit court clerk's office prior to January 1, 2021, but was prohibited from appearing in person at a circuit court clerk's office because of COVID-19 restrictions is eligible to apply for such permit through April 30, 2021. The bill contains an emergency clause. (21104074D-H1)

Health and Human Services

HB 2124 (Lopez) (Passed House; SFIN) directs the Department of Medical Assistance Services to, during a public health emergency related to COVID-19 declared by the United States Secretary of Health and Human Services, deem testing for, treatment of, and vaccination against COVID-19 to be emergency services for which payment may be made pursuant to federal law for certain aliens not lawfully admitted for permanent residence. (21102611D-E)

HB 2154 (Adams, L.) (Passed House; Reported from SEH) directs the Board of Health to amend regulations governing hospitals, nursing homes, and certified nursing facilities to require each hospital, nursing home, and certified nursing facility to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by the patient while receiving inpatient services. "Intelligent personal assistant" is defined in the bill as a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants." (21103464D-H1)

HB 2230 (Bell) (Passed Both Houses) directs the Department of Behavioral Health and Developmental Services (the Department) to develop and implement a program to educate individuals with intellectual and developmental disabilities, their families, and others regarding the availability of supported decision-making agreements, the process by which an individual with an intellectual or developmental disability may enter into a supported decision-making agreement with a supporter, and the rights and responsibilities of principals and supporters who are parties to a supported decision-making agreement, which shall include specific training opportunities, development of model supported decision-making agreements, and development of information about and protocols for preventing, identifying, and addressing abuse and exploitation of individuals with intellectual and developmental disabilities who enter into supported decision-making agreements. The bill directs the Department to collect data regarding the utilization of supported decision-making agreements in the Commonwealth and report such information, together with recommendations to enhance the utilization of supported decision-

making agreements, annually to the Governor and the General Assembly by November 1. (21101478D)

Housing

SB 1215 (Ebbin) (Passed Both Houses) provides that a general district court shall enter an order upon petition by a tenant that his landlord has (i) removed or excluded the tenant from the dwelling unit unlawfully, (ii) interrupted or caused the interruption of an essential service to the tenant, or (iii) taken action to make the premises unsafe for habitation. The bill allows entry of a preliminary order ex parte to require the landlord to allow the tenant to recover possession of the dwelling unit, resume any such interrupted essential service, or fix any willful actions taken by the landlord or his agent to make the premises unsafe for habitation if there is good cause to do so and the tenant made reasonable efforts to notify the landlord of the hearing. The bill requires that any ex parte order entered shall further indicate a date for a full hearing on the petition that is no later than 10 days from the initial hearing date. Finally, the bill provides that, at a full hearing on such petition and upon proper evidence presented, the tenant shall recover actual damages, the greater of \$5,000 or four months' rent, and reasonable attorney fees. (21102805D-E)

Land Use

HB 2054 (Samirah) (Passed Both Houses) adds reducing, modifying, or waiving local parking requirements or ratios to the strategies that may be included when certain larger localities consider incorporating strategies to promote transit-oriented development in reviews of their comprehensive plans. The bill removes from the existing strategy of increasing development density in certain areas to reduce density in others the phrase "to reduce density in others." (21101042D)

SB 1143 (Cosgrove) (Passed Both Houses) retroactively extends until January 1, 2022, certain wetlands permits set to expire between March 1, 2020, and July 1, 2021. (SB1143ER)

Public Safety/Criminal Justice

HB 2263 (Mullin) (Passed House; Senate Floor) abolishes the death penalty, including for those persons currently under a death sentence. The bill incorporates HB 1779. (21200391D-S1)

SB 1165 (Surovell) (Passed Senate; Reported from HCT) abolishes the death penalty, including for those persons currently under a death sentence. The bill provides that no person may be sentenced to death or put to death on or after its effective date for any violation of law. (21103949D-S4)

HB 1821 (Bulova) (Passed Both Houses) prohibits the arrest or prosecution of an individual for the unlawful purchase, possession, or consumption of alcohol, possession of a controlled substance, possession of marijuana, intoxication in public, or possession of controlled paraphernalia if (i) such individual, in good faith, renders emergency care or assistance,

including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or obtains emergency medical attention; (ii) such individual remains at the scene of the overdose or at any location to which he or the individual requiring emergency medical attention has been transported; (iii) such individual identifies himself to the law-enforcement officer who responds; and (iv) the evidence for a prosecution of one of the enumerated offenses would have been obtained only as a result of the individual's rendering emergency care or assistance. Current law prohibits arrest or prosecution for such offenses only to an individual who seeks or obtains emergency medical attention for himself or another individual or who is experiencing an overdose when another individual seeks or obtains emergency medical attention for him. (HB1821ER)

HB 1894 (Kory) (Passed House; Reported from SEH) authorizes employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers to possess and administer naloxone or other opioid antagonist for overdose reversal pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice. (21101928D)

HB 1909 (Subramanyam) (Passed House; SFIN) permits any school board to deem any non-school zone property that it owns or leases as a gun-free zone and prohibit any individual from knowingly possessing, purchasing, transferring, carrying, storing, or transporting firearms, ammunition, or components or combination thereof while such individual is upon such property, except certain individuals such as law-enforcement officers and qualified retired law-enforcement officers. (21103262D-H1)

HB 1936 (Watts) (Passed House; Passed Senate with substitute) creates degrees of punishment corresponding to the severity of a robbery offense. Any person who commits a robbery and causes serious bodily injury to or the death of another person is guilty of a Class 2 felony. Any person who commits robbery by using or displaying a firearm in a threatening manner is guilty of a Class 3 felony. Any person who commits robbery by using physical force not resulting in serious bodily injury, or by using or displaying a deadly weapon other than a firearm in a threatening manner, is guilty of a Class 5 felony. Any person who commits robbery by using threat or intimidation not involving a deadly weapon is guilty of a Class 6 felony. Under current law, any robbery is punishable by confinement in a state correctional facility for life or any term not less than five years. (21200240D-S1)

HB 2331 (Mullin) (Passed House; SFIN) eliminates mandatory minimum sentences of confinement for certain crimes. The bill also provides a petition process for a person who was convicted or adjudicated delinquent of certain felony offenses committed prior to July 1, 2021, sentenced to a mandatory minimum term of confinement for any such felony offense, and remains incarcerated in a state or local correctional facility serving the mandatory minimum term of confinement for any such felony offense to petition the circuit court that entered the original judgment or order to (i) suspend the unserved portion of such mandatory minimum sentence, (ii) place such person on probation for such time as the court shall determine, or (iii) otherwise

modify the sentence imposed. The bill provides that such petition shall be filed by July 1, 2024. (21200406D-S1)

SB 1138 (Locke) (Passed Senate; House Floor) provides that any person who is diagnosed with a sexually transmitted infection and engages in sexual behavior that poses a substantial risk of transmission to another person according to current Centers for Disease Control and Prevention recommendations regarding such risk of transmission with the intent to transmit the infection to another person and transmits such infection to that person is guilty of infected sexual battery, punishable as Class 1 misdemeanor. Under current law, the crime of infected battery is punishable as a Class 6 felony. The bill also repeals the crime of donating or selling blood, body fluids, organs, and tissues by persons infected with human immunodeficiency virus and the provisions regarding the testing of certain persons for human immunodeficiency virus or hepatitis B or C viruses. The bill contains technical amendments. (21104447D-S1)

SB 1306 (Morrissey) (Passed Senate; HCT) eliminates the mandatory minimum term of confinement of six months for an assault and battery committed against a judge, magistrate, law-enforcement officer, correctional officer, person directly involved in the care, treatment, or supervision of inmates, firefighter or volunteer firefighter, or emergency medical services personnel. The bill removes simple assault from enhanced punishment and provides that the enhanced punishment applies for assault and battery only when it results in bodily injury. The bill also provides that a jury or the court may find any person charged with such offense (i) whose physical or mental capacity is diminished to the extent that he needs counseling or supervisory assistance or assistance with activities of daily living or instrumental activities of daily living or (ii) who has been diagnosed with an autism spectrum disorder, a developmental disability, or an intellectual disability, not guilty of such offense but guilty of a simple assault or assault and battery, punishable as a Class 1 misdemeanor. The bill also provides that before any arrest, indictment, or service of a petition in the case of a juvenile is made for an alleged assault and battery against a law-enforcement officer, (a) such alleged assault and battery shall be investigated by another law-enforcement officer who was not the subject of such alleged assault and battery and (b) the arrest, indictment, or service of a petition shall be approved by the attorney for the Commonwealth. (21103079D-ES1)

SB 1443 (Edwards) (Passed Senate; HAPP) eliminates all mandatory minimum sentences of confinement from the Code of Virginia. The bill directs the Secretary of Public Safety and Homeland Security to establish a work group to evaluate the feasibility of resentencing persons previously convicted of a felony offense that was punishable by a mandatory minimum term of confinement. The work group would report on its findings by November 1, 2021. As introduced, this bill was a recommendation of the Virginia State Crime Commission. (21200370D-H1)

SB 1461 (Lewis) (Passed Senate; Passed House with substitute) provides that any person who (i) offers, confers, or agrees to confer upon another any pecuniary benefit as consideration for the recipient to act in the unlawful delivery of items or contraband to prisoners or (ii) receives any pecuniary benefit or other consideration to act in in the unlawful delivery of items or contraband to prisoners shall be guilty of bribery, punishable as a Class 4 felony. The bill also provides that any law-enforcement officer, jail officer, or correctional officer who violates the

provisions of the bill shall be decertified and shall be forever ineligible for reemployment as a law-enforcement officer, jail officer, or correctional officer in the Commonwealth. (21200099D-H1)

SB 1475 (Stuart) (Passed Senate; Passed House with amendments) provides that a search warrant for the search of any place of abode shall be executed by initial entry of the abode only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a magistrate, if a judge is not available, authorizes the execution of such search warrant at another time for good cause shown by particularized facts in an affidavit; or (ii) prior to the issuance of the search warrant, law-enforcement officers lawfully entered and secured the place to be searched and remained at such place continuously. The bill also provides that a law-enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to execute the warrant at another time, unless the warrant was issued after 5 p.m., in which case the law-enforcement officer may seek such authorization from a magistrate without first making reasonable efforts to locate a judge. (21104245D-S1)

Transportation

SB 1260 (Bell) (Passed Senate; House Floor) requires that for any project wherein the power of eminent domain may be exercised, any locality or the Commissioner of Highways to provide a landowner with a request to enter and inspect property at least 30 days in advance. The request must be on official letterhead, and shall notify the landowner that even if permission is withheld, the locality or the Commissioner of Highways will be permitted to enter the property on the proposed date. (21103931D-S1)

Attachments: Supplementary documents

cc: Joe Mondoro, Chief Financial Officer
Rachel Flynn, Deputy County Executive
Chris Leonard, Deputy County Executive
Dave Rohrer, Deputy County Executive
Elizabeth Teare, County Attorney
Jill G. Cooper, Clerk to the Board
Richmond Team
Tom Biesiadny, Director, Department of Transportation

SUPPLEMENTARY DOCUMENTS
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February 22, 2021

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**FAIRFAX COUNTY
LEGISLATIVE SUMMARY**

2021 GENERAL ASSEMBLY

February 20, 2021

Fairfax County Legislative Summary 2021 General Assembly

Board of Supervisors Report Key

Bill No. – Patron, (District No.) Bill Title	Committee/Floor Actions	
<p>HB 589 - Watts (39) Blue Star Memorial Highway; designating as portion of Old Keene Mill Road in Fairfax County.</p>	<p>1/10/2006 House: Referred to Committee on Transportation</p>	<p>12/5/2005</p>
<p>Initiate (067916260) Summary: Designates a portion of Old Keene Mill Road in Fairfax County a "Blue Star Memorial Highway."</p>		

Bold = Date Position taken by full Board of Supervisors
 [] = Date position taken by BOS Legislative Committee
Italics = Date position recommended by staff

Bold = Board Position, [] = BOS Legislative Committee Position, *Italics=Staff Recommended Position Changes* (LD No. is version of bill on which position was taken)
Summary -- Reflects latest version of summary available on the Legislative Information System Web Site (If not noted otherwise, reflects summary as introduced)

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HB 1927 Sickles, M	Economic development authorities; Fairfax County.	
SB 1208 Barker, G	Continuity of government; extends period of time that locality may provide after disaster, etc.	
SB 1226 Boysko, J	Compensation Board; determining staffing and salaries for an attorney for the Commonwealth.	
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HB 1813 Krizek, P	Highway construction by state or local employees; limit.	
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HB 2081 Levine, M	Polling places; prohibited activities, unlawful possession of a firearm, penalty.
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HB 2131 Lopez, A	Alcoholic beverage control; license application, locality input.
HB 2138 Guzman, E	Identification privilege cards; authorizes DMV to issue, fee, confidentiality, penalties.
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HB 2206 Filler-Corn, E	Child Care Subsidy Program; expanding Program to serve more families.
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HB 1757 McGuire, III, J	Firearm-free zones designated by the Commonwealth or a locality; waiver of sovereign immunity.
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HB 1793 Davis, G	Concealed handgun permit; local control of firearms.
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HB 2239 Robinson, R	Absentee voting; ballots to be processed before election day and sorted and counted.
HJ 556 Lopez, A	Constitutional amendment; environmental justice (first reference).
SB 1118 Peake, M	Voter registration; verification of social security numbers, provisional registration status.
SB 1133 Suetterlein, D	Children's Services Act; eligibility for state pool of funds, pilot program.
SB 1185 Dunnavant, S	Assisted living facilities; residents that are auxiliary grant recipients.
SB 1186 Hashmi, G	Landfill siting; historic preservation.
SB 1191 Kiggans, J	School nurses; excludes positions from certain requirements, school board to employ in each school.

SB 1200 Hashmi, G	Waste disposal; local approval.
SB 1249 Stuart, R	Local planning commissions; review deadlines.
SB 1264 Morrissey, J	Emergency and preliminary protective orders; expungement of orders.
SB 1283 Morrissey, J	Criminal records, certain; establishes a process for the automatic expungement, report.
SB 1372 Lucas, L	Criminal records; establishes a process for automatic expungement for certain convictions, report.
SB 1382 Favola, B	Firearms; purchase, etc., following conviction for assault and battery of a family member.
SB 1419 Marsden, D	Project labor agreements; public interest.

Fairfax County Initiatives

*Bills Introduced
at Fairfax County's Request*

Bills	General Assembly Actions	Date of BOS Position
<p>HB 1919 - Kory (38) Local green banks; authorizes a locality, by ordinance, to establish.</p>	<p>1/10/2021 House: Referred to Committee on Counties, Cities and Towns 1/29/2021 House: Reported from Counties, Cities and Towns (13-Y 8-N) 2/3/2021 House: Read third time and passed House (55-Y 43-N) 2/4/2021 Senate: Referred to Committee on Local Government 2/5/2021 Senate: Continued to 2021 Special Session 1 in Local Government (15-Y 0-N) 2/15/2021 Senate: Reported from Local Government with substitute (8-Y 5-N) 2/17/2021 Senate: Passed Senate with substitute (25-Y 13-N) 2/19/2021 House: Senate substitute agreed to by House 21200236D-S1 (56-Y 42-N)</p>	<p>1/26/2021</p>
<p>Initiate (21102092D) Summary: Local green banks. Authorizes a locality, by ordinance, to establish a green bank to promote the investment in clean energy technologies in its locality and provide financing for clean energy technologies, defined in the bill. The bill establishes certain powers and functions of a green bank, including developing rules and procedures, financing and providing loans for clean energy projects, and stimulating demand for renewable energy. The bill requires the green bank to be a public entity, quasi-public entity, or nonprofit entity and requires the locality to hold a hearing and publish notice in a newspaper of general circulation prior to establishing the green bank.</p>		
<p>HB 1927 - Sickles (43) Economic development authorities; Fairfax County.</p>	<p>1/10/2021 House: Referred to Committee on Counties, Cities and Towns 1/15/2021 House: Reported from Counties, Cities and Towns (20-Y 1-N) 1/20/2021 House: Read third time and passed House (98-Y 0-N) 1/21/2021 Senate: Referred to Committee on Local Government 2/1/2021 Senate: Reported from Local Government (15-Y 0-N) 2/3/2021 Senate: Passed Senate (38-Y 1-N) 2/8/2021 House: Enrolled 2/10/2021 House: Signed by Speaker 2/10/2021 Senate: Signed by President 2/11/2021 House: Enrolled Bill communicated to Governor on February 11, 2021 2/11/2021 Governor: Governor's Action Deadline 11:59 p.m., March 10, 2021</p>	<p>1/26/2021</p>
<p>Initiate (21102409D) Summary: Allows Fairfax County to appoint nine, rather than seven, commissioners to the economic development authority.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><u>SB 1208</u> - Barker (39) Continuity of government; extends period of time that locality may provide after disaster, etc.</p>	<p>1/11/2021 Senate: Referred to Committee on Local Government 1/18/2021 Senate: Reported from Local Government (14-Y 1-N) 1/21/2021 Senate: Read third time and passed Senate (39-Y 0-N) 2/2/2021 House: Referred to Committee on Counties, Cities and Towns 2/8/2021 House: Continued to 2021 Special Session 1 in Counties, Cities and Towns by voice vote 2/19/2021 House: Reported from Counties, Cities and Towns (19-Y 1-N)</p>	<p>1/26/2021</p>
<p>Initiate (21102240D) Summary: Continuity of government. Extends from six to 12 months the period of time after an enemy attack or other disaster that a locality may, by ordinance, provide for a method to assure continuity in its government and requires the ordinance to provide a method for the locality to resume normal governmental authority by the end of that 12-month period.</p>		
<p><u>SB 1226</u> - Boysko (33) Compensation Board; determining staffing and salaries for an attorney for the Commonwealth.</p>	<p>1/11/2021 Senate: Referred to Committee on Local Government 1/18/2021 Senate: Re-referred to Judiciary 1/25/2021 Senate: Reported from Judiciary (15-Y 0-N) 1/25/2021 Senate: Re-referred to Finance and Appropriations 2/2/2021 Senate: Reported from Finance and Appropriations with amendment (14-Y 2-N) 2/5/2021 Senate: Read third time and passed Senate (35-Y 4-N) 2/7/2021 House: Referred to Committee for Courts of Justice 2/8/2021 House: Continued to 2021 Special Session 1 in Courts of Justice by voice vote 2/10/2021 House: Subcommittee recommends reporting with amendments (8-Y 0-N) 2/10/2021 House: Subcommittee recommends referring to Committee on Appropriations 2/12/2021 House: Reported from Courts of Justice with amendment(s) (22-Y 0-N) 2/12/2021 House: Referred to Committee on Appropriations 2/15/2021 House: Subcommittee recommends laying on the table (8-Y 0-N)</p>	<p>1/26/2021</p>
<p>Initiate (21102115D) Summary: Compensation Board determining staffing and salaries for an attorney for the Commonwealth. Provides that the Compensation Board shall consider workload totals comprehensively, including the use of diversion programs and specialty dockets, when determining staffing and funding levels for an attorney for the Commonwealth and the office. The provisions of the bill are contingent on funding in a general appropriation act.</p>		

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Fairfax County Positions

(Oppose or Amend)

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Bills	General Assembly Actions	Date of BOS Position
<p>HB 2019 - McQuinn (70) Public elementary and secondary schools; administration of undesignated stock albuterol inhalers.</p>	<p>1/12/2021 House: Referred to Committee on Education 1/22/2021 House: Subcommittee recommends reporting (6-Y 2-N) 1/25/2021 House: Reported from Education with amendment(s) (16-Y 6-N) 1/28/2021 House: Read third time and passed House (82-Y 18-N) 1/29/2021 Senate: Referred to Committee on Education and Health 2/5/2021 Senate: Continued to 2021 Special Session 1 in Education and Health (15-Y 0-N) 2/18/2021 Senate: Reported from Education and Health with substitute (13-Y 1-N)</p>	<p>1/26/2021</p>
<p>Oppose (21102599D) Summary: Public elementary and secondary schools; possession and administration of undesignated stock albuterol inhalers and valved holding chambers. Requires each local school board to adopt and implement policies for the possession and administration of undesignated stock albuterol inhalers and valved holding chambers in every public school in the local school division, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers for any student believed in good faith to be in need of such medication. The bill requires the Department of Health, in conjunction with the Department of Education, to develop and implement policies for the administration of stock albuterol in public schools.</p>		
<p>SB 1153 - Suetterlein (19) Absentee voting; ballots to be sorted and results to be reported by precinct.</p>	<p>1/7/2021 Senate: Referred to Committee on Privileges and Elections 2/4/2021 Senate: Reported from Privileges and Elections (14-Y 1-N) 2/5/2021 Senate: Passed Senate (37-Y 1-N) 2/7/2021 House: Referred to Committee on Privileges and Elections 2/8/2021 House: Continued to 2021 Special Session 1 in Privileges and Elections by voice vote 2/16/2021 House: Subcommittee recommends laying on the table (5-Y 3-N)</p>	<p>1/26/2021</p>
<p>Oppose (21101986D) - The bill creates a substantial workload and logistical challenges. Summary: Elections; absentee voting; ballots to be sorted and results to be reported by precinct. Provides that absentee ballots processed at a central absentee precinct must be sorted by the precinct to which the voter who cast the absentee ballot is assigned and that the resulting vote totals from such ballots must be reported separately for each voter precinct.</p>		

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Fairfax County Positions

(Support)

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Bills	General Assembly Actions	Date of BOS Position
<p>HB 1810 - VanValkenburg (72) Voter registration; failure of online voter registration system, deadline extension.</p>	<p>1/5/2021 House: Referred to Committee on Privileges and Elections 1/13/2021 House: Reported from Privileges and Elections with amendment(s) (22-Y 0-N) 1/19/2021 House: Read third time and passed House BLOCK VOTE (98-Y 0-N) 1/20/2021 Senate: Referred to Committee on Privileges and Elections 2/5/2021 Senate: Continued to 2021 Special Session 1 in Privileges and Elections (15-Y 0-N) 2/16/2021 Senate: Reported from Privileges and Elections (13-Y 0-N 2-A) 2/19/2021 Senate: Passed Senate (34-Y 4-N)</p>	<p>1/26/2021</p>
<p>Support (21101534D-E) Summary: Voter registration; failure of online voter registration system; deadline extension. Provides that in the event that a failure of the Virginia online voter registration system occurs prior to the close of registration records, the Governor has the authority to order the online voter registration system to be available for registration activities after the date for closing the registration records for a period of time equal to the amount of time during which the online voter registration system was unavailable for registration activities, rounded up to the nearest whole day, plus an additional day to allow for voter education efforts. The extension of registration activities shall apply to in-person registration and mail voter registration applications.</p>		
<p>HB 1813 - Krizek (44) Highway construction by state or local employees; limit.</p>	<p>1/6/2021 House: Referred to Committee on Transportation 1/14/2021 House: Subcommittee recommends reporting with amendment (6-Y 3-N) 1/14/2021 House: Reported from Transportation with amendment (17-Y 5-N) 1/19/2021 House: Read third time and passed House (79-Y 20-N) 1/20/2021 Senate: Referred to Committee on Transportation 2/5/2021 Senate: Continued to 2021 Special Session 1 in Transportation (15-Y 0-N) 2/11/2021 Senate: Reported from Transportation (13-Y 1-N) 2/16/2021 Senate: Passed Senate (33-Y 6-N) 2/19/2021 House: Enrolled</p>	<p>1/26/2021</p>
<p>Support (21102052D-E) Summary: Increases from \$600,000 to \$700,000 the value of highway maintenance and construction projects eligible to be performed by state or local employees.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><u>HB 1820</u> - Helmer (40) SNAP benefits program; eligibility for benefits, postsecondary education.</p>	<p>1/6/2021 House: Referred to Committee on Health, Welfare and Institutions 1/20/2021 House: Subcommittee recommends reporting with substitute (6-Y 0-N) 1/20/2021 House: Subcommittee recommends referring to Committee on Appropriations 1/26/2021 House: Reported from Health, Welfare and Institutions with substitute (22-Y 0-N) 1/26/2021 House: Referred to Committee on Appropriations 1/27/2021 House: Subcommittee recommends reporting (7-Y 0-N) 1/27/2021 House: Reported from Appropriations (18-Y 0-N) 2/1/2021 House: Read third time and passed House BLOCK VOTE (100-Y 0-N) 2/2/2021 Senate: Referred to Committee on Rehabilitation and Social Services 2/5/2021 Senate: Continued to 2021 Special Session 1 in Rehabilitation and Social Services (14-Y 0-N) 2/12/2021 Senate: Reported from Rehabilitation and Social Services (15-Y 0-N) 2/12/2021 Senate: Re-referred to Finance and Appropriations 2/17/2021 Senate: Reported from Finance and Appropriations (16-Y 0-N) 2/18/2021 Senate: Passed Senate (38-Y 0-N) 2/18/2021 Senate: Reconsideration of Senate passage agreed to by Senate (39-Y 0-N) 2/18/2021 Senate: Passed Senate (39-Y 0-N)</p>	<p>1/26/2021</p>
<p>Support (21101472D) Summary: Temporary Assistance for Needy Families; food stamp program; eligibility; postsecondary education. Adds participation in educational activities that lead to a post-secondary credential from an accredited institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia to the list of activities to which a participant in the Virginia Initiative for Education and Work may be enrolled and directs the Board of Social Services to amend the Supplemental Nutrition Assistance Program (SNAP benefits program) to (i) establish broad-based categorical eligibility, (ii) set the gross income eligibility standard at 200 percent of the federal poverty guidelines, (iii) not impose an asset limit for eligibility, and (iv) increase opportunities for self-sufficiency through postsecondary education by allowing SNAP benefits program participants to satisfy applicable employment and training requirements through enrollment in an accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><u>HB 1888</u> - VanValkenburg (72) Absentee voting; procedural and process reforms, availability and accessibility reforms, penalty.</p>	<p>1/8/2021 House: Referred to Committee on Privileges and Elections 1/13/2021 House: Reported from Privileges and Elections with amendment(s) (13-Y 9-N) 1/19/2021 House: Read third time and passed House (55-Y 43-N) 1/20/2021 Senate: Referred to Committee on Privileges and Elections (SPE) 2/5/2021 Senate: Continued to 2021 Special Session 1 in Privileges and Elections (15-Y 0-N) 2/16/2021 Senate: Reported from SPE with substitute (9-Y 6-N) 2/19/2021 Senate: Passed Senate with substitute (21-Y 17-N)</p>	<p>1/26/2021</p>
<p>Support (21101608D-E) Summary: Absentee voting; procedural and process reforms; availability and accessibility reforms; penalty. Makes various reforms to absentee voting processes and procedures, including those related to availability and accessibility. The bill requires certain actions to be taken to process absentee ballots returned before the day of an election, including verifying the correct completion of the voter affirmation statement, and provides for an opportunity for an absentee voter to make corrections to the statement in certain circumstances. The bill requires the establishment of drop-off locations for the return of voted absentee ballots. Additionally, a central absentee voter precinct is required to be established in each locality; currently, establishment is optional. On the day of the election, officers of election are required to begin processing absentee ballots in the central absentee voter precincts prior to the close of polls, but no ballot vote counts are permitted to be transmitted outside of the central absentee voter precinct before the close of polls; a violation of such prohibition is a Class 1 misdemeanor. When reporting election results to the Department of Elections, the general registrars are required to report absentee ballots cast early in person separately from all other absentee ballots. Additionally, a voter who has applied for and received an absentee ballot may choose to instead vote at his polling place on election day, and such voter shall be entitled to cast a provisional ballot. The bill requires a ballot marking tool with screen reader assistive technology to be made available for absentee voters with a print disability. Restrictions on the availability of absentee voting for first-time voters who registered by mail are repealed. The bill contains technical amendments for organizational and readability purposes.</p>		
<p><u>HB 1903</u> - Carr (69) Local government; authority to reduce the speed limit in a business district or residence district.</p>	<p>1/8/2021 House: Referred to Committee on Transportation 1/14/2021 House: Subcommittee recommends reporting (9-Y 0-N) 1/14/2021 House: Reported from Transportation (22-Y 0-N) 1/19/2021 House: Read third time and passed House (93-Y 6-N) 1/20/2021 Senate: Referred to Committee on Transportation 2/5/2021 Senate: Continued to 2021 Special Session 1 in Transportation (15-Y 0-N) 2/11/2021 Senate: Reported from Transportation (9-Y 5-N) 2/17/2021 Senate: Passed Senate (21-Y 17-N)</p>	<p>1/26/2021</p>
<p>Support (21101800D) Summary: Local government authority; reduction of speed limits. Authorizes local governing bodies to reduce the speed limit to less than 25 miles per hour, but not less than 15 miles per hour, in a business district or residence district.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><u>HB 1931</u> - Levine (45) Virginia Freedom of Information Act; public body authorized to conduct electronic meetings.</p>	<p>1/11/2021 House: Referred to Committee on General Laws 1/19/2021 House: Subcommittee recommends reporting (8-Y 0-N) 1/21/2021 House: Reported from General Laws (21-Y 0-N) 1/26/2021 House: Read third time and passed House BLOCK VOTE (99-Y 0-N) 1/27/2021 Senate: Referred to Committee on General Laws and Technology 2/5/2021 Senate: Continued to 2021 Special Session 1 in General Laws and Technology (14-Y 0-N) 2/10/2021 Senate: Reported from General Laws and Technology (12-Y 2-N) 2/15/2021 Senate: Passed Senate (28-Y 11-N) 2/17/2021 House: Enrolled 2/17/2021 Senate: Signed by President 2/18/2021 House: Signed by Speaker 2/19/2021 House: Enrolled Bill communicated to Governor on February 19, 2021 2/19/2021 Governor: Governor's Action Deadline 11:59 p.m., February 26, 2021</p>	<p>1/26/2021</p>
<p>Support (21101369D) Summary: Virginia Freedom of Information Act; electronic meetings. Authorizes a public body to conduct through electronic communication means a meeting for which, on or before the day of the meeting, a member of the public body holding the meeting notifies the chair that such member is unable to attend the meeting due to a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance. The bill also clarifies that participation in an electronic meeting by a member of a public body due to the inability to attend because of a personal matter is limited each calendar year to two such meetings, which is current law, or 25 percent of the meetings held that calendar year rounded up to the next whole number, whichever is greater. This bill is a recommendation of the Virginia Freedom of Information Advisory Council.</p>		
<p><u>HB 1962</u> - Gooditis (10) Foster care; termination of parental rights, relatives and fictive kin.</p>	<p>1/11/2021 House: Referred to Committee on Health, Welfare and Institutions 1/28/2021 House: Reported from Health, Welfare and Institutions with substitute (21-Y 0-N) 2/3/2021 House: Read third time and passed House BLOCK VOTE (98-Y 0-N 1-A) 2/3/2021 House: Reconsideration of passage agreed to by House 2/3/2021 House: Passed House BLOCK VOTE (99-Y 0-N) 2/4/2021 Senate: Referred to Committee on Rehabilitation and Social Services 2/5/2021 Senate: Continued to 2021 Special Session 1 in Rehabilitation and Social Services (14-Y 0-N) 2/12/2021 Senate: Reported from Rehabilitation and Social Services (14-Y 0-N) 2/16/2021 Senate: Passed Senate (39-Y 0-N) 2/19/2021 House: Enrolled</p>	<p>2/9/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
<p>Support (21103967D-H1) Summary: Foster care; termination of parental rights; relatives and fictive kin. Requires local departments of social services and licensed child-placing agencies to involve in the development of a child's foster care plan the child's relatives and fictive kin who are interested in the child's welfare. The bill requires that a child 12 years of age or older be involved in the development of his foster care plan; under current law, a child's involvement is mandatory upon reaching 14 years of age. The bill contains other amendments to provisions governing foster care and termination of parental rights that encourage the placement of children with relatives and fictive kin.</p>		
<p>HB 1992 - Murphy (34) Firearms; purchase, etc., following conviction for assault and battery of a family member.</p>	<p>1/11/2021 House: Referred to Committee on Public Safety 1/19/2021 House: Subcommittee recommends reporting (5-Y 3-N) 1/22/2021 House: Reported from Public Safety (10-Y 9-N) 1/26/2021 House: Referred to Committee for Courts of Justice 1/27/2021 House: Reported from Courts of Justice with substitute (13-Y 9-N) 2/1/2021 House: Read third time and passed House (54-Y 46-N) 2/2/2021 Senate: Referred to Committee on the Judiciary (SJUD) 2/5/2021 Senate: Continued to 2021 Special Session 1 in SJUD (14-Y 0-N) 2/15/2021 Senate: Reported from SJUD with substitute (8-Y 7-N) 2/15/2021 Senate: Re-referred to Finance and Appropriations 2/17/2021 Senate: Reported from Finance and Appropriations with substitute (11-Y 4-N) 2/18/2021 Senate: Passed Senate with substitute (20-Y 19-N)</p>	<p>2/9/2021</p>
<p>Support (21103651D-H1) - See also SB 1382 (Favola). Summary: Purchase, possession, or transportation of firearms following conviction for assault and battery of a family or household member; penalties. Prohibits a person who has been convicted of assault and battery of a family or household member, as defined in the bill, from purchasing, possessing, or transporting a firearm. A person who violates this provision is guilty of a Class 1 misdemeanor.</p>		
<p>HB 2018 - Mullin (93) Emergency order for adult protective services; acts of violence, etc., or financial exploitation.</p>	<p>1/12/2021 House: Referred to Committee for Courts of Justice 1/20/2021 House: Subcommittee recommends reporting with substitute (7-Y 0-N) 1/22/2021 House: Reported from Courts of Justice with substitute (22-Y 0-N) 1/27/2021 House: Read third time and passed House BLOCK VOTE (99-Y 0-N) 1/28/2021 Senate: Referred to Committee on the Judiciary 2/5/2021 Senate: Continued to 2021 Special Session 1 in Judiciary (14-Y 0-N) 2/17/2021 Senate: Reported from Judiciary (15-Y 0-N)</p>	<p>1/26/2021</p>
<p>Support (21102761D) Summary: Emergency order for adult protective services; acts of violence, force, or threat or financial exploitation; penalty. Allows the circuit court, upon a finding that an incapacitated adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation, to include in an emergency order for adult protective services one or more of the following</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>conditions to be imposed on the alleged perpetrator: (i) a prohibition on acts of violence, force, or threat or criminal offenses that may result in injury to person or property; (ii) a prohibition on such other contacts by the alleged perpetrator with the adult or the adult's family or household members as the court deems necessary for the health and safety of such persons; or (iii) such other conditions as the court deems necessary to prevent (a) acts of violence, force, or threat; (b) criminal offenses that may result in injury to persons or property; (c) communication or other contact of any kind by the alleged perpetrator; or (d) financial exploitation by the alleged perpetrator. The bill provides that any person who violates any such condition is guilty of a Class 1 misdemeanor. Also, the bill provides that hearings on emergency orders for adult protective services shall be held no earlier than 24 hours and no later than 72 hours after the notice required has been given, unless such notice has been waived by the court. Current law just requires such hearing be held no earlier than 24 hours. Lastly, the bill provides that if the court enters an order containing any of the aforementioned conditions, the primary law-enforcement agency providing service and entry of protective orders shall enter the name of the perpetrator into the Virginia Criminal Information Network and the order shall be served forthwith on the perpetrator.</p>		
<p>HB 2042 - Guy (83) Trees; replacement and conservation during development, effective date.</p>	<p>1/12/2021 House: Referred to Committee on Counties, Cities and Towns 1/21/2021 House: Subcommittee recommends reporting with amendments (6-Y 3-N) 1/22/2021 House: Reported from Counties, Cities and Towns with amendment(s) (13-Y 9-N) 1/27/2021 House: Read third time and passed House (57-Y 43-N) 1/28/2021 Senate: Referred to Committee on Local Government 2/5/2021 Senate: Continued to 2021 Special Session 1 in Local Government (15-Y 0-N) 2/15/2021 Senate: Reported from Local Government with amendments (11-Y 3-N) 2/17/2021 Senate: Passed Senate with amendments (26-Y 11-N) 2/19/2021 House: Senate amendments agreed to by House (57-Y 43-N)</p>	<p>1/26/2021</p>
<p>Support (21102573D) - See also SB 1393 (Marsden). Summary: Replacement and conservation of trees during development. Gives a locality the ability to exceed general requirements in its tree replacement and conservation ordinances in specific circumstances, including development that impacts stormwater permit requirements, recurrent flooding, formerly redlined areas, and comprehensive plan compliance. The provisions of the bill shall become effective July 1, 2022.</p>		
<p>HB 2081 - Levine (45) Polling places; prohibited activities, unlawful possession of a firearm, penalty.</p>	<p>1/12/2021 House: Referred to Committee on Privileges and Elections (HPE) 1/20/2021 House: Reported from HPE (13-Y 9-N) 1/25/2021 House: Read third time and passed House (53-Y 47-N) 1/26/2021 Senate: Referred to Committee on the Judiciary 2/5/2021 Senate: Continued to 2021 Special Session 1 in Judiciary (14-Y 0-N) 2/15/2021 Senate: Reported from Judiciary (8-Y 6-N) 2/18/2021 Senate: Passed Senate (21-Y 18-N)</p>	<p>2/9/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
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Support (21102618D)
Summary: Polling places; prohibited activities; unlawful possession of a firearm; penalty. Prohibits any person from knowingly possessing a firearm within 40 feet of any building, or part thereof, used as a polling place, including one hour before and one hour after its use as a polling place, except for (i) a qualified law-enforcement officer or retired law-enforcement officer, (ii) any person occupying his own private property that falls within 40 feet of the polling place, or (iii) a licensed armed security officer whose employment or performance of his duties occurs within 40 feet of the polling place. The bill further provides that no person shall knowingly possess a firearm within 40 feet of a meeting place for the local electoral board while the electoral board meets to ascertain the results of an election or any place used as the setting for a recount. A violation of the provisions of the bill is a Class 1 misdemeanor.

<p>HB 2113 - Herring (46) Criminal records; establishes a process for automatic expungement, etc., report.</p>	<p>1/12/2021 House: Referred to Committee for Courts of Justice 1/27/2021 House: Reported from Courts of Justice with substitute (14-Y 6-N) 1/27/2021 House: Referred to Committee on Appropriations 1/29/2021 House: Subcommittee recommends reporting with substitute (5-Y 3-N) 1/29/2021 House: Reported from Appropriations with substitute (13-Y 8-N) 2/2/2021 House: Committee for Courts of Justice substitute rejected 21103298D-H1 2/2/2021 House: Committee on Appropriations substitute agreed to 21103933D-H2 2/3/2021 House: Read third time and passed House (60-Y 39-N) 2/4/2021 Senate: Referred to Committee on the Judiciary 2/5/2021 Senate: Continued to 2021 Special Session 1 in Judiciary (14-Y 0-N) 2/17/2021 Senate: Reported from Judiciary with substitute (10-Y 4-N) 2/17/2021 Senate: Re-referred to Finance and Appropriations</p>	<p>2/9/2021</p>
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Support with Amendment (21103298D-H1) - Support concept of expungement for certain crimes; sufficient state funding for implementation is essential.
Summary: Automatic expungement of criminal records; penalties. Establishes a process for the automatic expungement, defined in the bill, of criminal records for certain convictions, deferred dispositions, and acquittals and for offenses that have been nolle prossed or otherwise dismissed. The bill also provides a process for the automatic expungement of criminal records for charges arising from mistaken identity or the unauthorized use of identifying information. The bill has staggered delayed effective dates in order to develop systems for implementing the provisions of the bill. As introduced, this bill was a recommendation of the Virginia State Crime Commission.

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Bills	General Assembly Actions	Date of BOS Position
<p>HB 2131 - Lopez (49) Alcoholic beverage control; license application, locality input.</p>	<p>1/12/2021 House: Referred to Committee on General Laws (HGL) 1/26/2021 House: Subcommittee recommends reporting with substitute (8-Y 0-N) 1/28/2021 House: Reported from HGL with substitute (22-Y 0-N) 2/3/2021 House: Read third time and passed House (98-Y 0-N 1-A) 2/3/2021 House: Reconsideration of passage agreed to by House 2/3/2021 House: Passed House BLOCK VOTE (99-Y 0-N) 2/4/2021 Senate: Referred to Committee on Rehabilitation and Social Services (SRSS) 2/5/2021 Senate: Continued to 2021 Special Session 1 in SRSS (14-Y 0-N) 2/12/2021 Senate: Reported from SRSS (14-Y 0-N) 2/16/2021 Senate: Passed Senate (39-Y 0-N) 2/19/2021 House: Enrolled</p>	<p>1/26/2021</p>
<p>Support (21101639D) Summary: Alcoholic beverage control; license application; locality input; corrective action. Adds the chief administrative officer of a locality to the list of persons who may be sent notice of certain license applications by the Board of Directors (the Board) of the Virginia Alcoholic Beverage Control Authority. The bill also expands the definition of criminal blight, for which the locality may require a property owner to take corrective action, to include a condition existing on real property that endangers public health or safety and is caused by (i) the regular presence on the property of persons in possession of controlled substances and (ii) the discharge of a firearm under certain conditions.</p>		
<p>HB 2138 - Guzman (31) Identification privilege cards; authorizes DMV to issue, fee, confidentiality, penalties.</p>	<p>1/12/2021 House: Referred to Committee on Transportation 1/19/2021 House: Subcommittee recommends reporting with amendments (6-Y 2-N) and referring to Committee on Appropriations 1/21/2021 House: Reported from Transportation with amendment(s) (13-Y 8-N) 1/26/2021 House: Read third time and passed House (57-Y 43-N) 1/27/2021 Senate: Referred to Committee on Transportation 2/5/2021 Senate: Continued to 2021 Special Session 1 in Transportation (15-Y 0-N) 2/11/2021 Senate: Reported from Transportation (8-Y 7-N) 2/11/2021 Senate: Re-referred to Finance and Appropriations (SFIN) 2/16/2021 Senate: Reported from SFIN (11-Y 5-N) 2/17/2021 Senate: Passed Senate (19-Y 18-N)</p>	<p>2/9/2021</p>
<p>Support (21102728D-E) Summary: Identification privilege cards; fee; confidentiality; penalties. Authorizes the Department of Motor Vehicles to issue identification privilege cards to applicants who hold a citizenship or legal presence status that is eligible for a special identification card or a limited-duration special identification card and have reported income from Virginia sources or been claimed as a dependent on an individual tax return filed with the Commonwealth in the preceding 12 months. The bill provides that identification privilege cards shall be treated as special identification cards unless otherwise provided in the Code of Virginia. The bill limits the release of certain information stored by the Department. The bill has a delayed effective date of January 1, 2022.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><u>HB 2161</u> - Tran (42) Active military or a military spouse; prohibits discrimination in public accommodations, etc.</p>	<p>1/12/2021 House: Referred to Committee on General Laws 1/28/2021 House: Subcommittee recommends reporting with substitute (8-Y 0-N) 1/28/2021 House: Reported from General Laws with substitute (20-Y 0-N) 2/2/2021 House: Committee on General Laws substitute rejected 21103874D-H1 2/2/2021 House: Substitute by Delegate Tran agreed to 21104006D-H2 2/3/2021 House: Read third time and passed House (99-Y 0-N) 2/4/2021 Senate: Referred to Committee on General Laws and Technology 2/5/2021 Senate: Continued to 2021 Special Session 1 in General Laws and Technology (14-Y 0-N) 2/10/2021 Senate: Reported from General Laws and Technology (14-Y 0-N) 2/15/2021 Senate: Passed Senate (39-Y 0-N) 2/19/2021 House: Enrolled</p>	<p>2/9/2021</p>
<p>Support (21103874D-H1) - See also SB 1410 (Bell). Summary: Prohibits discrimination in public accommodations, employment, and housing on the basis of a person's military status, defined as a member of the uniformed services of the United States or a reserve component thereof or a spouse or other dependent of the same. The bill also prohibits terms in a rental agreement in which the tenant agrees to waive remedies or rights under the federal Servicemembers Civil Relief Act prior to the occurrence of a dispute between the landlord and the tenant.</p>		
<p><u>HB 2206</u> - Filler-Corn (41) Child Care Subsidy Program; expanding Program to serve more families.</p>	<p>1/13/2021 House: Referred to Committee on Health, Welfare and Institutions 1/28/2021 House: Reported from Health, Welfare and Institutions with substitute (21-Y 0-N) 2/2/2021 House: Read third time and passed House BLOCK VOTE (99-Y 0-N) 2/3/2021 Senate: Referred to Committee on Education and Health 2/5/2021 Senate: Continued to 2021 Special Session 1 in Education and Health (15-Y 0-N) 2/11/2021 Senate: Re-referred from Education and Health (13-Y 0-N 1-A) 2/11/2021 Senate: Re-referred to Finance and Appropriations 2/16/2021 Senate: Reported from Finance and Appropriations with substitute (16-Y 0-N) 2/17/2021 Senate: Passed Senate with substitute (37-Y 0-N) 2/19/2021 House: Senate substitute agreed to by House 21200307D-S1 (92-Y 7-N)</p>	<p>2/9/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
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Support (21103864D-H1)

Summary: Child Care Assistance Program; emergency. Provides that regulations governing the Child Care Subsidy Program (the Program) shall be amended to provide that (i) a family shall be eligible for assistance through the Program if the family's income does not exceed 85 percent of the state median income, the family includes at least one child who is five years of age or younger and has not yet started kindergarten, and the family meets all other income and eligibility requirements of the Program and (ii) job search activities shall be considered eligible activities for the purposes of the Program. The bill provides that a family determined to be eligible for assistance through the Program shall be eligible to receive assistance for a period of 12 months or until the family's household income exceeds 85 percent of the state median income, whichever occurs sooner. The Department of Social Services shall administer the program, as amended by the bill, in cooperation with the Department of Education. The bill contains an emergency clause and provides that the provisions of the bill shall be applicable to applications for assistance through the Program received prior to August 1, 2021.

HB 2227 - Kory (38)
Uniform Statewide Building Code; amendments, energy efficiency and conservation.

1/13/2021 House: Referred to Committee on General Laws
1/28/2021 House: Subcommittee recommends reporting with substitute (5-Y 3-N)
2/2/2021 House: Reported from General Laws with substitute (13-Y 8-N)
2/5/2021 House: Read third time and passed House (55-Y 45-N)
2/5/2021 Senate: Referred to Committee on General Laws and Technology
2/5/2021 Senate: Continued to 2021 Special Session 1 in General Laws and Technology (14-Y 0-N)
2/17/2021 Senate: Reported from General Laws and Technology (8-Y 4-N)
2/17/2021 Senate: Re-referred to Finance and Appropriations

2/9/2021

Support (21104318D-H1) - Support as a step toward increasing green construction, which the County supports in its legislative program.

Summary: Uniform Statewide Building Code; amendments; energy efficiency and conservation. Directs the Board of Housing and Community Development, upon each publication by the International Code Council of a new version of the International Energy Conservation Code (IECC), to consider adopting amendments to the Uniform Statewide Building Code to address changes in the IECC related to energy efficiency and conservation.

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Bills	General Assembly Actions	Date of BOS Position
<p><u>HB 2312</u> - Herring (46) Marijuana; legalization of simple possession, etc.</p>	<p>1/20/2021 House: Referred to Committee on General Laws (HGL) 1/30/2021 House: Subcommittee recommends reporting with substitute (6-Y 1-N) and referring to Committee for Courts of Justice 1/30/2021 House: Incorporates HB 1815 (Heretick) 1/30/2021 House: Reported from HGL with substitute (14-Y 6-N) 1/30/2021 House: Referred to Committee for Courts of Justice 1/31/2021 House: Reported from Courts of Justice with substitute (13-Y 8-N) 1/31/2021 House: Referred to Committee on Appropriations 2/3/2021 House: Reported from Appropriations (14-Y 7-N) 2/4/2021 House: Committee on General Laws substitute rejected 21104236D-H1 2/4/2021 House: Committee for Courts of Justice substitute agreed to 21104248D-H2 2/5/2021 House: Read third time and passed House (55-Y 42-N 2-A) 2/5/2021 Senate: Referred to Committee on Rehabilitation and Social Services (SRSS) 2/5/2021 Senate: Continued to 2021 Special Session 1 in Rehabilitation and Social Services (14-Y 0-N) 2/12/2021 Senate: Reported from SRSS with substitute (8-Y 6-N) 2/12/2021 Senate: Re-referred to Finance and Appropriations 2/12/2021 Senate: Reported from Finance and Appropriations (13-Y 3-N) 2/16/2021 Senate: Passed Senate with substitute (23-Y 16-N) 2/18/2021 House: Senate substitute rejected by House 21200016D-S1 (0-Y 99-N 1-A) 2/19/2021 Senate: Senate insisted on substitute (38-Y 0-N) 2/19/2021 Senate: Senate requested conference committee 2/19/2021 House: House acceded to request 2/19/2021 House: Conferees appointed by House: Delegates Herring, Mullin, Torian, Bagby, Knight 2/19/2021 Senate: Conferees appointed by Senate: Senators Ebbin, Lucas, McPike, Surovell, Dunnivant</p>	<p>2/9/2021</p>

Support with Amendment (21104236D-H1) - Support strong local government land use and taxation authority in any marijuana legalization legislation.

Summary: Marijuana; legalization; retail sales; penalties. Eliminates criminal penalties for simple possession of marijuana, modifies several other criminal penalties related to marijuana, and provides for an automatic expungement process for those convicted of certain marijuana-related crimes to have such crimes automatically expunged by July 1, 2026. The bill creates the Virginia Cannabis Control Authority (the Authority) and establishes a regulatory structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products, to be administered by the Authority. The bill contains social equity provisions that, among other things, provide support and resources to persons and communities that have been historically and disproportionately affected by drug enforcement. The bill has staggered effective dates and allows retail marijuana sales to begin on January 1, 2024. This bill incorporates HB 1815.

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Bills	General Assembly Actions	Date of BOS Position
<p>HJ 527 - Bulova (37) Invasive plant species; DCR, et al., to study the sale and use of species.</p>	<p>1/7/2021 House: Referred to Committee on Rules 1/22/2021 House: Subcommittee recommends reporting (5-Y 0-N) 1/22/2021 House: Reported from Rules (18-Y 0-N) 1/26/2021 House: Agreed to by House BLOCK VOTE (98-Y 0-N) 1/27/2021 Senate: Referred to Committee on Rules 2/5/2021 Senate: Continued to 2021 Special Session 1 in Rules (15-Y 0-N) 2/12/2021 Senate: Reported from Rules with amendments by voice vote 2/16/2021 Senate: Agreed to by Senate with amendments by voice vote 2/18/2021 House: Senate amendments agreed to by House (98-Y 2-N)</p>	<p>1/26/2021</p>
<p>Support (21102405D) Summary: Study; Department of Conservation and Recreation and Virginia Department of Agriculture and Consumer Services; invasive plant species work group; report. Requests the Department of Conservation and Recreation, jointly with the Department of Agriculture and Consumer Services, to establish a work group to study the sale and use of invasive plant species. The resolution requests that the departments work with several state agencies, conservation nonprofits, and plant industry and agriculture groups to develop recommendations regarding statutory and regulatory changes intended to reduce or eliminate the sale and use of invasive plant species in the Commonwealth and promote the sale and use of native plants.</p>		
<p>HJ 542 - McQuinn (70) Transit equity and modernization; Department of Rail and Public Transportation to study.</p>	<p>1/11/2021 House: Referred to Committee on Rules 1/22/2021 House: Subcommittee recommends reporting (5-Y 0-N) and referring to Committee on Appropriations 1/22/2021 House: Reported from Rules (17-Y 1-N) 1/22/2021 House: Referred to Committee on Appropriations 1/29/2021 House: Subcommittee recommends reporting with substitute (8-Y 0-N) 1/29/2021 House: Reported from Appropriations with substitute (22-Y 0-N) 2/2/2021 House: Agreed to by House (77-Y 19-N) 2/3/2021 Senate: Referred to Committee on Rules 2/5/2021 Senate: Continued to 2021 Special Session 1 in Rules (15-Y 0-N) 2/12/2021 Senate: Reported from Rules by voice vote 2/12/2021 Senate: Re-referred to Finance and Appropriations 2/17/2021 Senate: Reported from Finance and Appropriations with substitute (16-Y 0-N) 2/18/2021 Senate: Agreed to by Senate with substitute by voice vote</p>	<p>2/9/2021</p>
<p>Support (21102752D) Summary: Study; Department of Rail and Public Transportation; transit equity and modernization; report. Requests the Department of Rail and Public Transportation to conduct a two-year study of transit equity and modernization in the Commonwealth, with emphasis on transit services and engagement opportunities for underserved and underrepresented communities.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><u>SB 1148</u> - Kiggans (7) Elections; date of June primary election.</p>	<p>1/6/2021 Senate: Referred to Committee on Privileges and Elections 1/26/2021 Senate: Reported from Privileges and Elections (10-Y 2-N) 2/1/2021 Senate: Read third time and passed Senate (27-Y 12-N) 2/5/2021 House: Referred to Committee on Privileges and Elections 2/8/2021 House: Continued to 2021 Special Session 1 in Privileges and Elections by voice vote 2/17/2021 House: Reported from Privileges and Elections (16-Y 5-N)</p>	<p>1/26/2021</p>
<p>Support (21101028D) - Board has historically supported. Summary: Changes the date of the primary election held in June from the second Tuesday in June to the third Tuesday in June. The bill also changes candidate filing deadlines to reflect the change of date. The bill satisfies the reenactment requirement of Chapter 1253 of the Acts of Assembly of 2020.</p>		
<p><u>SB 1156</u> - Howell (32) Technology Development Grant Fund; created.</p>	<p>1/7/2021 Senate: Referred to Committee on Finance and Appropriations 1/19/2021 Senate: Reported from Finance and Appropriations (15-Y 0-N) 1/22/2021 Senate: Read third time and passed Senate (37-Y 0-N) 2/2/2021 House: Referred to Committee on Appropriations 2/7/2021 House: Continued to 2021 Special Session 1 in Appropriations by voice vote 2/10/2021 House: Reported from Appropriations (22-Y 0-N) 2/12/2021 House: Passed House (90-Y 10-N) 2/17/2021 Senate: Enrolled 2/17/2021 Senate: Signed by President 2/18/2021 House: Signed by Speaker</p>	<p>1/26/2021</p>
<p>Support (21102102D) Summary: Technology Development Grant Fund created. Creates the Technology Development Grant Fund to make grant payments to a qualified technology company that makes a capital investment of at least \$64 million at a facility in Fairfax County and creates at least 1,500 new full-time jobs at the facility. A qualified technology company would be eligible for an aggregate of \$22.5 million in grants paid over four years if it meets performance parameters and complies with the terms of a memorandum of understanding agreed upon by the company, the Commonwealth, and the Virginia Economic Development Partnership Authority.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>SB 1197 - Locke (2) Virginia housing opportunity; tax credit established.</p>	<p>1/11/2021 Senate: Referred to Committee on Finance and Appropriations 2/2/2021 Senate: Reported from Finance and Appropriations (16-Y 0-N) 2/4/2021 Senate: Passed Senate (39-Y 0-N) 2/7/2021 House: Referred to Committee on Finance 2/8/2021 House: Continued to 2021 Special Session 1 in Finance by voice vote 2/15/2021 House: Reported from Finance with amendment(s) (14-Y 8-N) 2/15/2021 House: Referred to Committee on Appropriations 2/17/2021 House: Subcommittee recommends reporting with substitute (5-Y 0-N) 2/17/2021 House: Reported from Appropriations with substitute (12-Y 8-N) 2/19/2021 House: Committee on Finance amendment agreed to 2/19/2021 House: Committee on Finance amendment reconsidered 2/19/2021 House: Committee on Finance amendment rejected 2/19/2021 House: Committee on Appropriations substitute agreed to 21200332D-H1 2/19/2021 House: Passed House with substitute (61-Y 39-N) 2/19/2021 Senate: House substitute rejected by Senate (1-Y 36-N) 2/19/2021 House: House insisted on substitute 2/19/2021 House: House requested conference committee 2/19/2021 Senate: Senate acceded to request (37-Y 0-N) 2/19/2021 Senate: Conferees appointed by Senate: Senators Locke, Lucas, Vogel 2/19/2021 House: Conferees appointed by House: Delegates Sullivan, Bourne, Fowler</p>	<p>1/26/2021</p>
<p>Support (21102520D) Summary: Virginia housing opportunity tax credit. Establishes, starting in taxable year 2021, a Virginia housing opportunity tax credit, which is equal to the amount of the federal low-income housing tax credit allocated or allowed by the Virginia Housing Development Authority to a low-income building that is eligible for the federal credit. The credit would be nonrefundable and could be carried forward for up to five years.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><u>SB 1206</u> - Barker (39) Confidentiality of juvenile court records; exceptions.</p>	<p>1/11/2021 Senate: Referred to Committee on the Judiciary 1/25/2021 Senate: Reported from Judiciary with substitute (8-Y 7-N) 1/28/2021 Senate: Read third time and passed Senate (27-Y 11-N) 2/2/2021 House: Referred to Committee for Courts of Justice 2/8/2021 House: Continued to 2021 Special Session 1 in Courts of Justice by voice vote 2/10/2021 House: Subcommittee recommends reporting (7-Y 0-N) 2/12/2021 House: Reported from Courts of Justice (22-Y 0-N) 2/17/2021 House: Passed House BLOCK VOTE (99-Y 0-N) 2/19/2021 Senate: Enrolled</p>	<p>1/26/2021</p>
<p>Support (21102736D) Summary: Provides that juvenile court service unit records and Department of Juvenile Justice records may be open for inspection to the Department of Social Services or any local department of social services that is providing services or care for, or has accepted a referral for family assessment or investigation and the provision of services regarding, a juvenile and these local agencies have entered into a formal agreement with the Department of Juvenile Justice to provide coordinated services to such juveniles.</p>		
<p><u>SB 1242</u> - Edwards (21) Personal appearance by two-way electronic video and audio communication; entry of plea.</p>	<p>1/11/2021 Senate: Referred to Committee on the Judiciary 1/20/2021 Senate: Reported from Judiciary (15-Y 0-N) 1/26/2021 Senate: Read third time and passed Senate (39-Y 0-N) 2/2/2021 House: Referred to Committee for Courts of Justice 2/8/2021 House: Continued to 2021 Special Session 1 in Courts of Justice by voice vote 2/10/2021 House: Subcommittee recommends reporting with amendments (7-Y 1-N) 2/12/2021 House: Reported from Courts of Justice with amendment(s) (17-Y 5-N) 2/17/2021 House: Passed House with amendments (77-Y 22-N) 2/19/2021 Senate: House amendments agreed to by Senate (38-Y 0-N)</p>	<p>1/26/2021</p>
<p>Support (21101001D) Summary: Personal appearance by two-way electronic video and audio communication; entry of plea or nolle prosequi; adjudication of probation violations. Provides that with the consent of the court and all parties, an appearance in a court may be made by two-way electronic video and audio communication for the purpose of (i) entry of a plea of guilty or nolo contendere and the related sentencing of the defendant charged with a misdemeanor or felony, (ii) entry of a nolle prosequi, or (iii) adjudication of an alleged violation of probation. This bill is a recommendation of the Judicial Council of Virginia and the Committee on District Courts.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>SB 1245 - Deeds (25) Absentee voting; establishment of drop-off locations, ballot defects, cure process.</p>	<p>1/11/2021 Senate: Referred to Committee on Privileges and Elections 1/26/2021 Senate: Reported from Privileges and Elections with substitute (9-Y 6-N) 2/1/2021 Senate: Read third time and passed Senate (21-Y 18-N) 2/5/2021 House: Referred to Committee on Privileges and Elections 2/8/2021 House: Continued to 2021 Special Session 1 in Privileges and Elections by voice vote 2/16/2021 House: Subcommittee recommends reporting with substitute (5-Y 3-N) 2/17/2021 House: Reported from Privileges and Elections with substitute (13-Y 9-N)</p>	<p>[2/19/2021] 1/26/2021</p>
<p>[Support] (21200180D-H1) – The bill was amended to conform with HB 1888, which the County supports. Support with Amendment (21100967D) – Support with amendments to remove the requirement to establish the locations of satellite voter offices through local ordinances.</p> <p>Summary: Absentee voting; establishment of drop-off locations; ballot defects; cure process. Requires the establishment of a drop-off location for the return of marked absentee ballots at the office of the general registrar and each voter satellite office. On the day of any election, a drop-off location shall be available at each polling place in operation for such election. The bill allows the general registrar of any county or city to establish additional drop-off locations within the county or city as he deems necessary. The Department of Elections is required to set standards related to the establishment and operation of drop-off locations, including security requirements. The bill also requires general registrars to take certain actions to preprocess absentee ballots returned before election day and to notify an absentee voter of any errors or issues with the completion or return of his absentee ballot that would render the ballot void. The general registrars are required to enter into the voter's record in the registration system that the voter's absentee ballot has an issue requiring correction and to notify the voter in writing or by email of the error or failure, in addition to providing information on how to correct the issue. The absentee voter then has until noon on the third day following the election to make necessary corrections so that his ballot may be counted. This ballot cure process applies only to those absentee ballots received by the Friday immediately preceding the day of the election. The bill contains technical amendments for organizational purposes.</p>		
<p>SB 1271 - McPike (29) Virginia Freedom of Information Act; meetings held through electronic communication means.</p>	<p>1/12/2021 Senate: Referred to Committee on General Laws and Technology 1/20/2021 Senate: Reported from General Laws and Technology (15-Y 0-N) 1/26/2021 Senate: Read third time and passed Senate (39-Y 0-N) 2/2/2021 House: Referred to Committee on General Laws 2/8/2021 House: Continued to 2021 Special Session 1 in General Laws by voice vote 2/16/2021 House: Subcommittee recommends reporting (8-Y 0-N) 2/18/2021 House: Reported from General Laws (22-Y 0-N)</p>	<p>1/26/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
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Support (21101309D)

Summary: Virginia Freedom of Information Act; meetings held through electronic communication means during a state of emergency. Allows a public body, or a joint meeting thereof, to meet by electronic communication means without a quorum of the public body physically assembled at one location when a locality in which the public body is located has declared a local state of emergency, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities. Under current law, public bodies may only meet in such manner when the Governor has declared a state of emergency, and only for the purpose of addressing the emergency. Finally, the bill requires public bodies meeting through electronic communication means during a local or state declaration of a state of emergency to (a) make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body, and (b) provide the public with the opportunity to comment at such meetings when public comment is customarily received.

SB 1284 - Favola (31)
Commonwealth Clean Energy Policy; established.

1/11/2021 Senate: Referred to Committee on Commerce and Labor
 2/1/2021 Senate: Reported from Commerce and Labor with substitute (12-Y 3-N)
 2/1/2021 Senate: Re-referred to Finance and Appropriations
 2/3/2021 Senate: Reported from Finance and Appropriations (11-Y 4-N 1-A)
 2/5/2021 Senate: Read third time and passed Senate (21-Y 18-N)
 2/7/2021 House: Referred to Committee on Labor and Commerce
 2/8/2021 House: Continued to 2021 Special Session 1 in Labor and Commerce by voice vote
 2/15/2021 House: Subcommittee recommends reporting (6-Y 4-N)
 2/16/2021 House: Reported from Labor and Commerce (13-Y 9-N)
 2/19/2021 House: Passed House (55-Y 45-N)

2/9/2021

Support (21103831D-S1)

Summary: Commonwealth Clean Energy Policy. Establishes the Commonwealth Clean Energy Policy, replacing the Commonwealth Energy Policy. The bill sets out the energy policy and objectives of the Commonwealth Clean Energy Policy, which include: (i) the Commonwealth recognizes that effectively addressing climate change and enhancing resilience will advance the health, welfare, and safety of the residents of the Commonwealth and that addressing climate change requires reducing greenhouse gas emissions across the Commonwealth's economy sufficient to reach net-zero emission by 2045 in all sectors, including the electric power, transportation, industrial, agricultural, building, and infrastructure sectors; (ii) the Commonwealth recognizes the need to promote environmental justice and ensure that it is carried out throughout the Commonwealth and the need to address and prevent energy inequities in historically economically disadvantaged communities; and (iii) the Commonwealth must continue to prioritize economic competitiveness and workforce development in an equitable manner.

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Bills	General Assembly Actions	Date of BOS Position
<p><u>SB 1297</u> - Obenshain (26) Emergency order for adult protective services; acts of violence, etc., or financial exploitation.</p>	<p>1/11/2021 Senate: Referred to Committee on Rehabilitation and Social Services (SRSS) 1/22/2021 Senate: Reported from SRSS (15-Y 0-N) 1/27/2021 Senate: Read third time and passed Senate (39-Y 0-N) 2/2/2021 House: Referred to Committee for Courts of Justice (HCT) 2/8/2021 House: Continued to 2021 Special Session 1 in HCT by voice vote 2/12/2021 House: Reported from HCT with substitute (22-Y 0-N) 2/17/2021 House: Passed House with substitute BLOCK VOTE (99-Y 0-N) 2/19/2021 Senate: House substitute agreed to by Senate (38-Y 0-N)</p>	<p>2/9/2021</p>
<p>Support (21102422D) Summary: Emergency order for adult protective services; acts of violence, force, or threat or financial exploitation; penalty. Allows the circuit court, upon a finding that an incapacitated adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation, to include in an emergency order for adult protective services one or more of the following conditions to be imposed on the alleged perpetrator: (i) a prohibition on acts of violence, force, or threat or criminal offenses that may result in injury to person or property; (ii) a prohibition on such other contacts by the alleged perpetrator with the adult or the adult's family or household members as the court deems necessary for the health and safety of such persons; or (iii) such other conditions as the court deems necessary to prevent (a) acts of violence, force, or threat; (b) criminal offenses that may result in injury to persons or property; (c) communication or other contact of any kind by the alleged perpetrator; or (d) financial exploitation by the alleged perpetrator. The bill provides that any person who violates any such condition is guilty of a Class 1 misdemeanor. Also, the bill provides that hearings on emergency orders for adult protective services shall be held no earlier than 24 hours and no later than 72 hours after the notice required has been given, unless such notice has been waived by the court. Current law just requires such hearing be held no earlier than 24 hours.</p>		
<p><u>SB 1309</u> - Ebbin (30) Local stormwater assistance; flood mitigation and protection.</p>	<p>1/12/2021 Senate: Referred to Committee on Local Government 1/18/2021 Senate: Reported from Local Government with substitute (14-Y 0-N 1-A) 1/21/2021 Senate: Read third time and passed Senate (39-Y 0-N) 2/2/2021 House: Referred to Committee on Counties, Cities and Towns (HCCT) 2/8/2021 House: Continued to 2021 Special Session 1 in HCCT by voice vote 2/12/2021 House: Reported from HCCT (22-Y 0-N) 2/17/2021 House: Passed House BLOCK VOTE (99-Y 0-N) 2/19/2021 Senate: Enrolled</p>	<p>1/26/2021</p>
<p>Support (21103219D-S1) Summary: Authorizes grants from a local Stormwater Management Fund to be used for flood mitigation and protection measures that are part of a comprehensive flood mitigation and protection plan adopted by the locality, and requires such grants, where practicable, to prioritize projects that include nature-based practices. Current law allows such funds to be used only for the construction, improvement, or repair of a stormwater management facility or for erosion and sediment control.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><u>SB 1328</u> - Mason (1) State-Funded Kinship Guardianship Assistance program; created.</p>	<p>1/12/2021 Senate: Referred to Committee on Rehabilitation and Social Services (SRSS) 1/15/2021 Senate: Reported from SRSS with substitute (14-Y 0-N) 1/15/2021 Senate: Re-referred to Finance and Appropriations 1/26/2021 Senate: Reported from Finance and Appropriations with amendments (16-Y 0-N) 1/29/2021 Senate: Read third time and passed Senate (37-Y 0-N) 2/2/2021 House: Referred to Committee on Health, Welfare and Institutions (HHWI) 2/8/2021 House: Continued to 2021 Special Session 1 in HHWI by voice vote 2/16/2021 House: Subcommittee recommends reporting (6-Y 0-N) 2/16/2021 House: Subcommittee recommends referring to Committee on Appropriations 2/16/2021 House: Reported from HHWI (22-Y 0-N) 2/16/2021 House: Referred to Committee on Appropriations 2/17/2021 House: Subcommittee recommends reporting (8-Y 0-N) 2/17/2021 House: Reported from Appropriations (20-Y 0-N)</p>	<p>1/26/2021</p>
<p>Support (21101857D) Summary: State-Funded Kinship Guardianship Assistance program. Creates the State-Funded Kinship Guardianship Assistance program (the program) to facilitate child placements with relatives, including fictive kin, and ensure permanency for children. The bill sets forth eligibility criteria for the program, payment allowances to kinship guardians, and requirements for kinship guardianship assistance agreements.</p>		
<p><u>SB 1339</u> - Surovell (36) Police and court records; expungement and sealing of records, Expungement Fee Fund created.</p>	<p>1/12/2021 Senate: Referred to Committee on the Judiciary 2/1/2021 Senate: Incorporates SB 1283 (Morrissey) 2/1/2021 Senate: Incorporates SB 1372 (Lucas) 2/1/2021 Senate: Reported from Judiciary with substitute (9-Y 3-N 3-A) 2/1/2021 Senate: Re-referred to Finance and Appropriations 2/3/2021 Senate: Reported from Finance and Appropriations with substitute (13-Y 3-N) 2/4/2021 Senate: Committee on Judiciary substitute rejected 21103918D-S1 2/4/2021 Senate: Committee on Finance and Appropriations substitute rejected 21104284D-S2 2/4/2021 Senate: Substitute by Senator Surovell agreed to 21104416D-S3 2/5/2021 Senate: Read third time and passed Senate (21-Y 17-N) 2/5/2021 Senate: Reconsideration of passage agreed to by Senate (38-Y 0-N) 2/5/2021 Senate: Passed Senate (21-Y 18-N) 2/7/2021 House: Referred to Committee for Courts of Justice 2/8/2021 House: Continued to 2021 Special Session 1 in Courts of Justice by voice vote</p>	<p>2/9/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
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Support with Amendment (21100793D) - Support concept of expungement for certain crimes; sufficient state funding for implementation is essential.
Summary: Expungement and sealing of police and court records; Expungement Fee Fund created; protection of public record information; penalties. Establishes a process for the sealing of police and court records, defined in the bill, of criminal records for certain convictions, deferred dispositions, and acquittals and for offenses that have been nolle prossed or otherwise dismissed. The bill also allows a person to petition for the expungement of the police and court records relating to convictions of marijuana possession, underage alcohol or tobacco possession, and using a false ID to obtain alcohol and for deferred disposition dismissals for possession of controlled substances or marijuana, underage alcohol or tobacco possession, and using a false ID to obtain alcohol.

<p>SB 1366 - Barker (39) Aging services; economic and social need.</p>	<p>1/13/2021 Senate: Referred to Committee on Rehabilitation and Social Services 1/22/2021 Senate: Reported from Rehabilitation and Social Services with substitute (9-Y 4-N 2-A) 1/29/2021 Senate: Committee on Rehabilitation and Social Services substitute rejected 21103044D-S1 1/29/2021 Substitute by Senator Barker agreed to 21103857D-S2 2/1/2021 Senate: Read third time and passed Senate (23-Y 16-N) 2/5/2021 House: Referred to Committee on Health, Welfare and Institutions 2/8/2021 House: Continued to 2021 Special Session 1 in Health, Welfare and Institutions by voice vote 2/11/2021 House: Reported from Health, Welfare and Institutions with substitute (14-Y 6-N) 2/16/2021 House: Passed House with substitute (58-Y 41-N) 2/18/2021 Senate: House substitute rejected by Senate (3-Y 36-N) 2/19/2021 House: House insisted on substitute 2/19/2021 House: House requested conference committee 2/19/2021 Senate: Conferees appointed by Senate: Senators Barker, Favola, Reeves</p>	<p>2/9/2021</p>
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Support (21103857D-S2)
Summary: Aging services; social need. Requires the Department for Aging and Rehabilitative Services, in providing aging services, to use available resources to provide services to older persons with the greatest economic or social needs. The bill defines "economic need" as need resulting from an income level at or below the poverty line. The bill defines "social need" as need caused by noneconomic factors, including (i) physical and mental disabilities, which include developmental disabilities and human immunodeficiency virus; (ii) language barriers; and (iii) cultural, social, or geographic isolation, including that which is related to a history of discrimination for factors such as racial or ethnic status, gender identity, gender expression, or sexual orientation that can affect an individual's ability to perform normal daily tasks or threatens such individual's capacity to live independently.

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Bills	General Assembly Actions	Date of BOS Position
<p><u>SB 1384</u> - Surovell (36) Virginia Public Procurement Act; local arbitration agreements.</p>	<p>1/12/2021 Senate: Referred to Committee on General Laws and Technology (SGL) 1/27/2021 Senate: Reported from SGL (8-Y 7-N) 2/4/2021 Senate: Substitute by Senator Surovell agreed to 21104413D-S3 2/5/2021 Senate: Read third time and passed Senate (20-Y 17-N 1-A) 2/7/2021 House: Referred to Committee on General Laws 2/8/2021 House: Continued to 2021 Special Session 1 in General Laws by voice vote 2/16/2021 House: Subcommittee recommends reporting (5-Y 2-N) 2/16/2021 House: Reported from General Laws (12-Y 9-N) 2/16/2021 House: Referred to Committee for Courts of Justice 2/19/2021 House: Subcommittee failed to recommend reporting (4-Y 4-N)</p>	<p>2/9/2021</p>
<p>Support with Amendment (21102806D) - Support the concept for contracts that bind the public to terms and conditions that the County negotiates and amend legislation to improve implementation. Summary: Allows a participating locality, for any procurement solicitation or contract exceeding \$10,000 for goods and services, to require the bidder or offeror to disclose certain information regarding pre-dispute arbitration clauses, defined in the bill, in employment, civil rights, and consumer disputes, and provides that a locality may consider the policies and practices related to arbitration of each bidder and offeror. The bill also provides that a participating locality shall require the bidder or offeror to provide written or electronic submissions to allow the locality to ascertain (i) whether the bidder or offeror requires persons with whom it is in a work relationship or prospective work relationship to sign or otherwise enter into a contract containing a pre-dispute arbitration clause that would cover an employment or civil rights dispute and (ii) whether the bidder or offeror requires consumers to sign or otherwise enter into a contract containing a pre-dispute arbitration clause that would cover a consumer or civil rights dispute as a condition of purchasing products or services, downloading mobile applications, or using websites. The bill authorizes a participating locality to cancel, terminate, or suspend, in whole or in part, the contract of any contractor that has violated a provision of the bill and to declare the contractor ineligible for further contracts with such locality for up to five years.</p>		
<p><u>SB 1393</u> - Marsden (37) Trees; replacement and conservation during development.</p>	<p>1/13/2021 Senate: Referred to Committee on Local Government 1/25/2021 Senate: Reported from Local Government with substitute (12-Y 3-N) 2/1/2021 Senate: Read third time and passed Senate (26-Y 13-N) 2/5/2021 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources 2/8/2021 House: Continued to 2021 Special Session 1 in Agriculture, Chesapeake and Natural Resources by voice vote 2/10/2021 House: Reported from Agriculture, Chesapeake and Natural Resources with amendment(s) (14-Y 7-N) 2/15/2021 House: Passed House with amendments (56-Y 43-N) 2/17/2021 Senate: House amendments agreed to by Senate (31-Y 8-N) 2/19/2021 Senate: Enrolled</p>	<p>1/26/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
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Support (21102865D) - See also HB 2042 (Guy).
Summary: Replacement and conservation of trees during development. Gives a locality the ability to exceed general requirements in its tree replacement and conservation ordinances in specific circumstances, including development that impacts stormwater permit requirements, recurrent flooding, formerly redlined areas, and comprehensive plan compliance. The bill also directs the Secretary of Natural Resources and Secretary of Agriculture and Forestry to convene a stakeholder work group for the purpose of developing and providing recommendations to state and local governments related to policies that encourage the conservation of mature trees and tree cover on sites being developed, increase tree canopy cover in communities, and encourage the planting of trees. This bill only becomes effective if reenacted during the 2022 Session of the General Assembly.

<p>SB 1406 - Ebbin (30) Marijuana; legalization of simple possession, penalties.</p>	<p>1/13/2021 Senate: Referred to Committee on Rehabilitation and Social Services (SRSS) 1/22/2021 Senate: Reported from SRSS with substitute (8-Y 7-N) 1/22/2021 Senate: Re-referred to Judiciary 1/25/2021 Senate: Incorporates SB 1243 (Morrissey) 2/1/2021 Senate: Reported from Judiciary with substitute (9-Y 5-N 1-A) 2/1/2021 Senate: Re-referred to Finance and Appropriations 2/3/2021 Senate: Reported from Finance and Appropriations with amendments (11-Y 4-N) 2/4/2021 Senate: Rehabilitation and Social Services Committee substitute rejected 21103366D-S1 2/4/2021 Senate: Finance and Appropriations Committee amendments agreed to 2/4/2021 Senate: Judiciary Committee substitute agreed to 21104160D-S2 2/5/2021 Senate: Read third time and passed Senate (23-Y 15-N) 2/7/2021 House: Referred to Committee on General Laws 2/8/2021 House: Continued to 2021 Special Session 1 in General Laws by voice vote 2/11/2021 House: Reported from General Laws with substitute (15-Y 6-N) 2/16/2021 House: Passed House with substitute (56-Y 40-N 2-A) 2/16/2021 House: Reconsideration of House passage agreed to by House 2/16/2021 House: Passed House (54-Y 42-N 2-A) 2/18/2021 Senate: House substitute rejected by Senate (0-Y 39-N) 2/19/2021 House: House insisted on substitute 2/19/2021 House: House requested conference committee 2/19/2021 Senate: Senate acceded to request (27-Y 10-N) 2/19/2021 Senate: Conferees appointed by Senate: Senators Ebbin, Lucas, McPike, Surovell, Dunnivant 2/19/2021 House: Conferees appointed by House: Delegates Herring, Mullin, Torian, Bagby, Knight</p>	<p>2/9/2021</p>
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Bills	General Assembly Actions	Date of BOS Position
<p>Support with Amendment (21103366D-S1) - Support strong local government land use and taxation authority in any marijuana legalization legislation.</p> <p>Summary: Marijuana; legalization; retail sales; penalties. Eliminates criminal penalties for simple possession of marijuana, modifies several other criminal penalties related to marijuana, and provides for an automatic expungement process for those convicted of certain marijuana-related crimes. The bill creates the Virginia Cannabis Control Authority (the Authority) and establishes a regulatory structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products, to be administered by the Authority. The bill contains social equity provisions that, among other things, provide support and resources to persons and communities that have been historically and disproportionately affected by drug enforcement. The bill has staggered effective dates and allows retail marijuana sales to begin on January 1, 2024. Certain provisions of the bill do not become effective unless reenacted by the 2022 Session of the General Assembly. This bill incorporates SB 1243. See S. B. 1406 Rehabilitation Substitute PDF text:</p>		
<p><u>SB 1410</u> - Bell (13) Active military or a military spouse; prohibits discrimination in public accommodations, etc.</p>	<p>1/13/2021 Senate: Referred to Committee on General Laws and Technology 1/27/2021 Senate: Reported from General Laws and Technology with substitute (13-Y 0-N) 2/2/2021 Senate: Read third time and passed Senate (39-Y 0-N) 2/5/2021 House: Referred to Committee on General Laws 2/8/2021 House: Continued to Special Session 1 in General Laws by voice vote 2/11/2021 House: Reported from General Laws with substitute (22-Y 0-N) 2/16/2021 House: Passed House with substitute BLOCK VOTE (99-Y 0-N) 2/18/2021 Senate: House substitute agreed to by Senate (39-Y 0-N)</p>	<p>2/9/2021</p>
<p>Support (21200027D-H1) - See also HB 2161 (Tran). Summary: Prohibited discrimination; status as active military or a military spouse. Prohibits discrimination in public accommodations, employment, and housing on the basis of a person's status as active military or a military spouse.</p>		
<p><u>SB 1457</u> - Surovell (36) Historic sites; urban county executive form of gov't. (Fairfax County), provisions in its ordinance.</p>	<p>1/20/2021 Senate: Referred to Committee on Local Government 1/25/2021 Senate: Reported from Local Government with amendments (15-Y 0-N) 1/28/2021 Senate: Read third time and passed Senate (38-Y 0-N) 2/2/2021 House: Referred to Committee on Counties, Cities and Towns 2/8/2021 House: Continued to 2021 Special Session 1 in Counties, Cities and Towns by voice vote 2/12/2021 House: Reported from Counties, Cities and Towns (21-Y 0-N) 2/17/2021 House: Passed House BLOCK VOTE (99-Y 0-N) 2/19/2021 Senate: Enrolled</p>	<p>2/9/2021 1/26/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
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Support (21102678D-E) – The bill has been amended as the County requested. ~~**Support with Amendment** (21102678D) – Support with amendment to clarify language for implementation.~~

Summary: Preservation of historic sites. Provides that any locality utilizing the urban county executive form of government (Fairfax County) may include a provision in its historic preservation ordinance that would allow public access to an historic area, landmark, building, or structure, or land pertaining thereto, or providing that no subdivision shall occur within any historic district unless approved by the review board or, on appeal, by the governing body of the locality as being compatible with the historic nature of such area, landmarks, buildings, or structures therein with regard to any parcel or parcels that collectively are (i) adjacent to a navigable river and a national park, and (ii) in part or as a whole subject to an easement granted to the National Park Service or Virginia Outdoors Foundation granted on or after January 1, 1973.

<p>SB 1472 - Suetterlein (19) Individuals w/ intellectual & developmental disabilities; DMAS to study use of virtual support, etc.</p>	<p>1/22/2021 Senate: Referred to Committee on Rehabilitation and Social Services (SRSS) 1/29/2021 Senate: Reported from SRSS with substitute (14-Y 0-N) 2/2/2021 Senate: Passed Senate (39-Y 0-N) 2/5/2021 House: Referred to Committee on Health, Welfare and Institutions (HHWI) 2/8/2021 House: Continued to 2021 Special Session 1 in HHWI by voice vote 2/11/2021 House: Reported from HHWI with substitute (22-Y 0-N) 2/16/2021 House: Passed House with substitute BLOCK VOTE (99-Y 0-N) 2/18/2021 Senate: House substitute agreed to by Senate (39-Y 0-N)</p>	<p>2/9/2021</p>
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Support (21101385D)

Summary: Directs the Department of Medical Assistance Services to study and develop recommendations for the permanent use of virtual supports and increasing access to virtual supports and services for individuals with intellectual and developmental disabilities by promoting access to assistive technology and environmental modifications. The bill requires the Department to report its findings and recommendations to the Governor and the General Assembly by November 1, 2021.

<p>SJ 293 - Spruill, Sr. (5) Assisted living and auxiliary grants; Joint Commission on Health Care to study available data.</p>	<p>1/13/2021 Senate: Referred to Committee on Rules 1/29/2021 Senate: Reported from Rules with amendments by voice vote 2/3/2021 Senate: Read third time and agreed to by Senate by voice vote 2/5/2021 House: Referred to Committee on Rules 2/8/2021 House: Continued to 2021 Special Session 1 in Rules by voice vote 2/19/2021 House: Reported from Rules (18-Y 0-N)</p>	<p>1/26/2021</p>
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Support (21102328D)

Summary: Study; Joint Commission on Health Care; assisted living and auxiliary grants; report. Requests the Joint Commission on Health Care to study available data regarding assisted living and auxiliary grants and develop a blueprint for implementing recommendations that will allow the Commonwealth to provide a more realistic system of addressing housing and care needs.

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Bills	General Assembly Actions	Date of BOS Position
<p><u>SJ 294</u> - Lewis, Jr. (6) JLARC; costs of education, report.</p>	<p>1/13/2021 Senate: Referred to Committee on Rules 1/22/2021 Senate: Reported from Rules with amendments by voice vote 1/27/2021 Senate: Read third time and agreed to by Senate by voice vote 2/2/2021 House: Referred to Committee on Rules 2/8/2021 House: Continued to 2021 Special Session 1 in Rules by voice vote 2/19/2021 House: Reported from Rules (18-Y 0-N)</p>	<p>2/9/2021</p>
<p>Support (21102747D-E) Summary: Study; JLARC; costs of education; report. Directs the Joint Legislative Audit and Review Commission to study the true cost of education in the Commonwealth and provide an accurate assessment of the costs to implement the Standards of Quality.</p>		

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Fairfax County Positions

(Monitor)

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Bills	General Assembly Actions	Date of BOS Position
<p>HB 1778 - Ward (92) Removal of clutter from property; definition, civil penalty.</p>	<p>12/29/2020 House: Referred to Committee on Counties, Cities and Towns (HCCT) 1/21/2021 House: Subcommittee recommends reporting (6-Y 2-N) 1/29/2021 House: Reported from HCCT (12-Y 9-N) 2/3/2021 House: Read third time and passed House (55-Y 43-N) 2/4/2021 Senate: Referred to Committee on Local Government 2/5/2021 Senate: Continued to 2021 Special Session 1 in Local Government (15-Y 0-N) 2/15/2021 Senate: Reported from Local Government with amendments (8-Y 6-N) 2/17/2021 Senate: Defeated by Senate (19-Y 20-N) 2/17/2021 Senate: Reconsideration of defeated action agreed to by Senate (38-Y 0-N) 2/18/2021 Senate: Passed Senate with amendments (21-Y 18-N)</p>	<p>2/9/2021</p>

Monitor (21101674D)

Summary: Removal of clutter from property; civil penalty. Provides that a locality may by ordinance require the removal of clutter from property, or may, whenever the governing body deems it necessary, after reasonable notice, have such clutter removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. The bill defines "clutter" as including mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when they are left in public view for an extended period or are allowed to accumulate. Violations of the bill are subject to the existing civil penalty applicable to violations of provisions relating to the removal of trash, garbage, refuse, litter, and similar substances from property.

<p>HB 1841 - Keam (35) Crosswalk design; Dept. of Transportation to convene work group to determine model policies.</p>	<p>1/7/2021 House: Referred to Committee on Transportation 1/19/2021 House: Subcommittee recommends reporting with substitute with amendments (8-Y 0-N) 1/21/2021 House: Reported from Transportation with substitute (21-Y 0-N) 1/26/2021 House: Read third time and passed House BLOCK VOTE (99-Y 0-N) 1/27/2021 Senate: Referred to Committee on Transportation 2/5/2021 Senate: Continued to 2021 Special Session 1 in Transportation (15-Y 0-N) 2/18/2021 Senate: Reported from Transportation (15-Y 0-N)</p>	<p>1/26/2021</p>
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Monitor (21103284D-H1)

Summary: Commissioner of Highways; crosswalk design. Directs the Commissioner of Highways to convene a working group to determine whether there should be model policies for crosswalk design and installation and, if so, establish recommendations for such model policies. The bill directs the working group to monitor and provide input to the U.S. Department of Transportation and the Federal Highway Administration as updates to crosswalk designs in the Manual on Uniform Traffic Control Devices for Streets and Highways are considered. The working group shall submit to the Governor and the General Assembly a report on its findings and recommendations by November 1, 2021.

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Bills	General Assembly Actions	Date of BOS Position
<p>HB 1874 - Coyner (62) Behavioral health; assessments in local correctional facilities, report.</p>	<p>1/8/2021 House: Referred to Committee on Health, Welfare and Institutions 1/19/2021 House: Subcommittee recommends reporting with amendments (7-Y 0-N) 1/21/2021 House: Reported from Health, Welfare and Institutions with substitute (20-Y 0-N) 1/26/2021 House: Read third time and passed House (100-Y 0-N) 1/27/2021 Senate: Referred to Committee on Rehabilitation and Social Services 2/5/2021 Senate: Continued to 2021 Special Session 1 in Rehabilitation and Social Services (14-Y 0-N) 2/19/2021 Senate: Reported from Rehabilitation and Social Services (14-Y 0-N)</p>	<p>[2/19/2021] 2/9/2021</p>
<p>[Monitor] (21102895D-H1) – The bill has been amended to narrow the focus and its potential impact on the CSB. Oppose Unless Amended (21102895D) – Oppose unless amended to delay enactment until sufficient state funds are in place for implementation.</p> <p>Summary: Behavioral health assessments in local correctional facilities. Provides that the State Board of Local and Regional Jails, in establishing the minimum standards for behavioral health services in local correctional facilities, shall include a requirement that if a behavioral health screening indicates that the person may have a mental illness, an assessment of his need for mental health services shall be conducted within 72 hours of the time of the screening.</p>		
<p>HB 1890 - Price (95) Discrimination; prohibited in voting and elections administration, etc.</p>	<p>1/8/2021 House: Referred to Committee on Privileges and Elections 1/22/2021 House: Subcommittee recommends reporting with substitute (4-Y 2-N) 1/27/2021 House: Reported from Privileges and Elections with substitute (13-Y 9-N) 2/1/2021 House: Read third time and passed House (55-Y 45-N) 2/2/2021 Senate: Referred to Committee on Privileges and Elections 2/5/2021 Senate: Continued to 2021 Special Session 1 in Privileges and Elections (15-Y 0-N) 2/16/2021 Senate: Reported from Privileges and Elections (8-Y 5-N) 2/16/2021 Senate: Re-referred to Finance and Appropriations</p>	<p>2/9/2021</p>
<p>Monitor (21103495D-H1) - See also SB 1395 (McClellan). Summary: Elections; prohibited discrimination in voting and elections administration; required process for enacting certain covered practices; civil causes of action. Prohibits any voting qualification or any standard, practice, or procedure related to voting from being imposed or applied in a manner that results in the denial or abridgment of the right of any United States citizen to vote based on his race or color or membership in a language minority group. The bill further prohibits at-large methods of election from being imposed or applied in a locality in a manner that impairs the ability of a protected class, defined in the bill, to elect candidates of</p>		

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Bills	General Assembly Actions	Date of BOS Position
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its choice or to influence the outcome of an election, by diluting or abridging the rights of voters who are members of a protected class. Prior to enacting or administering a covered practice, defined in the bill, the governing body of a locality is required to publish the proposed covered practice and accept public comment for a minimum of 30 days on the proposed covered practice; after the public comment period, a 30-day waiting period is required. During this period, any person who will be subject to or affected by the covered practice may challenge the covered practice as (i) having the purpose or effect of denying or abridging the right to vote on the basis of race or color or membership in a language minority group or (ii) resulting in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise. The bill permits the local governing body to instead submit the proposed covered practice to the Office of the Attorney General for issuance of a certification of no objection and, once such certification is issued, to enact or administer the covered practice. Certain unlawful actions, including knowingly communicating false information to voters, that are currently subject to criminal penalties will create civil causes of action under the bill. The bill authorizes the Attorney General to commence civil actions when there is reasonable cause to believe that a violation of an election law has occurred and the rights of any voter or group of voters have been affected by the violation. Civil penalties assessed as a result of such action are payable to the Voter Education and Outreach Fund, established by the bill. Current provisions related to language minority accessibility are moved to a newly created chapter relating to the rights of voters.

HB 2071 - Convirs-Fowler (21)
Transportation funding; statewide prioritization process, resiliency.

1/12/2021 House: Referred to Committee on Transportation
1/21/2021 House: Subcommittee recommends reporting with substitute (6-Y 3-N)
1/26/2021 House: Reported from Transportation with substitute (15-Y 5-N)
1/29/2021 House: Read third time and passed House (64-Y 35-N)
2/1/2021 Senate: Referred to Committee on Transportation
2/5/2021 Senate: Continued to 2021 Special Session 1 in Transportation (15-Y 0-N)
2/11/2021 Senate: Reported from Transportation with amendment (14-Y 0-N)
2/16/2021 Senate: Passed Senate with amendment (39-Y 0-N)
2/18/2021 House: Senate amendment agreed to by House (83-Y 17-N)

1/26/2021

Monitor (21103472D) - See also SB 1350 (Lewis).

Summary: Transportation projects; resiliency. Requires the Commonwealth Transportation Board to determine whether a project has been designed to be resilient when evaluating projects for the Six-Year Improvement Program and consider resiliency when establishing the Statewide Transportation Plan. The bill also requires the Commissioner of Highways to ensure resiliency is incorporated into the design standards for new construction projects.

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Bills	General Assembly Actions	Date of BOS Position
<p><u>HB 2074</u> - Simonds (94) Environmental justice; interagency working group.</p>	<p>1/12/2021 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources 1/27/2021 House: Subcommittee recommends reporting with substitute (7-Y 1-N) 1/27/2021 House: Subcommittee recommends referring to Committee on Appropriations 1/27/2021 House: Reported from Agriculture, Chesapeake and Natural Resources with substitute (16-Y 6-N) 1/27/2021 House: Referred to Committee on Appropriations 2/2/2021 House: Subcommittee recommends reporting with substitute (5-Y 3-N) 2/3/2021 House: Reported from Appropriations with substitute (13-Y 9-N) 2/4/2021 House: Committee on Agriculture, Chesapeake and Natural Resources substitute rejected 21103839D-H1 2/4/2021 House: Committee on Appropriations substitute agreed to 21104161D-H2 2/5/2021 House: Read third time and passed House (56-Y 44-N) 2/5/2021 Senate: Referred to Committee on General Laws and Technology 2/5/2021 Senate: Continued to 2021 Special Session 1 in General Laws and Technology (14-Y 0-N) 2/17/2021 Senate: Reported from General Laws and Technology with substitute (8-Y 4-N 1-A) 2/17/2021 Senate: Re-referred to Finance and Appropriations</p>	<p>[2/19/2021] 1/26/2021</p>
<p>[Monitor] (21104161D-H2) – The bill was amended to limit comprehensive plan reviews to once every five years. Amend (21102822D) – Amend to state that localities may consider environmental justice strategy during each review of their comprehensive plans.</p> <p>Summary: Establishes the Interagency Environmental Justice Working Group as an advisory council in the executive branch of state government to further environmental justice in the Commonwealth and directs each of the Governor's Secretaries to designate at least one environmental justice coordinator to represent the secretariat as a member of the Working Group. The bill directs the Working Group to focus its work during its first year on the environmental justice of current air quality monitoring practices in Virginia and provides that the Working Group shall expire on July 1, 2031.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>HB 2117 - VanValkenburg (72) Children's Services Act; funds expended special education programs.</p>	<p>1/12/2021 House: Referred to Committee on Health, Welfare and Institutions (HHWI) 1/19/2021 House: Referred from HHWI by voice vote 1/19/2021 House: Referred to Committee on Education (HED) 1/25/2021 House: Subcommittee recommends reporting with substitute (7-Y 0-N) 1/27/2021 House: Incorporates HB 2211 (Plum) 1/27/2021 House: Reported from HED with substitute (20-Y 2-N) 1/27/2021 House: Referred to Committee on Appropriations 1/29/2021 House: Subcommittee recommends reporting (8-Y 0-N) 1/29/2021 House: Reported from Appropriations (22-Y 0-N) 2/3/2021 House: Read third time and passed House (97-Y 2-N) 2/4/2021 Senate: Referred to Committee on Education and Health 2/5/2021 Senate: Continued to 2021 Special Session 1 in Education and Health (15-Y 0-N) 2/11/2021 Senate: Reported from Education and Health with substitute (14-Y 0-N) 2/11/2021 Senate: Re-referred to Finance and Appropriations 2/17/2021 Senate: Reported from Finance and Appropriations (15-Y 0-N) 2/18/2021 Senate: Passed Senate with substitute (38-Y 0-N) 2/18/2021 Senate: Reconsideration of Senate passage agreed to by Senate (39-Y 0-N) 2/18/2021 Senate: Passed Senate with substitute (39-Y 0-N)</p>	<p>[2/12/2021] 2/9/2021</p>

[Monitor] (21200042D-S1) – The bill has been amended to minimize the County's concerns and provide new options to use CSA funding. Language establishing a workgroup has been further improved. See also SB 1313 (Mason). ~~**Amend** (21103572D-H1) – Support provisions that allow CSA funding for transitional services from private special education schools to public schools, and requirements that private special education schools be licensed to receive CSA funds. Also support retaining language in the legislation requiring a comprehensive study prior to moving administration of CSA funds from OCS to DOE, as that could potentially impact state sum sufficiency funding for CSA, which is a top County priority. See also SB 1313 (Mason).~~

Summary: Children's Services Act; special education programs. Requires that funds expended for special education services under the Children's Services Act only be expended on educational programs that are licensed by the Department of Education. The bill adds children and youth previously placed in approved private school educational programs for at least six months who will receive transitional services, as that term is defined in the bill, in a public school setting to the target population for eligibility for the state pool of funds, provided, however, that such funds shall be allocated for such transitional services for no longer than 12 months. The bill requires the Secretary of Education, in conjunction with the Office of Children's Services and the Department of Education, to establish a work group (the Work Group) with, at minimum, certain identified stakeholders to develop a detailed plan to direct the transfer of Children's Services Act funds currently reserved for children requiring an educational placement in a private special education day school or residential facility to the Department of Education and to develop a standardized reporting process, template, and reporting requirement for private special education day school tuition rates to ensure that tuition rates can be accurately compared across schools and over time, among other duties. The bill requires that the Work Group submit its plan and recommendations to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance and Appropriations by November 1, 2021.

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Bills	General Assembly Actions	Date of BOS Position
<p><u>HB 2191</u> - Leftwich (78) Social services, local department of; location of child in local department's custody.</p>	<p>1/13/2021 House: Referred to Committee on Health, Welfare and Institutions (HHWI) 1/20/2021 House: Subcommittee recommends reporting with substitute (5-Y 0-N) 1/20/2021 House: Subcommittee recommends referring to Committee on Appropriations 1/26/2021 House: Reported from HHWI with substitute (21-Y 0-N) 1/29/2021 House: Read third time and passed House (99-Y 0-N) 2/1/2021 Senate: Referred to Committee on Rehabilitation and Social Services 2/5/2021 Senate: Continued to 2021 Special Session 1 in Rehabilitation and Social Services (14-Y 0-N) 2/16/2021 Senate: Reported from Rehabilitation and Social Services with substitute (14-Y 0-N) 2/16/2021 Senate: Re-referred to Finance and Appropriations</p>	<p>2/9/2021</p>
<p>Monitor (21103371D-EH1) Summary: Local department of social services; location of child in local department's custody. Provides that a local department of social services shall, upon request of the legal guardian or custodian of a child, disclose to such legal guardian or custodian the location of the child when the child is in the custody of another legal guardian or custodian, unless the local department finds that such disclosure would compromise the safety of the child or the legal guardian or custodian.</p>		
<p><u>HB 2262</u> - Hurst (12) Bicycles; permits operators to treat a stop sign as a yield sign in certain situations.</p>	<p>1/13/2021 House: Referred to Committee on Transportation 1/25/2021 House: Subcommittee recommends reporting (8-Y 2-N) 1/28/2021 House: Reported from Transportation (16-Y 5-N) 2/2/2021 House: Read third time and passed House (75-Y 24-N) 2/3/2021 Senate: Referred to Committee on Transportation 2/5/2021 Senate: Continued to 2021 Special Session 1 in Transportation (15-Y 0-N) 2/11/2021 Senate: Reported from Transportation (9-Y 5-N) 2/17/2021 Senate: Substitute by Senator Deeds agreed to 21200177D-S1 (22-Y 17-N) 2/17/2021 Senate: Passed Senate with substitute (21-Y 18-N) 2/19/2021 House: Senate substitute agreed to by House 21200276D-S1 (69-Y 30-N)</p>	<p>2/9/2021</p>
<p>Monitor (21101122D) Summary: Traffic regulation; bicycles. The bill requires the driver of a motor vehicle to change lanes when overtaking a bicycle or certain other vehicles when the lane of travel is not wide enough for the overtaking motor vehicle to pass at least three feet to the left of the overtaken vehicle. The bill also removes the limitations on riding bicycles and certain other vehicles two abreast. The bill also requires the Department of State Police to convene a work group, including representatives from state and local law-enforcement agencies, traffic safety organizations, and bicycle enthusiast and advocacy organizations, to review issues related to allowing bicycle operators to treat stop signs as yield signs and submit a report summarizing the work and any recommendations of the work group by December 1, 2021.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>HB 2322 - Herring (46) Opioid Abatement Authority; established, report.</p>	<p>1/21/2021 House: Referred to Committee on General Laws 1/28/2021 House: Subcommittee recommends reporting (7-Y 1-N) 1/28/2021 House: Subcommittee recommends referring to Committee on Appropriations 1/28/2021 House: Reported from General Laws with substitute (20-Y 2-N) 1/28/2021 House: Referred to Committee on Appropriations 2/1/2021 House: Subcommittee recommends reporting with substitute (8-Y 0-N) 2/1/2021 House: Reported from Appropriations with substitute (22-Y 0-N) 2/3/2021 House: Committee on General Laws substitute rejected 21103991D-H1 2/3/2021 House: Committee on Appropriations substitute agreed to 21104247D-H2 2/4/2021 House: Read third time and passed House (97-Y 3-N) 2/5/2021 Senate: Referred to Committee on General Laws and Technology 2/5/2021 Senate: Continued to 2021 Special Session 1 in General Laws and Technology (14-Y 0-N) 2/17/2021 Senate: Reported from General Laws and Technology with substitute (12-Y 0-N) 2/17/2021 Senate: Re-referred to Finance and Appropriations</p>	<p>2/9/2021</p>
<p>Monitor (21103485D) - See also SB 1469 (Barker). Summary: Establishes the Opioid Abatement Authority. The Authority, with the assistance of the Office of the Attorney General, would administer the Opioid Abatement Fund, which would receive moneys from settlements, judgments, verdicts, and other court orders relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids and any other funds received on the fund's behalf that would be used to provide grants and loans to Virginia agencies and certain localities for the purpose of treating, preventing, or reducing opioid use disorder and the misuse of opioids or otherwise abating or remediating the opioid epidemic in the Commonwealth.</p>		
<p>SB 1198 - Petersen (34) Government Data Collection and Dissemination Practices Act; license plate readers.</p>	<p>1/11/2021 Senate: Referred to Committee on General Laws and Technology 1/27/2021 Senate: Reported from General Laws and Technology with amendments (8-Y 4-N 3-A) 2/4/2021 Senate: Read third time and passed Senate (28-Y 11-N) 2/7/2021 House: Referred to Committee on Public Safety 2/8/2021 House: Continued to Special Session 1 in Public Safety by voice vote 2/11/2021 House: Subcommittee recommends reporting (4-Y 3-N) 2/12/2021 House: Reported from Public Safety with substitute (18-Y 4-N)</p>	<p>[2/19/2021] 1/26/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
<p>[Monitor] (21200129D-H1) – The bill was amended to study the issue. Oppose (21100940D) – Retention period in bill is insufficient.</p> <p>Summary: Prohibits law-enforcement and regulatory agencies from using license plate readers to collect and maintain personal information on individuals without a warrant. The bill provides that license plate data may be collected if intended for prompt evaluation and potential use in investigating suspected criminal activity, civil or regulatory violations, or terrorism, or in support of the Department of Motor Vehicle's (DMV) emissions inspection program. The data may only be retained for 30 days and shall not be subject to any outside inquiries or internal usage except for the investigation of a report of a missing person, suspected criminal activity, civil or regulatory violations, or terrorism by any person. The bill also prohibits an agency from acquiring personal information collected from license plate readers from a third-party private vendor if the agency would not have been permitted to collect or retain the information on its own, unless such license plate reader technology is being utilized as part of the DMV's emissions inspection program.</p>		
<p>SB 1274 - Marsden (37) Wildlife corridors; various agencies to consider and incorporate.</p>	<p>1/12/2021 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources 1/19/2021 Senate: Reported from Agriculture, Conservation and Natural Resources with amendment (12-Y 3-N) 1/25/2021 Senate: Read third time and passed Senate (29-Y 10-N) 2/2/2021 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources (HAG) 2/8/2021 House: Continued to 2021 Special Session 1 in HAG by voice vote 2/17/2021 House: Subcommittee recommends reporting with amendments (8-Y 0-N) 2/17/2021 House: Reported from HAG with amendment(s) (21-Y 1-N)</p>	<p>2/9/2021 1/26/2021</p>
<p>Monitor (21101399D-E) - Additional clarification has determined that there will be no direct impact on the County's comprehensive plan. Amend (21101399D) – Amend to make optional for localities. Fairfax County has extensive environmental planning that has been successful.</p> <p>Summary: Government planning; wildlife corridors. Directs various agencies to consider and incorporate, where applicable, wildlife corridors and any recommendation of the Wildlife Corridor Action Plan. The bill directs the Department of Wildlife Resources to publish the Plan and subsequent updates on its website and to assist state agencies and political subdivisions, and by request any federal agency, in considering and incorporating, where applicable, wildlife corridors and the recommendations of the Plan when developing any governmental strategic plan, map, or action.</p>		
<p>SB 1303 - Dunnavant (12) Local school divisions; availability of virtual and in-person learning to all students.</p>	<p>1/12/2021 Senate: Referred to Committee on Education and Health 1/28/2021 Senate: Reported from Education and Health (8-Y 7-N) 2/2/2021 Senate: Read third time and passed Senate (26-Y 13-N) 2/5/2021 House: Referred to Committee on Education 2/8/2021 House: Continued to 2021 Special Session 1 in Education by voice vote 2/19/2021 House: Subcommittee recommends reporting with substitute (8-Y 0-N)</p>	<p>[2/19/2021]</p>
<p>[Monitor] (21200203D)</p> <p>Summary: Local school divisions; virtual and in-person learning. Requires each local school division to make virtual and in-person learning available to all students by choice of the student's parent or guardian.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>SB 1304 - McPike (29) Community services boards; discharge planning.</p>	<p>1/12/2021 Senate: Referred to Committee on Education and Health 1/28/2021 Senate: Reported from Education and Health with amendments (14-Y 0-N) 2/2/2021 Senate: Read third time and passed Senate (39-Y 0-N) 2/5/2021 House: Referred to Committee on Health, Welfare and Institutions 2/8/2021 House: Continued to 2021 Special Session 1 in Health, Welfare and Institutions by voice vote 2/16/2021 House: Subcommittee recommends reporting (5-Y 1-N) 2/16/2021 House: Reported from Health, Welfare and Institutions (22-Y 0-N) 2/19/2021 House: Passed House BLOCK VOTE (100-Y 0-N)</p>	<p>[2/12/2021] 1/26/2021</p>
<p>[Monitor] (21102367D-E) - The bill has been amended to minimize the County's concerns. Oppose (21102367D) Summary: Reduces from within 30 days to within 72 hours of an individual's identification as ready for discharge the time by which a community services board must document its disagreement with the determination that an individual is ready for discharge from a state hospital or training center. The bill also directs the Commissioner of Behavioral Health and Developmental Services to establish a work group with representatives of the Virginia Association of Community Services Boards to (i) review the current process for discharging patients from state mental health hospitals, including the current assigned responsibilities of state hospital staff and community services board staff, as well as the barriers to timely discharge for patients clinically ready to discharge, and (ii) develop potential options to expedite the discharge process for individuals who can be safely discharged back into the community. The bill directs the work group to develop a plan that includes recommendations for expediting the discharge process and identify the necessary funding to ensure that individuals receive essential services upon discharge and that discharges are timely. The bill requires the work group to report its findings and conclusions and its plan to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by September 1, 2021.</p>		
<p>SB 1313 - Mason (1) Children's Services Act; funds expended special education programs.</p>	<p>1/12/2021 Senate: Referred to Committee on Education and Health 1/21/2021 Senate: Incorporates SB 1099 (Stuart) 1/21/2021 Senate: Incorporates SB 1114 (Peake) 1/21/2021 Senate: Reported from Education and Health with substitute (14-Y 0-N) 1/21/2021 Senate: Re-referred to Finance and Appropriations 2/3/2021 Senate: Reported from Finance and Appropriations with substitute (15-Y 0-N) 2/4/2021 Senate: Committee on Education and Health substitute rejected 21103505D-S1 2/4/2021 Senate: Committee on Finance and Appropriations substitute agreed to 21104193D-S2 2/4/2021 Senate: Passed Senate (39-Y 0-N) 2/7/2021 House: Referred to Committee on Education 2/8/2021 House: Continued to 2021 Special Session 1 in Education by voice vote 2/15/2021 House: Subcommittee recommends reporting (8-Y 0-N) 2/17/2021 House: Reported from Education (21-Y 1-N)</p>	<p>[2/12/2021] 2/9/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
<p>[Monitor] (21104193D-S2) - The bill has been amended to minimize the County's concerns and provide new options to use CSA funding. Language establishing a workgroup has been further improved. See also HB 2117 (VanValkenburg). Amend (21103505D-S1) - Support provisions that allow CSA funding for transitional services from private special education schools to public schools, and requirements that private special education schools be licensed to receive CSA funds. Also support retaining language in the legislation requiring a comprehensive study prior to moving administration of CSA funds from OCS to DOE, as that could potentially impact state sum sufficiency funding for CSA, which is a top County priority. See also HB 2117 (VanValkenburg).</p> <p>Summary: Children's Services Act; special education programs. Requires that funds expended for private special education services under the Children's Services Act only be expended on educational programs that are licensed by the Board of Education or an equivalent out-of-state licensing agency. The bill also provides that as of July 1, 2022, such funds may only be expended for programs that the Office of Children's Services certify as having reported their tuition rates.</p>		
<p><u>SB 1350</u> - Lewis, Jr. (6) Transportation funding; statewide prioritization process, resiliency.</p>	<p>1/13/2021 Senate: Referred to Committee on Transportation 1/21/2021 Senate: Reported from Transportation with substitute (12-Y 0-N 2-A) 1/21/2021 Senate: Re-referred to Finance and Appropriations 2/2/2021 Senate: Reported from Finance and Appropriations (16-Y 0-N) 2/5/2021 Senate: Read third time and passed Senate (39-Y 0-N) 2/7/2021 House: Referred to Committee on Transportation 2/8/2021 House: Continued to 2021 Special Session 1 in Transportation by voice vote 2/11/2021 House: Reported from Transportation with amendment(s) (15-Y 6-N) 2/16/2021 House: Passed House with amendment (81-Y 18-N) 2/18/2021 Senate: House amendment agreed to by Senate (39-Y 0-N)</p>	<p>1/26/2021</p>
<p>Monitor (21101744D) - See also HB 2071 (Convirs-Fowler). Summary: Transportation projects; resiliency. Requires the Commonwealth Transportation Board to determine whether a project has been designed to be resilient when evaluating projects for the Six-Year Improvement Program and consider resiliency when establishing the Statewide Transportation Plan. The bill also requires the Commissioner of Highways to ensure resiliency is incorporated into the design standards for new construction projects.</p>		
<p><u>SB 1385</u> - Surovell (36) Underground utility facilities; Fairfax County.</p>	<p>1/12/2021 Senate: Referred to Committee on Local Government 2/1/2021 Senate: Reported from Local Government with substitute (13-Y 0-N 1-A) 2/4/2021 Senate: Read third time and passed Senate (33-Y 6-N) 2/7/2021 House: Referred to Committee on Counties, Cities and Towns 2/8/2021 House: Continued to 2021 Special Session 1 in Counties, Cities and Towns by voice vote 2/19/2021 House: Reported from Counties, Cities and Towns with amendment(s) (11-Y 10-N)</p>	<p>1/26/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
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Monitor (21102804D)

Summary: Removes the sunset on a pilot program allowing a locality that has adopted the urban county executive form of government (Fairfax County) to request an electric utility to place underground electric distribution lines as part of a transportation infrastructure improvement project and changes a number of provisions in the program including (i) expanding the scope to include electric cooperatives, telecommunications providers, cable providers, and other utilities; (ii) expanding the scope to include all underground facilities; (iii) making negotiable in the agreement the costs of relocating the facilities; (iv) placing additional limits on the levy to fund the project and the types of projects for which it may be imposed; and (v) authorizing the locality to secure necessary permits on behalf of the utility or provider.

SB 1395 - McClellan (9)
Discrimination; prohibited in voting and elections administration, etc.

1/13/2021 Senate: Referred to Committee on Privileges and Elections
 1/26/2021 Senate: Reported from Privileges and Elections with substitute (9-Y 6-N)
 1/26/2021 Senate: Re-referred to Finance and Appropriations
 2/3/2021 Senate: Reported from Finance and Appropriations with substitute (10-Y 4-N 2-A)
 2/4/2021 Senate: Committee on Privileges and Elections substitute rejected 21103648D-S1
 2/4/2021 Senate: Committee on Finance and Appropriations substitute agreed to 21103866D-S2
 2/5/2021 Senate: Read third time and passed Senate (21-Y 17-N)
 2/7/2021 House: Referred to Committee on Privileges and Elections
 2/8/2021 House: Continued to 2021 Special Session 1 in Privileges and Elections by voice vote
 2/10/2021 House: Reported from Privileges and Elections (13-Y 9-N)
 2/15/2021 House: Passed House (55-Y 45-N)
 2/17/2021 Senate: Enrolled
 2/17/2021 Senate: Signed by President
 2/18/2021 House: Signed by Speaker

2/9/2021

Monitor (21103648D-S1) - See also HB 1890 (Price).

Summary: Elections; prohibited discrimination in voting and elections administration; required process for enacting certain covered practices; civil causes of action. Prohibits any voting qualification or any standard, practice, or procedure related to voting from being imposed or applied in a manner that results in the denial or abridgment of the right of any United States citizen to vote based on his race or color or membership in a language minority group. The bill further prohibits at-large methods of election from being imposed or applied in a locality in a manner that impairs the ability of a protected class, defined in the bill, to elect candidates of its choice or to influence the outcome of an election, by diluting or abridging the rights of voters who are members of a protected class. Prior to enacting or administering a covered practice, defined in the bill, the governing body of a locality is required to publish the proposed covered practice and accept public comment for a minimum of 30 days on the proposed covered practice; after the public comment period, a 30-day waiting period is required. During this period, any person who will be subject to or affected by the covered practice may challenge the covered practice as (i) having the purpose or effect of denying or abridging the right to vote on the basis of race or color or membership in

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Bills	General Assembly Actions	Date of BOS Position
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a language minority group or (ii) resulting in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise. The bill permits the local governing body to instead submit the proposed covered practice to the Office of the Attorney General for issuance of a certification of no objection and, once such certification is issued, to enact or administer the covered practice. Certain unlawful actions, including knowingly communicating false information to voters, that are currently subject to criminal penalties will create civil causes of action under the bill. The bill authorizes the Attorney General to commence civil actions when there is reasonable cause to believe that a violation of an election law has occurred and the rights of any voter or group of voters have been affected by the violation. Civil penalties assessed as a result of such action are payable to the Voter Education and Outreach Fund, established by the bill. Current provisions related to language minority accessibility are moved to a newly created chapter relating to the rights of voters.

<p>SB 1404 - Lewis, Jr. (6) Stormwater Local Assistance Fund; grants awarded for projects related to Chesapeake Bay.</p>	<p>1/13/2021 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources (SACNR) 2/4/2021 Senate: Reported from SACNR (15-Y 0-N) 2/5/2021 Senate: Passed Senate (38-Y 0-N) 2/7/2021 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources (HAG) 2/8/2021 House: Continued to 2021 Special Session 1 in HAG by voice vote 2/10/2021 House: Reported from HAG (21-Y 0-N) 2/15/2021 House: Passed House BLOCK VOTE (100-Y 0-N) 2/17/2021 Senate: Enrolled 2/17/2021 Senate: Signed by President 2/18/2021 House: Signed by Speaker</p>	<p>1/26/2021</p>
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Monitor (21102801D)
Summary: Stormwater Local Assistance Fund; grant requirements. Authorizes grants from the Stormwater Local Assistance Fund awarded for projects related to Chesapeake Bay total maximum daily load (TMDL) requirements to take into account total phosphorus reductions or total nitrogen reductions. The bill authorizes grants awarded for eligible projects in localities with high or above average fiscal stress as reported by the Commission on Local Government to account for more than 50 percent of the costs of a project.

<p>SB 1468 - Surovell (36) Victims of crime; certifications for victims of qualifying criminal activity.</p>	<p>1/22/2021 Senate: Referred to Committee on the Judiciary 1/27/2021 Senate: Reported from Judiciary with substitute (8-Y 3-N) 2/2/2021 Senate: Read third time and passed Senate (22-Y 17-N) 2/5/2021 House: Referred to Committee for Courts of Justice 2/8/2021 House: Continued to 2021 Special Session 1 in Courts of Justice by voice vote 2/17/2021 House: Subcommittee recommends reporting with amendments (7-Y 1-N)</p>	<p>[2/12/2021]</p>
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[Monitor] (21103854D-S1)
Summary: Certifications for victims of qualifying criminal activity. Establishes a process for a state or local law-enforcement agency, an attorney for the Commonwealth, the Attorney General, or any other agency or department employing law-enforcement officers to complete a certification form or declaration that is required by federal immigration law certifying that a person is a victim of qualifying criminal activity.

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Bills	General Assembly Actions	Date of BOS Position
<p>SB 1469 - Barker (39) Opioid Abatement Authority; established, Fund created, report, membership.</p>	<p>1/22/2021 Senate: Referred to Committee on General Laws and Technology 1/27/2021 Senate: Reported from General Laws and Technology (13-Y 0-N) 1/27/2021 Senate: Re-referred to Finance and Appropriations 2/3/2021 Senate: Reported from Finance and Appropriations with substitute (14-Y 0-N 2-A) 2/5/2021 Senate: Read third time and passed Senate (36-Y 0-N 2-A) 2/7/2021 House: Referred to Committee on General Laws 2/8/2021 House: Continued to 2021 Special Session 1 in General Laws by voice vote 2/11/2021 House: Reported from General Laws with substitute (20-Y 2-N) 2/16/2021 House: Passed House with substitute (91-Y 7-N) 2/18/2021 Senate: House substitute rejected by Senate (0-Y 38-N 1-A) 2/19/2021 House: House insisted on substitute 2/19/2021 House: House requested conference committee</p>	<p>2/9/2021</p>
<p>Monitor (21103486D) - See also HB 2322 (Herring). Summary: Establishing an Opioid Abatement Authority. Establishes the Opioid Abatement Authority. The Authority, with the assistance of the Office of the Attorney General, would administer the Opioid Abatement Fund, which would receive moneys from settlements, judgments, verdicts, and other court orders, or related agreements, concerning claims regarding the manufacturing, marketing, distribution, or sale of opioids that would be used to provide grants and loans to Virginia agencies and certain localities for the purpose of treating, preventing, and reducing opioid use disorder and the misuse of opioids in the Commonwealth.</p>		

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Fairfax County Positions

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Legislation No Longer Under Consideration

*(Failed to Report, Incorporated into other
Legislation, Tabled, etc.)*

Bills	General Assembly Actions	Date of BOS Position
<p>HB 1736 - Adams (68) School nurses; nursing services in a public elementary or secondary school.</p>	<p>8/17/2020 House: Referred to Committee on Education 1/18/2021 House: Subcommittee recommends reporting with substitute (6-Y 2-N) 1/20/2021 House: Reported from Education with substitute (13-Y 8-N) 1/25/2021 House: Read third time and passed House (68-Y 31-N 1-A) 1/26/2021 Senate: Referred to Committee on Education and Health 2/5/2021 Senate: Continued to 2021 Special Session 1 in Education and Health (15-Y 0-N) 2/18/2021 Senate: Failed to report (defeated) in Education and Health (6-Y 8-N)</p>	<p>2/9/2021 1/26/2021</p>
<p>Monitor (21102518D-H1) – The bill has been amended to address County's concerns. Oppose (21100241D) – Board has historically opposed. Potential fiscal impact to Fairfax County is approximately \$11.5 million. Summary: School nurses; nomenclature. Prohibits any individual who provides nursing services in a public elementary or secondary school as a school board employee or through a contract with the local health department from using the title of school nurse unless such individual is a registered nurse who possesses an active license to practice in the Commonwealth.</p>		
<p>HB 1757 - McGuire, III (56) Firearm-free zones designated by the Commonwealth or a locality; waiver of sovereign immunity.</p>	<p>12/17/2020 House: Referred to Committee for Courts of Justice 2/5/2021 House: Left in Courts of Justice</p>	<p>1/26/2021</p>
<p>Oppose (21101679D) Summary: Provides that if (i) the Commonwealth designates any property owned by it as a firearm-free zone or (ii) any locality designates such locality or any part of such locality as a firearm-free zone, the Commonwealth or such locality waives its sovereign immunity as it relates to any injuries sustained by persons lawfully present in such firearm-free zone.</p>		
<p>HB 1773 - Freitas (30) Carrying a concealed handgun; permit not required.</p>	<p>12/28/2020 House: Referred to Committee on Public Safety 1/26/2021 House: Subcommittee recommends passing by indefinitely (6-Y 2-N) 2/5/2021 House: Left in Public Safety</p>	<p>1/26/2021</p>
<p>Oppose (21100642D) Summary: Allows any person who is otherwise eligible to obtain a concealed handgun permit to carry a concealed handgun without a permit anywhere he may lawfully carry a handgun openly within the Commonwealth.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>HB 1793 - Davis (84) Concealed handgun permit; local control of firearms.</p>	<p>1/2/2021 House: Referred to Committee on Public Safety 1/26/2021 House: Subcommittee recommends passing by indefinitely (5-Y 3-N) 2/5/2021 House: Left in Public Safety</p>	<p>1/26/2021</p>
<p>Oppose (21101843D) Summary: Local control of firearms; concealed handgun permit. Provides that any local ordinance that prohibits the possession, carrying, or transportation of any firearms, ammunition, or components or combination thereof on specified public property shall not apply to a person who has a valid concealed handgun permit.</p>		
<p>HB 1857 - Subramanyam (87) Virginia Public Procurement Act; architectural and professional engineering term contracting.</p>	<p>1/7/2021 House: Referred to Committee on General Laws 2/5/2021 House: Left in General Laws</p>	<p>1/26/2021</p>
<p>Support (21101307D) Summary: Virginia Public Procurement Act; architectural and professional engineering term contracting; certain localities. Exempts any locality with a population in excess of 400,000 from the limitations on architectural and professional engineering contract single-project fees for environmental, location, design, and inspection work regarding highways and bridges. Current law exempts the Commissioner of Highways from such limitations and the exemption is continued in the bill.</p>		
<p>HB 1880 - Krizek (44) Illegal gambling; skill games, temporary exemption for truck stops.</p>	<p>1/8/2021 House: Referred to Committee on General Laws 2/5/2021 House: Left in General Laws</p>	<p>2/9/2021</p>
<p>Monitor (21102510D) Summary: Illegal gambling; skill games; temporary exemption for truck stops and alcoholic beverage control retail licensees. Delays by one additional year, from July 1, 2021, to July 1, 2022, the prohibition on the play or offering for play of skill games that was instituted in the 2020 Regular Session. The bill extends the one-year phase-out of existing skill games by one additional year to July 1, 2022, but decreases to 90 percent the total number of machines that a distributor may provide for play to truck stops and Virginia Alcoholic Beverage Control Authority retail licensees (ABC retail licensees) relative to the number of machines such distributor previously reported to the Virginia Alcoholic Beverage Control Authority (the Authority) on July 1, 2020. The bill caps the total number of skill games that persons operating truck stops and ABC retail licensees may make available for play to no more than 20 and six, respectively. The bill extends the prohibition on distributors offering new skill games for play. The bill keeps oversight authority over skill games with the Authority. The bill extends the requirement that each distributor pay a monthly tax of \$1,200 for each skill game provided for play during the previous month. Revenues will accrue one percent to the Problem Gambling Treatment and Support Fund, three percent to the Authority for the purposes of implementing the bill, 33 percent to the localities in which the skill games are located, one percent to the Family and Children's Trust Fund, two percent to the Virginia Breeders Fund, and 60 percent to the Commonwealth Transportation Fund. The bill extends the requirement that distributors report monthly to the Authority the number of skill games provided for play. Finally, the bill prohibits persons younger than 21 years of age from playing skill games or redeeming the evidence of winnings for them.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>HB 1883 - VanValkenburg (72) Elections; preclearance of certain covered practices required.</p>	<p>1/8/2021 House: Referred to Committee on Privileges and Elections 2/5/2021 House: Left in Privileges and Elections</p>	<p>2/9/2021</p>
<p>Monitor (21102660D) Summary: Requires the governing body of a covered jurisdiction, prior to enacting or seeking to administer any voting qualification or prerequisite to voting, or any standard, practice, or procedure with respect to voting, to either (i) institute an action in the Circuit Court of the City of Richmond for a declaratory judgment that the covered practice neither has the purpose or effect of denying or abridging the right to vote on account of race or color or membership in a language minority group nor will result in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise or (ii) submit such covered practice to the Office of the Attorney General for issuance of a certification of no objection. No covered practice can be given effect until the Circuit Court of the City of Richmond has entered such judgment or the Attorney General has issued such certification. The bill permits certain persons to institute an action to compel the governing body of a covered jurisdiction to institute an action in the Circuit Court of the City of Richmond or to seek issuance of a certification of no objection and provides for appeals by the governing body or certain persons to decisions made by the Attorney General. A covered jurisdiction is defined by the bill as any county or city that is determined by the Attorney General using annual American Community Survey data to have a voting age population that contains two or more racial or ethnic groups, each constituting at least 20 percent of its voting age population, but excludes any county or city that, on or after January 1, 2008, was exempt from the preclearance requirements of § 5 of the Voting Rights Act of 1965, as amended, pursuant to a declaratory jurisdiction issued by the United States District Court for the District of Columbia under § 4 of that Act.</p>		
<p>HB 1917 - Mugler (91) Local planning and zoning; publication of certain notices on locality's website.</p>	<p>1/10/2021 House: Referred to Committee on Counties, Cities and Towns 1/29/2021 House: Reported from Counties, Cities and Towns with amendment(s) (13-Y 7-N) 2/3/2021 House: Re-referred to Counties, Cities and Towns 2/5/2021 House: Left in Counties, Cities and Towns</p>	<p>1/26/2021</p>
<p>Support (21100328D) - Board has historically supported. Summary: Publication of certain notices on locality's website. Provides that in any instance in which a locality is required to publish certain notices related to local planning and zoning in a newspaper having general circulation in the locality, the locality may instead choose to meet such requirement by publishing the notice on the locality's website.</p>		
<p>HB 1996 - Murphy (34) Va Public Procurement Act; determination of responsibility, etc.</p>	<p>1/11/2021 House: Referred to Committee on General Laws 1/19/2021 House: Subcommittee recommends reporting (5-Y 3-N) 1/21/2021 House: Reported from General Laws (14-Y 8-N) 1/26/2021 House: Read third time and passed House (56-Y 44-N) 1/27/2021 Senate: Referred to Committee on General Laws and Technology 2/5/2021 Senate: Continued to 2021 Special Session 1 in General Laws and Technology (14-Y 0-N) 2/17/2021 Senate: Passed by indefinitely in General Laws and Technology (9-Y 6-N)</p>	<p>2/9/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
<p>Support (21101375D) Summary: Virginia Public Procurement Act; determination of responsibility; local option to include criteria in Invitation to Bid. Allows localities to include in the Invitation to Bid criteria that may be used in determining whether any bidder, not just any bidder who is not prequalified by the Virginia Department of Transportation as under current law, is a responsible bidder.</p>		
<p>HB 2050 - Bourne (71) Virginia housing opportunity; tax credit established starting in taxable year 2021.</p>	<p>1/12/2021 House: Referred to Committee on Finance 1/22/2021 House: Subcommittee recommends laying on the table (7-Y 1-N) 2/5/2021 House: Left in Finance</p>	<p>1/26/2021</p>
<p>Support (21102648D) Summary: Virginia housing opportunity tax credit. Establishes, starting in taxable year 2021, a Virginia housing opportunity tax credit, which is equal to the amount of the federal low-income housing tax credit allocated or allowed by the Virginia Housing Development Authority to a low-income building that is eligible for the federal credit. The credit would be nonrefundable and could be carried forward for up to five years.</p>		
<p>HB 2114 - Ransone (99) Public hearings; notice submitted by localities to newspapers.</p>	<p>1/12/2021 House: Referred to Committee on Counties, Cities and Towns 1/21/2021 House: Subcommittee recommends reporting (8-Y 0-N) 1/22/2021 House: Reported from Counties, Cities and Towns (17-Y 4-N) 1/26/2021 House: Re-referred to Committee on Counties, Cities and Towns 1/29/2021 House: Reported from Counties, Cities and Towns (13-Y 8-N) 2/3/2021 House: Re-referred to Counties, Cities and Towns 2/5/2021 House: Left in Counties, Cities and Towns</p>	<p>2/9/2021</p>
<p>Support (21100430D) Summary: Hearing notice by localities. Expands from only localities in Planning District 23 to all localities a provision that provides that in any instance in which a locality has submitted a timely notice of public hearing to a newspaper published or having general circulation in the locality and the newspaper fails to publish the notice, such locality shall be deemed to have met certain notice requirements so long as the notice was published in the next available edition. Under current law, this provision that was created by the 2020 Regular Session and only applies to localities in Planning District 23 will expire on July 1, 2022. The provision in the bill as it applies to all localities will also expire on July 1, 2022.</p>		
<p>HB 2237 - McQuinn (70) Virginia Public Procurement Act; project labor agreements, transportation projects.</p>	<p>1/13/2021 House: Referred to Committee on General Laws 2/5/2021 House: Left in General Laws</p>	<p>1/26/2021</p>

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Bills	General Assembly Actions	Date of BOS Position
<p>Oppose (21102029D) Summary: Virginia Public Procurement Act; project labor agreements; transportation projects. Requires every public body, prior to requiring bidders, offerors, contractors, subcontractors, or operators on contracts for the design or construction of a road, highway, bridge, or similar transportation improvement to enter into, become or remain signatories to, or adhere to project labor agreements, to make a written determination that requiring such bidders, offerors, contractors, subcontractors, or operators to enter into, become or remain signatories to, or adhere to such project labor agreements advances the public's interests based on objective criteria established by the public body by regulation or ordinance, such as cost, efficiency, quality, safety, timeliness, maintenance of a skilled labor force, labor stability, or advancing minority-owned and women-owned business participation in the project.</p>		
<p>HB 2239 - Robinson (27) Absentee voting; ballots to be processed before election day and sorted and counted.</p>	<p>1/13/2021 House: Referred to Committee on Privileges and Elections 1/26/2021 House: Subcommittee recommends laying on the table (4-Y 2-N) 2/5/2021 House: Left in Privileges and Elections</p>	<p>1/26/2021</p>
<p>Oppose (21101712D) - The bill creates a substantial workload and logistical challenges. Summary: Elections; absentee voting; ballots to be processed before election day and sorted and counted by precinct. Requires certain actions to be taken to process absentee ballots that are returned by mail before election day. The general registrar is required to examine the ballot envelopes to verify completion of the required voter affirmation; mark the pollbook, or the absentee voter applicant list if the pollbook is not available, that the voter has voted; and open the sealed ballot envelopes and insert the ballots in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. Current law requires only that the general registrar undertake at least one such activity before election day. So that ballots can be separated from ballot envelopes and scanned, the bill requires that the office of the general registrar be used as a central absentee voter precinct. The bill requires that absentee ballots processed at any central absentee voter precinct be sorted by the precinct to which the voter who cast the absentee ballot is assigned and that the resulting vote totals from such ballots be reported separately for each voter precinct.</p>		
<p>HJ 556 - Lopez (49) Constitutional amendment; environmental justice (first reference).</p>	<p>1/12/2021 House: Referred to Committee on Privileges and Elections 2/5/2021 House: Left in Privileges and Elections</p>	<p>2/9/2021</p>
<p>Monitor (21101762D) - Support concept of environmental justice; maintaining local authority to develop innovative approaches is essential. Summary: Constitutional amendment (first reference); environmental justice. Establishes that it is the policy of the Commonwealth to follow the principles of environmental justice in the development, implementation, and enforcement of environmental laws, regulations, and policies and to ensure that no population, especially minority, low-income, or historically economically disadvantaged communities, faces higher levels or greater impacts of pollution and climate change than other populations.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><u>SB 1118</u> - Peake (22) Voter registration; verification of social security numbers, provisional registration status.</p>	<p>12/21/2020 Senate: Referred to Committee on Privileges and Elections 1/26/2021 Senate: Passed by indefinitely in Privileges and Elections (9-Y 6-N)</p>	<p>1/26/2021</p>
<p>Oppose (21101474D) - Board has historically opposed. Summary: Voter registration; verification of social security numbers; provisional registration status. Requires the general registrars to verify that the name, date of birth, and social security number provided by an applicant on the voter registration application match the information on file in the Social Security Administration database or other database approved by the State Board of Elections (the State Board) before registering such applicant. If the information provided by the applicant does not match the information in such database, the applicant (i) is provisionally registered to vote and notified as to what steps are needed to be fully registered to vote and (ii) is permitted to vote by provisional ballot but such ballot shall not be counted until the voter presents certain information. The bill also requires the general registrars to verify annually no later than August 1 that the name, date of birth, and social security number in the registration record of each registered voter in the registrar's jurisdiction match the information on file with the Social Security Administration or other database approved by the State Board and, in accordance with current law, to initiate the cancellation of the registration of any voter whose registration record information does not match the database information. The State Board is authorized to approve the use of any government database to the extent required to enable each general registrar to carry out the provisions of this bill and to promulgate rules for the use of such database. The Department of Elections is required to provide to the general registrars access to the Social Security Administration database and any other database approved by the State Board. The Department of Elections is further required to enter into any agreement with any federal or state agency to facilitate such access. The bill has a delayed effective date of July 1, 2023.</p>		
<p><u>SB 1133</u> - Suetterlein (19) Children's Services Act; eligibility for state pool of funds, pilot program.</p>	<p>12/31/2020 Senate: Referred to Committee on Education and Health 1/21/2021 Senate: Reported from Education and Health with substitute (8-Y 6-N) 1/21/2021 Senate: Re-referred to Finance and Appropriations 2/3/2021 Senate: Passed by indefinitely in Finance and Appropriations (14-Y 1-N)</p>	<p>2/9/2021</p>
<p>Amend (21103477D-S1) - Support provisions that allow CSA funding for transitional services from private special education schools to public schools, and requirements that private special education schools be licensed to receive CSA funds. Also support retaining language in the legislation requiring a comprehensive study prior to moving administration of CSA funds from OCS to DOE, as that could potentially impact state sum sufficiency funding for CSA, which is a top County priority. Summary: Children's Services Act; eligibility for state pool of funds; pilot program related to educational placement transition for certain students with disabilities. Expands eligibility for use of the state pool of funds under the Children's Services Act to services that are provided in a public school setting and requires that private day schools be approved and licensed by the Department of Education or an equivalent out-of-state licensing agency to be eligible for the state pool of funds. The bill requires the Department of Education and relevant local school boards to develop and implement a pilot program for up to four years in two to eight local school divisions in the Commonwealth. In developing the pilot, the Department is required to partner with the appropriate school board employees in each such local school division to (i) identify the resources, services, and supports required by each student who resides in each such local school division and who is educated in a private school setting pursuant to his Individualized Education Program; (ii) study the feasibility of transitioning each such student from his private</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>school setting to an appropriate public school setting in the local school division and providing the identified resources, services, and supports in such public school setting; and (iii) recommend a process for redirecting federal, state, and local funds, including funds provided pursuant to the Children's Services Act, provided for the education of each such student to the local school division for the purpose of providing the identified resources, services, and supports in the appropriate public school setting. The bill requires the Department of Education to make a report to the Governor, the Senate Committees on Education and Health and Finance and Appropriations, and the House Committees on Education and Appropriations on the findings of each pilot program after two and four years.</p>		
<p><u>SB 1185</u> - Dunnavant (12) Assisted living facilities; residents that are auxiliary grant recipients.</p>	<p>1/8/2021 Senate: Referred to Committee on Rehabilitation and Social Services 1/22/2021 Senate: Reported from Rehabilitation and Social Services with amendments (15-Y 0-N) 1/22/2021 Senate: Re-referred to Finance and Appropriations 2/3/2021 Senate: Passed by indefinitely in Finance and Appropriations (15-Y 0-N)</p>	<p>1/26/2021</p>
<p>Oppose Unless Amended (21101560D) - Oppose unless amended to direct state to assume increased payment rate over current rate, thereby removing added local costs. Summary: Auxiliary grants; assisted living facilities. Directs the Commissioner for Aging and Rehabilitative Services to adopt regulations that allow an assisted living facility in which 30 percent or more of the residents are auxiliary grant recipients to receive 200 percent of the auxiliary grant rate.</p>		
<p><u>SB 1186</u> - Hashmi (10) Landfill siting; historic preservation.</p>	<p>1/10/2021 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources 2/4/2021 Senate: Passed by indefinitely in Agriculture, Conservation and Natural Resources (13-Y 2-N)</p>	<p>1/26/2021</p>
<p>Oppose (21100531D) Summary: Prohibits the construction of any new municipal solid waste landfill within three miles of any designated historic district, building, structure, object, or site.</p>		
<p><u>SB 1191</u> - Kiggans (7) School nurses; excludes positions from certain requirements, school board to employ in each school.</p>	<p>1/11/2021 Senate: Referred to Committee on Education and Health 1/14/2021 Senate: Reported from Education and Health with amendment (12-Y 1-N 1-A) 1/14/2021 Senate: Re-referred to Finance and Appropriations 1/27/2021 Senate: Passed by indefinitely in Finance and Appropriations (16-Y 0-N)</p>	<p>1/26/2021</p>
<p>Oppose (21102426D) - Board has historically opposed. Potential fiscal impact to Fairfax County is approximately \$11.5 million. Summary: School personnel; school nurses. Excludes school nurse positions from requirements for student support positions and instead requires each local school board to employ at least one full-time equivalent school nurse position in each elementary school, middle school, and high school in the local school division. The bill also requires the Department of Education to establish and administer a waiver process for local school boards for which the requirements of the bill create an undue hardship.</p>		

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Bills	General Assembly Actions	Date of BOS Position
SB 1200 - Hashmi (10) Waste disposal; local approval.	1/11/2021 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources 2/4/2021 Senate: Passed by indefinitely in Agriculture, Conservation and Natural Resources (13-Y 1-N 1-A)	1/26/2021
<p>Oppose (21101204D) Summary: Requires any application (i) to store, provide treatment for, or dispose of hazardous waste or (ii) for a new solid waste management facility permit, except for a noncaptive industrial landfill, to include certification from the governing body for each locality within a five-mile radius of the facility, other than the locality in which the facility is or will be located, granting approval of the facility or activity.</p>		
SB 1249 - Stuart (28) Local planning commissions; review deadlines.	1/11/2021 Senate: Referred to Committee on Local Government 1/25/2021 Senate: Passed by indefinitely in Local Government (14-Y 0-N)	1/26/2021
<p>Oppose (21100584D) Summary: Adds rezoning or generalized development plans, special use permits, and special exception applications to various review deadlines and requirements for local planning commissions.</p>		
SB 1264 - Morrissey (16) Emergency and preliminary protective orders; expungement of orders.	1/11/2021 Senate: Referred to Committee on the Judiciary 2/1/2021 Senate: Passed by indefinitely in Judiciary with letter (15-Y 0-N)	1/26/2021
<p>Oppose (21101089D) Summary: Expungement of emergency and preliminary protective orders. Provides that a person against whom an emergency or preliminary protective order has been issued may petition to have police and court records relating to such order expunged if the order expires, is dissolved by the issuing court, or if a hearing for the issuance of a permanent protective order is scheduled or held and such permanent protective order is subsequently not issued.</p>		
SB 1283 - Morrissey (16) Criminal records, certain; establishes a process for the automatic expungement, report.	1/11/2021 Senate: Referred to Committee on the Judiciary 2/1/2021 Senate: Incorporated by Judiciary (SB 1339-Surovell) (13-Y 0-N)	2/9/2021
<p>Support with Amendment (21102250D) - Support concept of expungement for certain crimes; sufficient state funding for implementation is essential. Summary: Automatic expungement of criminal records. Establishes a process for the automatic expungement of criminal records for misdemeanors, certain felony convictions, deferred dispositions, and acquittals and for offenses that have been nolle prossed or otherwise dismissed. The bill also provides a process for the automatic expungement of criminal records for charges arising from mistaken identity or the unauthorized use of identifying information. The bill has staggered delayed effective dates in order to develop systems for implementing the provisions of the bill.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>SB 1372 - Lucas (18) Criminal records; establishes a process for automatic expungement for certain convictions, report.</p>	<p>1/13/2021 Senate: Referred to Committee on the Judiciary 2/1/2021 Senate: Incorporated by Judiciary (SB 1339-Surovell) (14-Y 0-N)</p>	<p>2/9/2021</p>
<p>Support with Amendment (21102017D) - Support concept of expungement for certain crimes; sufficient state funding for implementation is essential. Summary: Automatic expungement of criminal records. Establishes a process for the automatic expungement, defined in the bill, of criminal records for certain convictions, deferred dispositions, and acquittals and for offenses that have been nolle prossed or otherwise dismissed. The bill also provides a process for the automatic expungement of criminal records for charges arising from mistaken identity or the unauthorized use of identifying information. The bill has staggered delayed effective dates in order to develop systems for implementing the provisions of the bill.</p>		
<p>SB 1382 - Favola (31) Firearms; purchase, etc., following conviction for assault and battery of a family member.</p>	<p>1/12/2021 Senate: Referred to Committee on the Judiciary 1/27/2021 Senate: Reported from Judiciary (8-Y 5-N) 1/27/2021 Senate: Re-referred to Finance and Appropriations 2/3/2021 Senate: Reported from Finance and Appropriations (8-Y 7-N) 2/5/2021 Senate: Read third time and defeated by Senate (16-Y 22-N)</p>	<p>1/26/2021</p>
<p>Support (21102782D) - See also HB 1992 (Murphy). Summary: Purchase, possession, or transportation of firearms following conviction for assault and battery of a family or household member; penalties. Prohibits a person who has been convicted of assault and battery of a family or household member from purchasing, possessing, or transporting a firearm. A person who violates this provision is guilty of a Class 3 misdemeanor.</p>		
<p>SB 1419 - Marsden (37) Project labor agreements; public interest.</p>	<p>1/13/2021 Senate: Referred to Committee on General Laws and Technology 1/20/2021 Senate: Re-referred to Commerce and Labor 2/6/2021 Senate: Left in Commerce and Labor</p>	<p>1/26/2021</p>
<p>Oppose (21102268D) Summary: Requires that for contracts requiring the design or construction of a road, highway, bridge, or similar transportation improvement, a public body wishing to enter into a project labor agreement shall first determine by written finding that participation in such project labor agreement advances the public interest, based on objective criteria established by the public body by regulation, ordinance, or resolution that may include cost, efficiency, quality, safety, timeliness, maintenance of a skilled labor force, labor stability, or advancing minority-owned or women-owned business participation in the project.</p>		

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Key House and Senate Budget Amendments for Fairfax County 2021 General Assembly

2020-2022 BIENNIUM BUDGET

Support

COVID-19 Vaccination Funding

House Item 299 #3h

Provides approximately \$18 million NGF in FY 2021 in addition to the approximately \$30.2 million GF in FY 2021 included in the introduced budget for COVID-19 mass vaccination efforts. It also supplants the approximately \$59.1 million GF in FY 2022 dedicated for vaccination efforts with equivalent NGFs from the federal Coronavirus Preparedness and Response Supplemental Appropriations Act (P.L. 116-123).

Senate Item 299 #2s

Similarly supplants GF dollars with NGF dollars from the federal Coronavirus Preparedness and Response Supplemental Appropriations Act (P.L. 116-123) in FY 2022 for mass vaccination efforts. Additionally, for FY 2021, approximately \$30.2 million GF is supplanted with approximately \$18 million NGF and approximately \$12.2 million unspent Coronavirus Relief Funds previously allocated to the Department of Medical Assistance Services (DMAS).

Cost of Competing Adjustment (COCA) for K-12 Support Positions

House Item 145 #11h

Provides approximately \$13.2 million in FY 2022 for partial restoration of COCA for Planning District 8 school divisions, increasing the rate from 10.6% to 18%. The funds are also dedicated to adjusting the rates for the nine adjacent school divisions from 2.65% to 4%. This restores funding that was eliminated during the 2020 Special Session I that would have increased the rate from 10.6% to 16% and 2.65% to 4%. *Restoring funding for COCA is included in the County's 2021 Legislative Program.*

WMATA Capital Fund One-Time Support

Senate: #442 #1s

Allocates \$22.4 million in NGF fund revenues from public funds made available for Highway Infrastructure Programs by the Coronavirus Response and Relief Supplemental Appropriations Act to fulfill the Commonwealth's portion of the \$500 million annual commitment to the WMATA Capital program. Virginia's share is \$154 million per year, and the Department of Rail and Public Transportation (DRPT) has informed the Senate Finance and Appropriations Subcommittee on Transportation of reduced projections to the WMATA Capital Fund by about \$15-20 million annually over the next several years.

Commonwealth's Attorneys Staffing Study

Senate Item 75 #2s

Directs the Compensation Board to work with the Virginia Association of Commonwealth's Attorneys to examine the staffing standards used to determine the number of positions allocated to each office, expanding the standards to include workload elements that are not solely based on metrics related to

felony charges and convictions. Provides \$250,000 in FY 2022 for the Compensation Board to contract with the National Center for State Courts to perform a time study to determine the comprehensive duties and responsibilities of Commonwealth's Attorneys' offices, including the use of diversion programs and specialty dockets. *The amendment directs and funds a study to address important criminal justice reform issues raised in SB 1266 (Boysko), a County legislative initiative.*

Stormwater Local Assistance Fund (SLAF)

House Item 379 #1h

Provides \$26 million GF in FY 2022 to SLAF for stormwater quality retrofits and upgrades. *Support for increased SLAF funding is included in the County's 2021 Legislative Program.*

Salary Increase for Teachers and Support Staff

House Item 145 #10h

Provides approximately an additional \$151.6 million in FY 2022 to fund the state share of a payment equivalent of a five percent salary increase for Standards of Quality (SOQ) instructional and support positions, effective July 1, 2021. This funding converts the two percent bonus payment in the introduced budget into a five percent salary increase for a total of approximately \$231.4 million GF and approximately \$759,000 in Lottery Proceeds for FY 2022. The amendment requires that school divisions certify to the Department of Education that salary increases of a minimum average of five percent have been or will have been provided during FY 2020-2022. The state funds which the division is eligible to receive are required to be matched by localities based on the composite index of local ability-to-pay, which will be calculated using July 1, 2021 as the effective date. *The County supports state funding for salary increases for K-12 staff, but also supports a suspension of the local match requirement for the 2020-2022 biennium budget.*

Senate Item 145 #6s

Provides approximately an additional \$59.3 million in FY 2022 to fund the state share of a payment equivalent of a three percent salary increase for Standards of Quality (SOQ) instructional and support positions, effective August 1, 2021. This funding converts the two percent bonus payment in the introduced budget into a three percent salary increase for a total of approximately \$139.8 million GF and approximately \$456,000 in Lottery Proceeds for FY 2022. The amendment requires that school divisions certify to the Department of Education that salary increases of a minimum average of three percent have been or will have been provided during FY 2020-2022. The state funds which the division is eligible to receive are required to be matched by localities based on the composite index of local ability-to-pay, which will be calculated using August 1, 2021 as the effective date. *The County supports state funding for salary increases for K-12 staff, but also supports a suspension of the local match requirement for the 2020-2022 biennium budget.*

Temporary Assistance to Needy Families (TANF) Benefits

House Item 350 #4h

Provides approximately \$335,000 GF and approximately \$3.8 million NGF in FY 2022 to increase TANF benefits by five percent. The General Assembly provided a 15 percent increase beginning July 1, 2020, bringing the average monthly payment for a TANF family to \$361. The GF reflects the increase for the TANF Unemployed Parent program which is state funded. *Support for increases in TANF reimbursement rates is included in the County's 2021 Human Services Issue Paper.*

Senate Item 350 #1s

Provides \$1.4 million GF and approximately \$15.9 million NGF in FY 2022 to increase standards of assistance by 18%. It also requires that the Department of Social Services develop a plan to increase the standards of assistance by 18% annually until the standards equal 50% of the federal poverty level. *Support for increases in TANF reimbursement rates is included in the County's 2021 Human Services Issue Paper.*

Child Care Subsidy Program

House Item 137 #2h

Provides approximately \$52.5 million NGF in FY 2022 from the federal Child Care and Development Fund (CCDF) to implement the provisions of **HB 2206** (Filler-Corn), which temporarily expands the Child Care Subsidy Program. Recently, additional CCDF funds became available to states through the Coronavirus Response and Relief Supplemental Appropriations Act of 2021. (P.L. 116-260). *The County supports HB 2206 (Filler-Corn). Additionally, support for state child care funding for economically disadvantaged families not participating in TANF/VIEW is included in the County's 2021 Human Services Issue Paper.*

Medicaid Waivers

Senate Item 313 #4s

Provides approximately \$10.7 million GF to match equivalent federal Medicaid matching funds in FY 2022 to increase the number of Family and Individual Support (FIS) waiver slots by 650, bringing the total number of waiver slots in FY 2022 to 1,200 to address the Priority One Waiting List. *Support for increases in state funding and the expansion of Medicaid waivers is included in the County's 2021 Human Services Issue Paper.*

Medicaid Waiver Provider Rates

House Item 313 #11h

Provides approximately \$36.7 million GF and approximately \$38.1 million in federal Medicaid matching funds in FY 2022 to increase provider rates by five percent for personal care, respite care, and companionship services provided in Medicaid waiver programs effective July 1, 2021. *Support for increases in state funding for Medicaid waivers and the expansion of Medicaid waivers is included in the County's 2021 Human Services Issue Paper.*

Senate Item 313 #1s

Provides approximately \$6.3 million GF and approximately \$6.3 in federal Medicaid matching funds in FY 2021, and approximately \$60.8 million GF and approximately \$60.8 in federal Medicaid matching funds in FY 2022, to increase provider rates for personal care, respite care, and companionship services provided in Medicaid waiver programs by 6.4% on May 1, 2021 and 14.3% by November 1, 2021. *Support for increases in state funding for Medicaid waivers and the expansion of Medicaid waivers is included in the County's 2021 Human Services Issue Paper.*

Residential Property-Assessed Clean Energy (R-PACE) Workgroup

House Item 125 #2h

Directs the Department of Mines, Minerals, and Energy (DMME) to establish a workgroup to assess the feasibility of creating a Virginia R-PACE program.

Study of Local Fiscal Impacts of Mandatory Property Tax Exemptions

House Item 114 #6h

Senate Item 114 #4s

Directs the Commission on Local Government to review the effects of mandatory property tax exemptions on local governments and recommend potential options for mitigating their fiscal impacts. *The County has supported the goals of many of the General Assembly's efforts to provide tax relief for particular groups in recent years, but the County's position has been that such efforts should be provided in the form of state tax relief rather than mandatory local property tax exemptions, as local revenue sources are very limited. This study could be helpful in providing information to the General Assembly about the impacts on localities of the numerous exemptions that have been enacted in recent years.*

River Farm

House Item 374 #3h

Provides \$2 million GF in FY 2022 to support the purchase of River Farm in Alexandria by the Northern Virginia Regional Park Authority for conservation and maintenance as a publicly accessible historic site.

Senate Item 374 #3s

Removes \$3.5 million GF in FY 2022 and provides for the consideration of one-time funding of up to \$5 million GF for the identification, acquisition, and preservation of tribal lands for the Chickahominy Tribe, and for the conservation and preservation of River Farm.

Tree Canopy Stakeholder Workgroup

House Item 107 #1h

Directs the Department of Forestry to convene a stakeholder workgroup to provide recommendations for policies which encourage increased tree cover in communities, and the preservation of mature tree cover on sites being developed. *Support for increased local flexibility for tree preservation is included in the County's 2021 Legislative Program.*

Invasive Plant Species Stakeholder Workgroup

Senate 373 #2s

Directs the Department of Conservation and Recreation and the Virginia Department of Agriculture and Consumer Services to create a stakeholder workgroup to assess the sale and use of invasive plant species in retail, landscape, greenhouse, and nursery industries, consider measures to reduce or eliminate the sale and use of invasive plant species in the Commonwealth, and promote the sale and use of native plants. *The County supports HJ 527 (Bulova), which mirrors the language of this amendment. Support for efforts to discourage the sale of invasive species is included in the County's 2021 Legislative Program.*

Statewide Multi-Use Trail Initiative

Senate: Item 447 #1s

Provides for a one-time capitalization of \$40 million for a statewide multi-use trail initiative using federal funds available for Highway Infrastructure Programs by the Coronavirus Response and Relief Supplemental Appropriations Act, instead of the \$5 million GF included in the Governor's introduced budget. This includes up to \$17.5 million for safety enhancements to the Washington & Old Dominion Trail at Wiehle Avenue, and improvements to the intermodal connectivity of the Cross County Trail at Difficult Run with Great Falls Park. Funding is also included for other projects in the Commonwealth, including the Eastern Shore-Bay Coast Railway Rails to Trails project; the Fall Line Trail; the Ivy Creek

Trail; and, the completion of the Tobacco Heritage Trail from Skipwith Road to Rudds Creek. The amendment also requires the Office of Intermodal Planning and Investment to coordinate a policy working group comprised of representatives of the Virginia Department of Transportation (VDOT), DRPT, the Department of Conservation and Recreation, the Statewide Trails Advisory Committee, and the staff of the House Appropriations and Senate Finance and Appropriations Committees to recommend a prioritization process for the identification of new multi-use trail opportunities, a master planning process, and funding needs assessment.

Transit Ridership Incentive Program

Senate: Item 442 #3s

Provides \$5 million in federal funds (made available for Highway Infrastructure Programs by the Coronavirus Response and Relief Supplemental Appropriations Act) to support transit incentives focused on fare and congestion reduction programs. Of these amounts, half will be allocated to support the establishment of programs to reduce the impact of fares on low-income individuals, including reduced-fare programs and elimination of fares, and half will be allocated for regional connectivity programs focused on congestion reduction and mitigation through the provision of long-distance commuter routes.

Transit Ridership Incentive Program Cap

House: Item 442 #1h

Authorizes the Commonwealth Transportation Board (CTB) to waive the 25 percent cap for the Transit Ridership Incentive Program. The 2020 General Assembly created the Transit Ridership Incentive Program as part of an omnibus transportation bill. That bill allowed up to 25 percent of the funds in the program to be "available to support the establishment of programs to reduce the impact of fares on low-income individuals, including reduced-fare programs and elimination of fares." The remainder of the funds are to be used to "promote improved transit service in urbanized areas of the Commonwealth with a population in excess of 100,000." Due to the COVID-19 pandemic, there has been a decreased demand in multijurisdictional commuter bus services in urbanized areas and an increased demand for fare reduction.

Monitor

Infrastructure and Operations Per Pupil Payments

House Item 145 #14h

Provides approximately \$20.1 million GF in FY 2021 and approximately \$9.9 million GF in FY 2022 to ensure 40 percent of Lottery Proceeds are dedicated to Infrastructure and Operations Per Pupil Payments, formerly known as Supplemental Lottery Per Pupil Allocations. The additional funding increases the Per Pupil Payments by approximately \$30 per pupil in FY 2021 and \$15 per pupil in FY 2022.

Salary Increase for State and State Supported Local Employees

House Item 477 #2h

Provides approximately \$70.4 million GF in FY 2022, in addition to approximately \$97.7 million previously appropriated in the introduced budget for employee bonuses, for a 3.5 percent salary increase for state employees, adjunct faculty, and state supported local employees. The total estimated state cost for these raises is approximately \$168.2 million GF.

Senate Item 477 #1s

Provides approximately \$20.3 million GF in FY 2022, in addition to approximately \$97.7 million previously appropriated in the introduced budget for employee bonuses, for a three percent salary increase for state employees, adjunct faculty, and state supported local employees. The state employee and adjunct faculty salary increases will be effective August 10, 2021, while the state supported employee raises will be effective September 1, 2021.

Learning Loss Supplemental Payments

House Item 479.10 #2h

Provides up to approximately \$81.1 million in FY 2021 from the state COVID-19 Relief Fund to fund the Learning Loss Supplemental Payments and a portion of the No Loss Payments. The budget approved during the 2020 Special Session provided up to \$95.2 million from this fund to be appropriated to public education, however the introduced budget proposed removing payments from the fund from public education, and backfilling with general funds. Revenues from games of skill machines are deposited into the COVID-19 Relief Fund.

House Item 144 #4h

Provides \$30 million NGF in FY 2022 from the federal Elementary and Secondary School Emergency Relief funds authorized in the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 to provide grants to address COVID-19 related learning loss and other student support needs.

Senate Item 145 # 7s

Provides approximately \$30 million from the Lottery Proceeds Fund in FY 2022 to support one-time programs and initiatives to support the state share of \$117.18 per pupil based on the estimated number of federal Free Lunch participants, in support of one-time programs and initiatives to address learning loss resulting from the COVID-19 pandemic. No local match is required.

No Loss Payments

House Item 145 #12h

Reduces No Loss payments by approximately \$65 million GF in FY 2021 for a total of approximately \$234.7 million. It provides that in FY 2021, a deduction shall be applied to the No Loss payments equal to 25% of the school division's federal Elementary and Secondary School Emergency Relief (ESSER II) subgrant provided pursuant to 313 (c) of the Consolidated Appropriations Act, 2021 (Public Law 116-260), however such deduction shall not exceed 25% of the No Loss payment. The introduced budget proposed approximately \$299.4 million for FY 2021, but that was prior to the authorization of approximately \$845.4 million in ESSER II subgrants to Virginia School divisions through the federal Coronavirus Response and Relief Supplemental Appropriations Act of 2021.

House Item 145 #3h

Supplants \$30 million GF in FY 2021 provided for No Loss payments with equivalent NGF gray machine revenues.

In-Person Instruction Requirement

Senate Item 145 #11s

Requires that all school divisions offer in-person instruction options to a student if requested by the parent or guardian in the 2021-2022 school year. There is no funding associated with this language.

Housing Trust Fund

House Item 113 #1h

Reduces GF appropriations to the Virginia Housing Trust fund by \$25 million in FY 2022, which levels the funding to the amounts authorized by the 2020 General Assembly. The additional approximately \$40.7 million for the Virginia Housing Trust Fund in FY 2021 served as a bridge to continue the Rent and Mortgage Relief program, which is being replaced in FY 2022 by the availability of over \$560 million in federal funds for rental assistance.

Senate Item 113 #1s

Reduces GF appropriations to the Virginia Housing Trust Fund intended to support the Virginia Rent and Mortgage Relief Program by \$15.7 million in FY 2021. The amendment supplants the GF resources by designating that the federal Consolidated Appropriations Act, P.L. 116-260 (2020) for rental assistance serve as the primary source of funding for the Commonwealth's rental assistance program.

Prepaid Postage Reimbursement for Absentee Ballots

House Item 86 #1h

Directs the Department of Elections to reimburse localities for the cost of prepaid postage for the return of absentee ballots. Localities must provide proper documentation to validate the qualifying reimbursement amounts. This is anticipated to cost the state \$1 million and will be paid out from the remaining funds from the budget actions passed during the 2020 Special Session. This is not an ongoing appropriation so the state must either appropriate additional funds in the future or localities will have to cover the costs.

Automatic Expungement of Certain Offenses

House Item 425 #3h

Provides approximately \$13.1 million GF in FY 2022 to cover the one-time and ongoing costs of implementing and operating an automatic expungement process for certain offenses prior to **HB 2113** (Herring). *The County supports the concept of expungement for certain crimes, however sufficient state funding for implementation is essential.*

Expungement Workgroup

Senate Item 391 #1s

Directs the Secretary of Public Safety and Homeland Security as a part of the workgroup created pursuant to **SB 1339** (Surovell) to include a comprehensive review of all systems and processes necessary for the expungement or sealing of police or court records, and to report on the costs of needed improvements for consideration in the 2022 General Assembly. *The County supports the concept of expungement for certain crimes, however sufficient state funding for implementation is essential.*

I-81/Route 29 Intercity Passenger Rail

Senate: Item 443 #1s

Provides \$137.6 million from the Coronavirus Response and Relief Supplemental Appropriations Act for extending intercity passenger rail service from Roanoke, Virginia to the Blacksburg-Christiansburg, Virginia area and increasing the frequency of intercity passenger rail service along the I-81/Route 29 Corridor from Washington, DC. This is instead of the \$50 million from the General Fund as proposed in the Governor's introduced budget. The amendment also requires an assessment of both total project costs and the incremental costs resulting from modeling conducted to assess any infrastructure or network costs needed to service a rail station in Bedford.

FYI

Utility Assistance Program

House Item 479.10 #1h

Senate Item 479.10 #1s

Removes the restriction that prevents utility customers from receiving assistance from the utility assistance program more than once.

Virginia Telecommunication Initiative (VATI) Pilot for Public Broadband Authorities

House Item 114 #5h

Senate Item 114 #5s

Establishes a one-year pilot program that will allow public broadband authorities to compete for funds from the Virginia Telecommunications Initiative without a private sector partner. The pilot program cannot exceed 10% of the total appropriated FY 2022 funds.

McLean – Capital One Hall Station

Senate: Item 442 #2s

Conditions the receipt of funding provided to the Northern Virginia Transportation Commission for distribution to the Washington Metropolitan Area Transit Authority for capital purposes and operating assistance, on adopting the petition of Fairfax County related to the naming of the McLean-Capital One Hall station.

Transit Equity and Modernization Study

Item 442 #2h

Provides \$500,000 from the general fund in fiscal year 2022 pursuant to the passage of **HJ 542** (McQuinn) which requires DRPT to study the Commonwealth's current public transportation system, focusing on the equitable delivery of transportation services and the modernization of transit in the Commonwealth.

Connected Infrastructure Demonstration Project

Senate: Item 447 #2s

Provides \$10 million in federal funds made available for Highway Infrastructure Programs by the Coronavirus Response and Relief Supplemental Appropriations Act to the Transportation Partnership Opportunity Fund for an urban smart infrastructure test bed in partnership with the City of Falls Church and Virginia Tech.

Coastal Virginia Transportation Infrastructure Inundation Study

House: Item 446 #1h

Requires VDOT to report annually on the status of what transportation infrastructure in the Coastal Shore region is at risk to inundation from sea-level rise and what is being done to address the concern.

Lorton Community Action Center

House Item 356 #4h

Provides \$200,000 NGF in FY 2022 from the TANF block grant to the Lorton Community Action Center to assist with food, housing, child care and education, workforce training and mental health services, and supports for low-income families during the COVID-19 pandemic.

United Community
House Item 356 #3h

Provides \$500,000 NGF in FY 2022 from the TANF block grant to United Community to provide wrap-around services for low-income families in Northern Virginia, including child care, parenting classes, supportive services, a food pantry, and literacy and citizenship services and other needed services during the COVID-19 pandemic. This additional funding will provide \$1.2 million in TANF funding for United Community in FY 2022.

Good Shepherd Housing and Family Services
House Item 356 #1h

Provides \$200,000 NGF in FY 2022 from the TANF block grant to Good Shepherd Housing and Family Services to assist with food, housing, child care/education, workforce training and mental health services, and supports related to the COVID-19 pandemic response.

FACETS
House Item 356 #2h

Provides \$250,000 NGF in FY 2022 from the TANF block grant to FACETS to provide homeless assistance services and other related services during the COVID-19 pandemic. This additional funding will provide a total of \$350,000 in TANF funding for FACETS in FY 2022.

Koinonia Foundation
House Item 356 #6h

Provides \$200,000 NGF in FY 2022 from the TANF block grant to the Koinonia Foundation to provide services to low-income families during the COVID-19 pandemic.

BritePaths
House Item 356 #5h

Provides \$200,000 NGF in FY 2022 from the TANF block grant to BritePaths to provide services to low-income families during the COVID-19 pandemic.

Identifying and addressing the vestiges of inequity and inequality in Virginia's laws



REPORT *from*



The Commission to Examine Racial Inequity in Virginia Law

NOVEMBER 15, 2020

FRONT COVER: Thomas J. O'Halloran, photographer. Students arriving at the Free School #2 in Farmville, Prince Edward County, Virginia (1963).

<https://www.loc.gov/exhibits/brown/brown-aftermath.html>

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INTRODUCTION

On June 4, 2019, Governor Ralph Northam signed Executive Order Number 32, establishing the Governor’s Commission to Examine Racial Inequity in Virginia Law.¹ Later that summer, Governor Northam appointed a number of lawyers, judges, and law professors to this Commission.² Governor Northam’s Executive Order directed the Commission to identify Virginia laws that “have the effect or could have the effect of enabling or promoting racial inequity or inequality,” so that the Commission’s findings and recommendations could be distributed to promote best practices in reducing racial inequity in the Commonwealth.³

The first task of the Commission was to review numerous old Virginia laws contained in the *Acts of Assembly* that, despite being either explicitly racist and discriminatory in their texts, or clearly intended to perpetuate segregation and discrimination, had never been repealed.

The review of these old laws laid bare what many Virginians already knew or had directly experienced: the Commonwealth’s state-sanctioned segregation and racial oppression had been pervasive, far-reaching, intentional, and strategic. Whether it was through creating segregated neighborhoods or imposing poll taxes, assigning segregated schools or providing inferior health care, all branches of Virginia government did all they could to separate races and ensure that White Virginians were advantaged over Black Virginians.

After this troubling, but important, review, the Commission issued a [report](#) to the Governor in December of 2019, detailing the *Acts* it reviewed and recommending broad sections of these *Acts* be repealed. The Governor worked with a number of legislators to submit legislation calling for this repeal, and, during the 2020 legislative session, the General Assembly unanimously passed all of these bills.⁴

Given the Executive Order’s directive that the Commission review not only explicitly racist laws but the disparate racial impact of Virginia’s existing laws and policies, the Commission’s initial report also proposed that during the second phase of its work the Commission begin to examine the lingering effects of the almost four centuries of Virginia’s state-approved systemic racism.

¹ Executive Order Thirty-Two: Commission to Examine Racial Inequity in Virginia Law (June 4, 2019), <https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-32-Establishment-of-the-Commission-to-Examine-Racial-Inequity-in-Virginia-Law.pdf>

² Governor Northam Announces Members of the Commission to Examine Racial Inequity in Virginia Law (Press Release), <https://www.governor.virginia.gov/newsroom/all-releases/2019/september/headline-846298-en.html>

³ *Id.*

⁴ *See, e.g.*, HB 857 / SB 874; HB 914 / SB 896; HB 973 / SB 600; HB 1325 / SB 636; HB 1521 / SB 850; HB 1638 / SB 722.

More specifically, the Commission proposed to examine pervasive and negative racial disparities across many areas of life in Virginia and to determine whether there were policy or legislative changes that might help address these disparities.

The Governor endorsed this proposal, amending Executive Order Number 32 in June 2020 to continue the work of the Commission and to direct the Commission to “identify the vestiges of inequity and inequality in Virginia’s laws,” laying a foundation for redefining the Commonwealth’s commitment to each citizen’s success and equitable treatment through proposed recommendations. Accordingly, the Commission’s work over the past calendar year has focused on that task. During multiple meetings over the spring and summer of 2020, with recommendations from individual Virginians and advocacy groups and with considerable research support from students in the State and Local Government Policy Clinic at the University of Virginia School of Law, Commissioners examined racial disparities. This included potential policy solutions to address these inequities, in the areas of housing, education, health, criminal justice, voting, environmental justice, and agricultural equity. The following report details some key research findings in each of those areas and presents the Commission’s policy recommendations to help tackle the damaging and longstanding inequities still facing too many people of color in Virginia.

While the pandemic briefly interrupted the Commission’s work, and required the meetings to be conducted virtually, it has also reinforced in life and death terms the importance of addressing the negative and harmful impact of these racial disparities. Accordingly, some of our recommendations address the specific problems and challenges posed by the pandemic on the education of low-income and minority children in the Commonwealth.

The Commission also recognizes that the Virginia General Assembly has been actively engaged in tackling issues of racial inequity. Appendix A details, by issue category, the various bills aiming to tackle racial disparities that the General Assembly passed and Governor Northam signed during both the 2020 Regular Session and the 2020 Special Session, which contextualizes our recommendations.

It is important to note that the release of this report follows a racially polarized election, a spring and summer of protests sparked by the murder of George Floyd and other Black individuals at the hands of law enforcement, and, as described above, a pandemic which has had a devastating and disparate impact on people of color in Virginia and across the country. During this time, the terms “systemic racism” or “structural racism” have been used by some to describe current conditions in our country and Commonwealth and have been rejected by others as anachronistic and no longer relevant given the legal prohibitions on explicit discrimination.

It is our sincere hope that this report, especially when read together with our first report, not only offers a comprehensive set of policy recommendations to help address persistent racial disparities in Virginia, but also provides a meaningful contribution to this conversation and our collective understanding of the meaning and reality of systemic or structural racism.

While definitions vary, the Aspen Institute has described structural racism as a “system in which public policies, institutional practices, cultural representations, and other norms work in various, often reinforcing ways to perpetuate racial group inequity...structural racism is not something that a few people or institutions choose to practice. Instead it has been a feature of the social, economic and political systems in which we all exist.”⁵

Indeed, even though *de jure* or explicit discrimination in Virginia has been outlawed for decades, the intended impacts of the preceding state-sanctioned discrimination—most plainly, diminished opportunities and continued subjugation of people of color—have persisted in varying degrees since that time and are apparent in the racial disparities this report documents. As this report details, many people of color in Virginia still live in segregated communities, attend segregated schools, have disparately negative health, economic, and educational outcomes, and represent a disproportionately large share of the Commonwealth’s prison population. And while Virginia has made undeniable progress, these divergent outcomes should come as no surprise; Virginia’s more than 350 years of intentional and systemic racism virtually guaranteed, even sought, this result.

On a national level, things are much the same. For example, although people of color no longer face expressly racially restrictive zoning laws or housing covenants that expressly prohibit the sale of certain housing stock, “over 70 percent of African Americans who live in today’s poorest, most racially segregated neighborhoods are from the same families that lived in the ghettos of the 1970s.”⁶ Similarly, though people of color no longer face state-sanctioned “redlining,” a racist practice that allowed U.S. banks to afford prospective White homebuyers preferential treatment while concurrently denying mortgages to equally-qualified Black and Brown families,⁷ the Black-White homeownership gap is larger today than it was in 1968 when housing discrimination was legal.⁸

⁵ 11 Terms You Should Know to Better Understand Structural Racism, The Aspen Institute, (July 11, 2016), <https://www.aspeninstitute.org/blog-posts/structural-racism-definition/>.

⁶ Patrick Sharkey, *Struck in Place: Urban Neighborhoods and the End of Progress Toward Racial Equality*, The University of Chicago Press (2013) at 9.

⁷ Emily Badger, *How Redlining’s Racist Effects Lasted for Decades*, New York Times, (Aug. 24, 2017), <https://www.nytimes.com/2017/08/24/upshot/how-redlinings-racist-effects-lived-for-decades.html>.

⁸ Caitlin Young, *These Five Facts Reveal the Current Crisis in Black Homeownership*, Urban Institute, (July 31, 2019), <https://www.urban.org/urban-wire/these-five-facts-reveal-current-crisis-black-homeownership>.

In the Commission’s view, this is what structural racism looks like. Virginia policymakers and other leaders spent centuries building legal and other structures to comprehensively segregate and oppress people of color. While the laws have gone away, the impact of what they built, indeed much of the structure they built, has not. The collective goal of the recommendations contained in this report is to make efforts in specific and effective ways to further dismantle this structure, and to address the lingering and disparate effects of Virginia’s segregationist past. These policy ideas, and others like them, will not only help people of color in Virginia, but will help all of us, as well.

As a recent, and acclaimed, text on the history of segregation and discrimination in the United States described:

As citizens in this democracy, we—all of us, White, Black, Hispanic, Asian, Native American, and others—bear a collective responsibility to enforce our Constitution and to rectify past violations whose effects endure. Few of us may be the direct descendants of those who perpetuated a segregated system or those who were its most exploited victims. African Americans cannot await rectification of past wrongs as a gift, and White Americans collectively do not owe it to African Americans to rectify them. We, all of us, owe this to ourselves. As American citizens, whatever routes we or our particular ancestors took to get to this point, we’re all in this together now.⁹

As a final note, the members of the Commission want to thank Governor Northam for the opportunity to serve in this way. It has been an honor to have the chance to meaningfully and intentionally address these problems that have always plagued the Commonwealth and to take part in worthwhile and long overdue conversations about overcoming the enduring burdens of Virginia’s racist past. We look forward to the work ahead.

⁹ Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America*, Liveright Publishing, (May 2017).

EXECUTIVE SUMMARY

This report proceeds in six main chapters: Housing, Education, Criminal Justice, Health, Environmental Justice, and Agricultural Equity. It concludes with a seventh chapter on institutionalizing the Commission’s work. Note that because the General Assembly addressed barriers to voting in the 2020 Regular Session, the Commission makes no specific recommendations in the voting area, with the notable exception of addressing the problem of how Virginia handles the disenfranchisement of people with felony convictions.

Each chapter begins with a brief history of the topics’ racial inequities in the Commonwealth followed by an overview of the current data on the disparities Virginians face. After this introduction, each chapter proceeds into topical subsections in which numbered recommendations are presented and explained. To the extent possible, data, reports, and sources relied on by the Commission have been included in footnotes with links for easy access. All images are either original, based on publicly available data, or have been reprinted with permission from their original creators.

The report concludes with recommendations for further work, including subjects that were not covered this year due to time constraints. Lastly, an appendix is attached which (A) details the legislation passed this year on topics of interest to the Commission, and (B) includes the Commission’s letter of recommended actions on police reform, that was sent to Governor Northam this summer following the protests after the death of George Floyd in Minneapolis.

The Commission’s Recommendations are as follows:

HOUSING

1. Allow the adoption of more effective inclusionary zoning laws statewide by expanding the ADU program under § 15.2-2304 to all cities.
2. Impose state limits on exclusionary zoning in localities.
3. Add provisions to § 58.1-3965 that require locality foreclosure for tax delinquency within a set time frame on vacant or commercial properties in cities, in order to donate those properties to a community land bank for affordable housing.

4. Incentivize local solutions with state dollars by (1) creating a state subsidy program for affordable housing development, (2) adding more funds to the Virginia Housing Trust Fund, and/or (3) attaching state development dollars to inclusionary zoning and affordable housing actions by localities.
5. Provide building space and staff grants to Richmond and other high-eviction cities to serve as a physical, community-based space for a coordinated eviction prevention program.
6. Request a cost-benefit analysis study on models for providing a right to counsel in eviction cases, from JLARC or another trusted research entity.
7. Revise Virginia's landlord-tenant laws to:
 - Increase pay-or-quit period from 5 to 14 days
 - Decrease allowed judgment use period from 6 months to 30 days
 - Increase number of times a tenant can use the right of redemption
 - Extend the appeal bond period in eviction cases to 30 days, allow waivers for indigency
 - Create stricter consequences for informal evictions
 - Seal/expunge eviction records after two years, or provide a court process for expungement
 - Automatic expungement for eviction cases that are dismissed
 - Treat hotel/motel residents as tenants after 30 days of stay
 - Limit what screening rules landlords may use to exclude poor tenants
 - Clarify that income requirements must be based on tenant's portion of the rent (e.g. for voucher holders)
 - Limit tenancy application fees

EDUCATION

1. Repeal § 22.1-25 (A) 1-3 to allow regional solutions to inequity.
2. Incentivize and facilitate integration programs.
3. Add a diversity metric to school accreditation ratings.
4. Eliminate bias by changing course access, counseling, and gifted regulations
5. Invest in educational infrastructure.
6. Reconfigure the funding formula to take account of student need.
7. Advocate for high quality pre-kindergarten programs for all children.
8. Support the Governor's initiative to unify the Pre-K data system and create Pre-K student identifiers.
9. Mandate data collection and reporting on diverse teacher recruitment and retention.
10. Endorse recommendations by the Taskforce on Diversifying Virginia's Educator Pipeline.
11. Establish the Virginia Council to Dismantle the School-to-Prison Pipeline via statute.
12. Limit the presence of School Resource Officers (SRO) in Virginia K-12 schools by reallocating a portion of the resources from the state's SRO program to invest in increased school counselors/mental health supports in schools.
13. Impose stronger statutory limits on out-of-school suspension.
14. Increase support staff funding as an alternative to suspension.
15. The Commission endorses the following guidelines for crisis education spending:
 - a. Federal emergency funds should be distributed proportionally by need.
 - b. When using emergency funds to support education during a crisis, decision makers must consider affordability issues for families.
 - c. Cuts to state spending due to crisis economic conditions should preserve equity efforts.
 - d. Spending restoration after a crisis should prioritize equity funding first.

CRIMINAL JUSTICE

1. Require the Sentencing Commission to collect, analyze, and report on sentencing outcomes by race and ethnicity; require courts to publish racial and other demographic data of all low-level offenses.
2. Require the collection of data on the results of pretrial hearings, bail decisions, and pre-trial incarceration, including breakdowns by race.
3. Prevent the Compensation Board from considering the volume of felony cases when calculating Commonwealth Attorney's office resourcing.
4. Propose legislation that addresses the impact that mandatory minimum sentencing laws have on racially disproportionate rates of incarceration.
5. Propose legislation that fosters restorative practices like expungement, clemency, sentence reductions and retroactive sentencing.
6. Abolish or limit felony disenfranchisement by amending or repealing Article II, Section I of the Virginia Constitution.

HEALTH

1. Close the gap in healthcare access for immigrants.
2. Exercise the option for 12-month continuous coverage to Medicaid and CHIP for children.
3. Create a pipeline program to support Black college students' preparation for medical school.
4. Require Virginia continuing medical training to include implicit bias training.
5. Increase mental health programming in schools.
6. Direct the Commission Studying Mental Health Services in the 21st Century to specifically address racial disparities in their work.

ENVIRONMENTAL JUSTICE

1. Require the Department of Environmental Quality (DEQ) to develop measures designed to ensure meaningful public involvement from environmental justice communities.
2. Direct the Department of Conservation and Recreation to adopt a Statewide Park Equity Mapper to include demographic and health data necessary to inform equitable decision-making.
3. Amend Code § 10.1-200.1 to include access for environmental justice communities as a required consideration in state park master planning.
4. Develop strategies to target residential solar energy development toward environmental justice communities.
5. Establish a Tribal Liaison with DEQ.

AGRICULTURAL EQUITY

1. Modify Code § 58.1-3965 to allow an extended redemption period for tax sales involving heirs' property.
2. Sufficiently fund Virginia Cooperative Extension services at Virginia State University (VSU).
3. Create an Office of Small Farms within the Virginia Department of Agriculture and Consumer Services (VDACS) with a duty to consider racial equity in farming.
4. Order state Agencies and Institutions to implement a long-term goal for food procurement from minority producers.

INSTITUTIONALIZING RACIAL EQUITY

1. Codify the Commission as an ongoing Commission of the Commonwealth of Virginia.
2. Enact a process that would require examination of proposed legislation with an equity lens.

RESEARCH METHODOLOGY AND PROCESS

MEMBERS OF THE COMMISSION

- **Cynthia Hudson** of Richmond, Counsel, Sands Anderson, former Chief Deputy Attorney General of Virginia (Chair)
- **Andrew Block** of Charlottesville, Director of the State and Local Government Policy Clinic, University of Virginia School of Law (Vice-Chair)
- **Henry L. Chambers, Jr.** of Richmond, Professor of Law, University of Richmond School of Law
- **Jill Hanken** of Richmond, Health Attorney, Virginia Poverty Law Center
- The Honorable **Michael N. Herring** of Richmond, Partner, McGuire Woods, former Commonwealth’s Attorney for the City of Richmond
- **Carla Jackson** of Chesterfield, Assistant Commissioner for Legal Affairs, the Virginia Department of Motor Vehicles
- The Honorable **Birdie Hairston Jamison** of Richmond, Retired Judge of the General District Court, City of Richmond
- The Honorable **Jerrauld Jones** of Norfolk, Chief Judge, Circuit Court, City of Norfolk
- **Leslie Chambers Mehta** of Chesterfield, Chief of Staff and Counsel to the CEO, Richmond Metropolitan Transportation Authority

RESEARCH TEAM’S METHODOLOGY

The research team for the Commission collected data from published reports and policy and advocacy organizations, both nationally and within Virginia. In these reports, the team searched for evidence of racial disparities in the Commission’s chosen policy areas in Virginia: housing, education, criminal justice, voting, health, environmental justice, and agricultural equity.

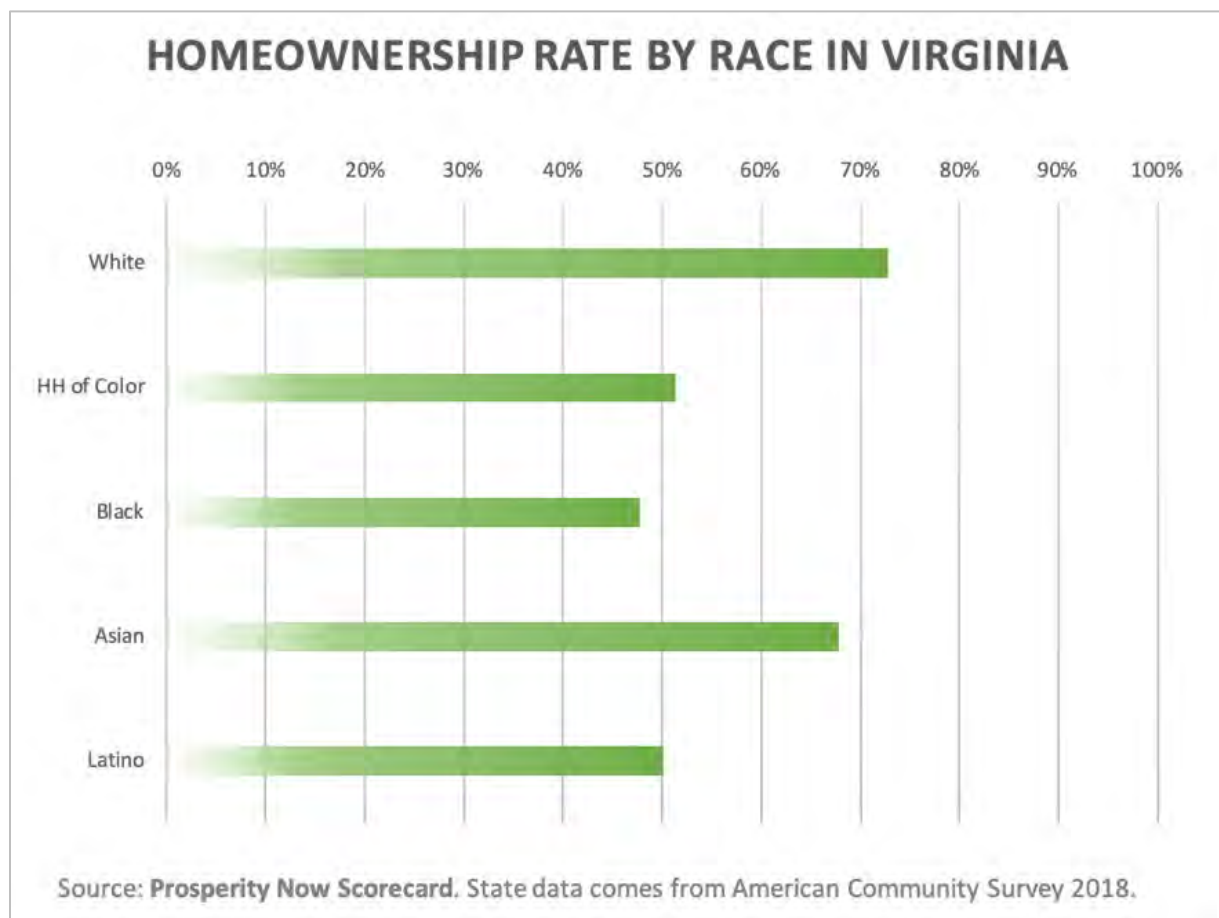
In some cases, it was clear that there was a racial disparity, but it wasn’t clear why. In these areas, the research team identified data gaps that could be rectified by statutes or regulations. In other areas, the racial disparity at issue highlighted specific policy focus areas for making substantive policy recommendations based on empirical evidence of effectiveness. Considering these policy areas, the team conducted a review of statutes and regulations currently on the books in Virginia to determine potential language that could be modified to improve racial equity.

Policy recommendations do not generally include budget recommendations, but there are some exceptions when budgetary choices have significant inequity impacts that are not otherwise rectified easily. The Commission then reviewed each proposal through a majority vote process.

Throughout its process, the Commission has received public comment and policy recommendations from various organizations. These organizations include the Virginia Legislative Black Caucus, the Virginia Poverty Law Center, the Commonwealth Institute, the New Virginia Majority, ECHO Virginia, as well as individuals during public comment. The final recommendations approved by the Commission include many of these suggestions.

HOUSING

Racial disparities in housing are widely acknowledged to be the direct result of government action, including state and local zoning and lending choices. For example, in the 1930s, the Home Owners Loan Association graded neighborhoods by lending risk. These grades were highly dependent upon race -- what is often called redlining. Unfortunately, the legacy of this redlining lives on today.



As a result of these historical practices that denied families of color the chance to participate in homeownership, there are stark disparities in homeownership rates today. While nearly three quarters of White families in Virginia own their homes today, only about half of households of color are homeowners, with Black and Hispanic families being the least likely to own homes.

Ashtown
This Deed, made this 17th day of June, 1914, by and between WESTHAMPTON HEIGHTS COMPANY, INCORPORATED, a corporation existing under the laws of the State of Virginia, party of the first part, and Clifton Lee Jr party of the second part,

Witnesseth, That for and in consideration of the sum of Five hundred (\$500.⁰⁰/₁₀₀) dollars, and also in consideration of the said party of the second part by the acceptance of this deed hereby agreeing to comply with all the restrictions and conditions hereinafter contained as to the property hereby conveyed:

The said WESTHAMPTON HEIGHTS COMPANY, INCORPORATED, doth grant unto the said party of the second part, with GENERAL WARRANTY, the following described lot of land, to-wit: Lot 14 in Block No. 4, described as follows:

Beginning at a point on the South line of Patterson Avenue, Two hundred and Fifty (250) feet East of Hampton Avenue, thence running in a easterly direction along and fronting fifty (50) feet to the South line of Patterson Avenue, thence running back in a southerly direction and between nearly parallel lines one hundred and seventy five (175) feet to an alley,

being a part of the property lying in the county of Henrico, Tuckahoe District, about three miles west of the city of Richmond, on Patterson Avenue, near Three Chop Road, and which was conveyed to the said WESTHAMPTON HEIGHTS COMPANY, INCORPORATED, by L. Shere et als. by deed dated May 11, 1910, and recorded in the Henrico Circuit Court Clerk's Office, and for a further description of the said property reference is hereby made to said deed and to a plat of WESTHAMPTON HEIGHTS, recorded in the Henrico Circuit Court Clerk's Office, in Plat Book 9, page 79.

Racial covenants, enforced in Virginia's courts, restricted Black families from purchasing homes in certain neighborhoods and excluded them from the housing market. *Deed between Westhampton Heights Company, Inc. and Clifton Lee, Jr., City of Richmond, Restrictive Covenant example, 1914, from T. Crawford Redd & Bros. (Richmond, Va.), Plats and Surveys, 1786-1952, Business records collection of the Library of Virginia.*

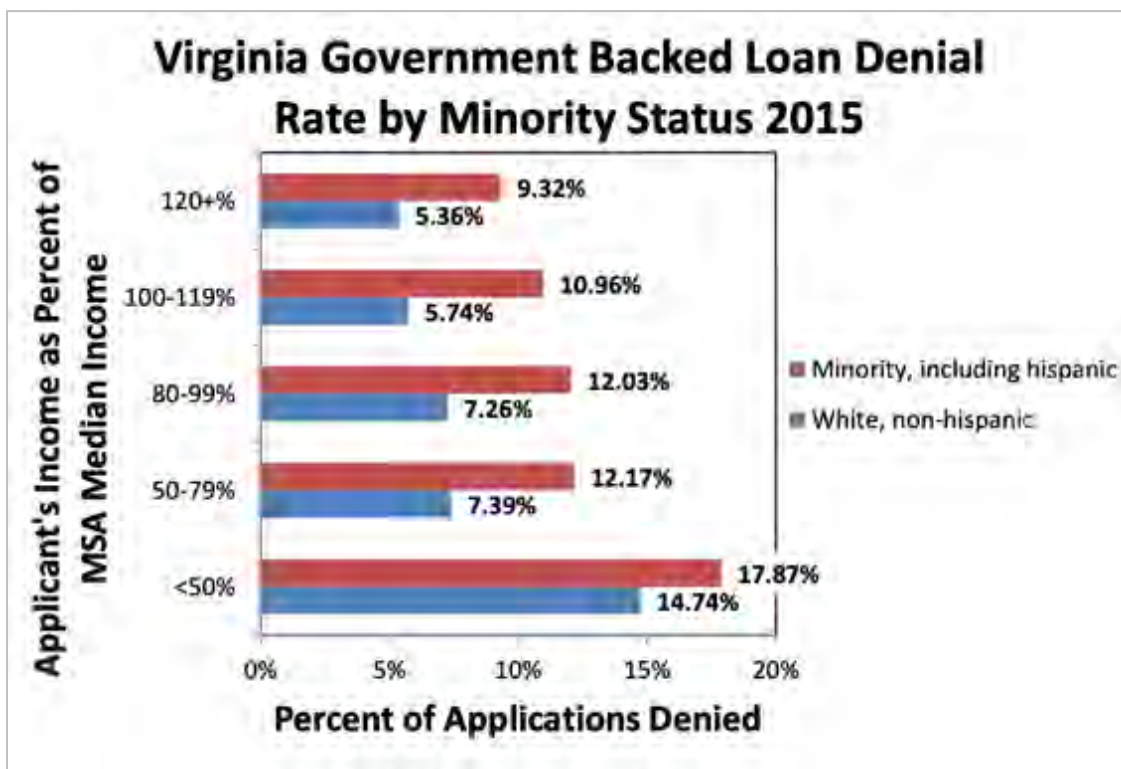


Redlining was a process by which government actors and lenders discriminated against Black families and excluded them from wealth acquisition. *Distribution of population 1922: map of Richmond, Virginia, from the Map Collection of the Library of Virginia.*



Because of exclusion and disinvestment, Black families were often segregated in poor quality housing. “Section of Big Dump and housing conditions just below Confederate Museum. Strikingly visible from trains into Main Street Station from the North,” undated, from the Visual Studies Collection of the Library of Virginia.

Lending practices of today have not improved much either. Current data on loan denial rates suggests that, even when controlling for income, families of color are nearly twice as likely to be denied a loan as White families.



Graphic: Department of Housing and Community Development, “Analysis of Impediments to Fair Housing Choice in the Commonwealth of Virginia” (2018). <https://dhcd.virginia.gov/sites/default/files/Docx/consolidated-plan/analysis-of-the-impediments-to-fair-housing.pdf>

Since families of color are overwhelmingly excluded from the financing necessary to participate in homeownership, they are overrepresented amongst renters. This makes the lack of affordable rental units in Virginia particularly concerning.

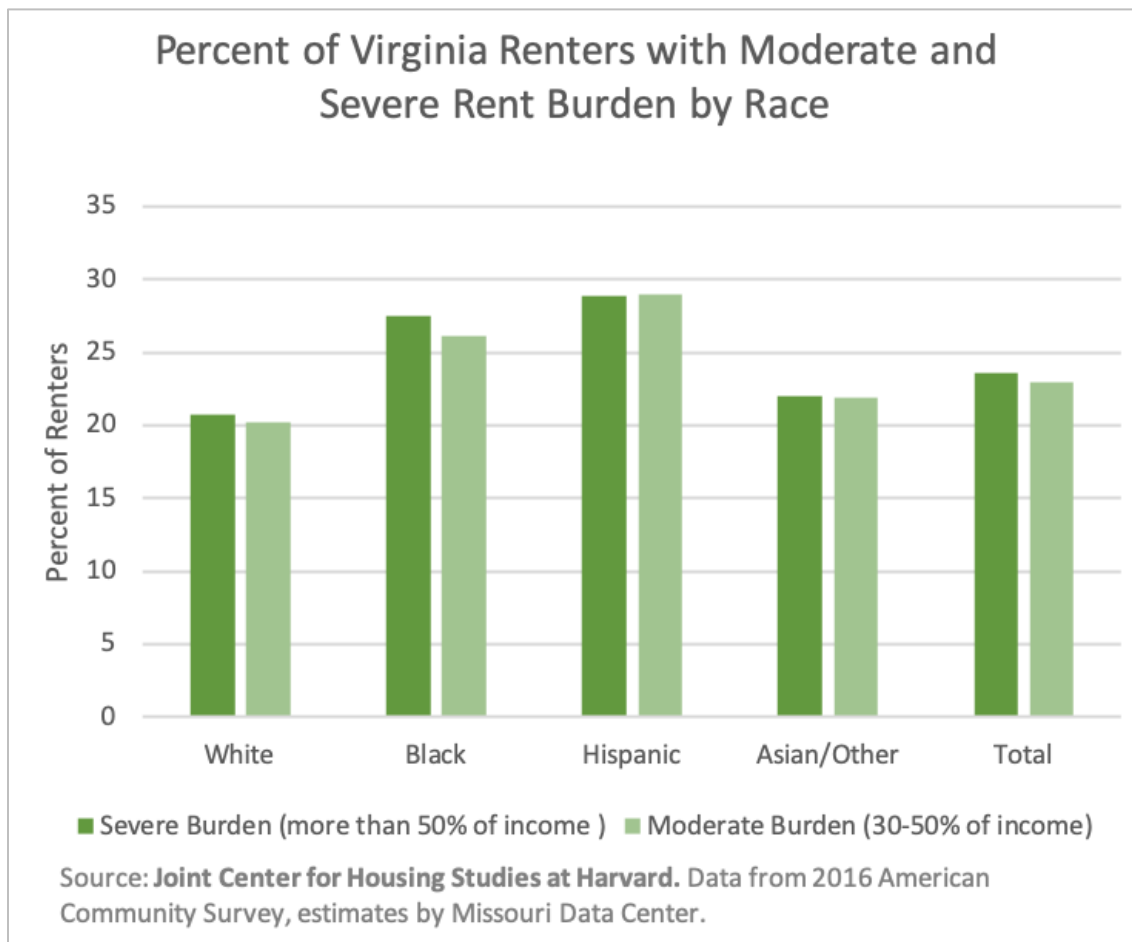
In the last ten years, Virginia’s housing stock for low-income individuals has drastically declined.¹⁰ While Virginia’s rental stock is sufficient for individuals making 80% or higher of their area median income—that is, for the financially secure, the rental stock is significantly lacking for those in lower income brackets.¹¹ Estimates suggest Virginia needs over 150,000 new rental units for those in the lowest income brackets in order to address the housing crisis.¹²

¹⁰ Joint Center for Housing Studies of Harvard University, The Low-Rent Stock in Most Metros Has Declined Substantially Since 2011, <https://www.jchs.harvard.edu/son-2019-low-rent-units-map>

¹¹ National Low Income Housing Coalition, Virginia: The Gap Report (2018), <https://reports.nlihc.org/gap/2018/va>

¹² *Id.*

This means that an increasing number of Virginians put far too much of their income towards rent—many times, over half of their earnings go to paying rent, leaving essential expenses like food, clothing, and medication to chance. This high rent burden is experienced at a much greater rate for Black and Hispanic Virginians than other racial groups.



All these factors often lead to evictions, that have devastating and far-reaching impacts for tenants and their families. Virginia’s eviction rate is shockingly high. Half of the top ten cities with the highest eviction rates nationwide are in Virginia.¹³ This shameful statistic has severe repercussions because evictions are not merely a consequence of poverty but a cause of it. An eviction solidifies an individual’s impoverishment by throwing their life into disarray; causing psychological, educational, and other harms to members of the individual’s entire family; and excluding them in the future from access to stable housing through strict screening processes. Children in particular suffer severely from evictions, becoming less academically successful and more prone to teenage criminal activity.¹⁴

¹³ Princeton Eviction Lab, Top Evicting Large Cities in the U.S. (2016), <https://evictionlab.org/rankings/#/evictions?r=United%20States&a=0&d=evictionRate&lang=en>

¹⁴ See *Evicted* by Matthew Desmond (2016).

Evictions are not equally distributed by race. In fact, race is far more influential than rent burden percentage or income in determining if a family will be evicted.¹⁵ In other words, evictions present a significant issue of racial inequity that the Commonwealth must resolve.

The Commission makes seven recommendations to the Governor. These recommendations have two primary goals: increase Virginia’s affordable housing stock for those earning 30% or less and 50% or less of area median income, and reduce the occurrence of evictions.

AFFORDABLE HOUSING AND ZONING

BACKGROUND

Exclusionary zoning and historical zoning practices enable cities to exclude certain residents, both contributing to the concentration of low-income individuals of color in poor-quality housing as well as the affordable housing crisis statewide. The National Low Income Housing Coalition estimates that Virginia currently has a shortage of over 150,000 homes for renters.¹⁶ Homes for those in the lowest income brackets—less than 30% of Area Median Income, and less than 50% of Area Median Income—are even more severely lacking.¹⁷ The Governor has already made clear that increasing affordable housing stock is a priority.¹⁸ The Commission endorses the following recommendations to address the lack of affordable housing.

¹⁵ Benjamin Theresa, RVA Eviction Lab, included with permission. See also Benjamin Theresa, *The Geography of Eviction in Richmond: Beyond Poverty*, https://rampages.us/rvaevictionlab/wp-content/uploads/sites/33937/2020/02/RVAEL_Geographies-of-Eviction.pdf

¹⁶ National Low Income Housing Coalition, *2020 Virginia Profile*, https://nlihc.org/sites/default/files/SHP_VA.pdf

¹⁷ National Low Income Housing Coalition, *Virginia: The Gap Report (2018)*, <https://reports.nlihc.org/gap/2017/va>

¹⁸ Executive Order Number Twenty-Five: *Establishing the Governor’s Affordable Housing Priorities To Address Virginia’s Unmet Housing Needs*, Commonwealth of Virginia Office of the Governor (2018), <https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-25-Establishing-The-Governors-Affordable-Housing-Priorities-To-Address-Virginias-Unmet-Housing-Needs.pdf>

RECOMMENDATION 1: The adoption of more effective inclusionary zoning laws statewide by expanding the affordable dwelling units (ADU) program under § 15.2-2304 to all localities.

Currently, only a few Virginia localities are permitted to mandate their own inclusionary zoning rules to encourage ADUs.¹⁹ Other localities across the commonwealth are only included in the “voluntary” program, which experts admit simply hasn’t worked.²⁰ Changing zoning laws to encourage ADUs generally requires no public funding. Plus, proper inclusionary zoning regulations ensure that new developments contribute to the solution by making homes more equitably available to low-income families. Additionally, addressing zoning is a racial justice issue.²¹ Virginia localities should be allowed more freedom to tackle inclusionary zoning and affordable housing within their own jurisdictions.

RECOMMENDATION 2: Impose state limits on exclusionary zoning in localities.

The Commonwealth should also make efforts to increase the density of housing by requiring localities to have a certain percentage of affordable housing, lowering lot size requirements, and/or enacting other statutory or regulatory changes that allow lower income people to move into a locality. HB152 which was left in the House Committee on Counties, Cities, and Towns during the 2020 regular session, is an example of a policy that could have a strong impact on the share of affordable housing. The bill allowed for “middle housing,” or the building of duplexes, townhouses, cottages, and similar structures on all lots zoned for single family housing.

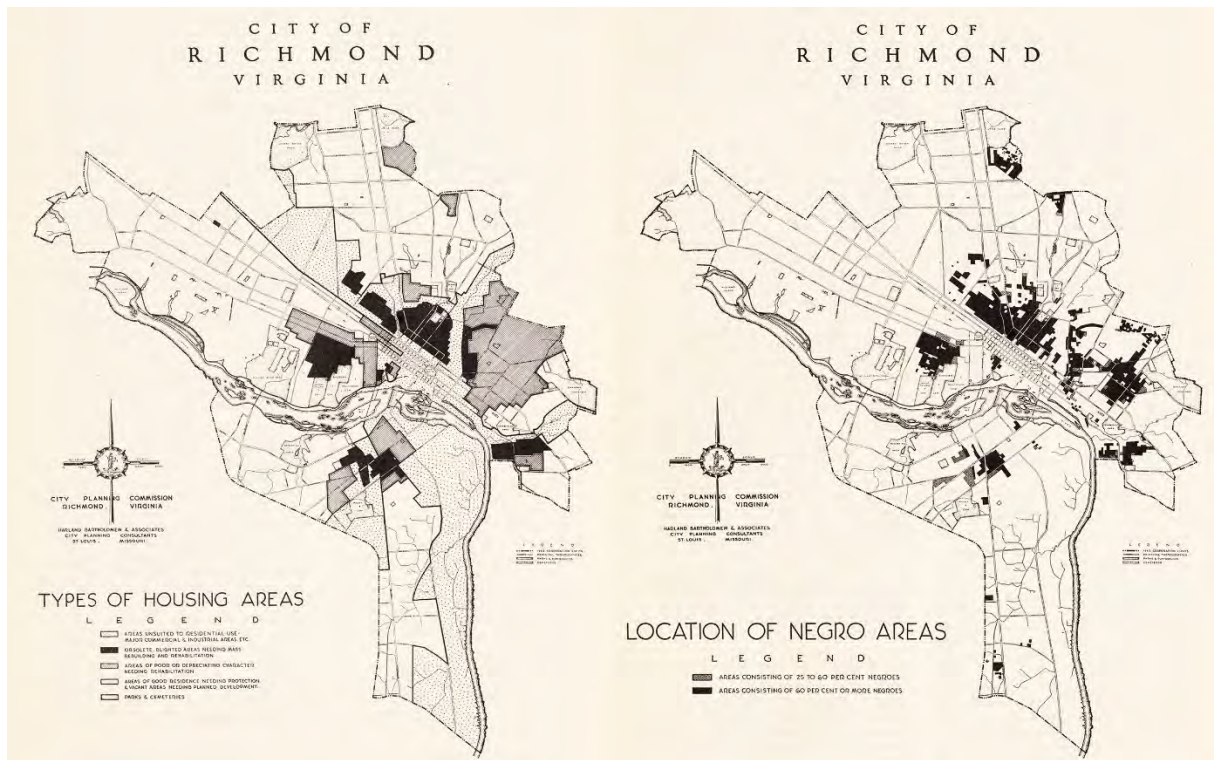
RECOMMENDATION 3: Add provisions to § 58.1-3965 that require locality foreclosure for tax delinquency within a set time frame on vacant or commercial properties and would automatically donate such properties to any local Community Land Bank (15.2-7500–7512) established for affordable housing.

One of the lesser-known problems in our housing crisis is the reluctance of local governments to engage in foreclosure for vacant tax delinquent properties, which would move those properties back onto the market where they can be redeveloped. Note that this policy does not refer to the struggling family that has been unable to pay the bills; this change would only address vacant buildings, sitting off the market, with absentee landlords or complex judgments against them in court. If the Commonwealth requires that these properties be foreclosed and put back on the market, we increase our statewide housing stock and improve localities’ resources to continue to invest in affordable housing solutions.

¹⁹ See HB 832 (2020), which added Charlottesville to the list of cities.

²⁰ See Solution 1-E, Partnerships for Housing Affordability, Richmond Regional Housing Framework, <https://pharva.com/framework/solutions/#1578339862797-28a37a1d-c767>

²¹ Ibraheem Samirah, Zoning for Abundant Housing is a Racial Justice Issue, Richmond Times Dispatch (July 15, 2020), https://richmond.com/opinion/columnists/ibraheem-s-samirah-column-zoning-for-abundant-housing-is-a-racial-justice-issue/article_18a96bf0-9a52-5945-995c-be9dfa0db340.html



During urban revitalization efforts, many policymakers used racial makeup to determine the blighted areas that would be torn down. In the wake of such efforts Black families were displaced and often forced into public housing against their will. *City of Richmond, Types of Housing Areas, Plate 8 and Plate 6, 22 June 1942, from the Map Collection of the Library of Virginia. City of Richmond.*

RECOMMENDATION 4: Incentivize local solutions with state dollars by (1) creating a state subsidy program for affordable housing development, (2) adding more funds to the Virginia Housing Trust Fund,²² and/or (3) attaching state development dollars to inclusionary zoning and affordable housing actions by localities. Increasing the affordable rental unit stock and promoting lower-income home ownership can be accomplished through a variety of methods, including subsidized lending, building efforts, and community land trusts.²³ Many Virginia localities know this, but have little incentive to solve what has become a collective problem that each locality passes on to the next. Virginia should attempt to create statewide incentives for such programs in order to discourage localities from excluding new and low-income residents. Virginia could also attach state development and housing funds to certain inclusionary zoning requirements. For other models, see Denver’s Housing fund, which has subsidized rents, renovated vacant hotels, and helped families in crisis.²⁴

²² Virginia Housing Trust Fund, Department of Housing and Community Development, <https://www.dhcd.virginia.gov/vhtf>

²³ See generally, Partnerships for Housing Affordability, Richmond Regional Housing Framework, <https://pharva.com/framework/solutions/#1578339862797-28a37a1d-c767>

²⁴ Jon Murray, Denver’s Affordable Housing Fund Covered a Woman’s Rent after a Medical Emergency. Here’s what else \$24 million is accomplishing, Denver Post (Aug. 25, 2018), <https://www.denverpost.com/2018/08/25/denver-affordable-housing-fund-expansion-spending/>

BACKGROUND

While a number of efforts have been implemented in the last two years,²⁵ evictions are the clearest area of disparate impact in Virginia's housing. Neighborhoods of color in particular have been devastated. Individuals of color are far more likely to be evicted than their White neighbors, even when income and other circumstances are equal.²⁶ Matthew Desmond, a national housing scholar based at Harvard University, found that overwhelmingly, nationwide, the people being evicted most are single Black moms with school-age children—an incredibly vulnerable group. Coronavirus has shed new light on the crisis with ongoing debates about rental relief, an eviction moratorium, and the danger of housing instability during a pandemic.

RECOMMENDATION 5: Provide building space and staff grants to Richmond and other high-eviction cities to serve as a physical, community-based space for a face-to-face coordinated eviction prevention program. Recent research suggests that one of the reasons for such high eviction rates in Richmond, is not at all a lack of resources, but an inability to connect such resources to the right individuals in a timely fashion.²⁷ Renters who have been passed from phone call to phone call have repeatedly advocated for an office with friendly faces that they can visit to get help. Providers agree that the disorganization is harmful to their ability to help clients. The staff in this space could coordinate with local nonprofits on rental assistance, rental repair funds, pre- and post- eviction support, and legal advocacy.

RECOMMENDATION 6: Request a cost-benefit analysis study on models for providing a right to counsel in eviction cases, from JLARC or another trusted research entity. Research has shown that providing counsel to those facing eviction has a host of community benefits, including reduced ultimate eviction rate (by nearly 80%), help applying for rental assistance and securing alternate housing, improvements in credit and other records consequences, and help negotiating payment options with a landlord.²⁸ This is an expensive option, but we recommend this topic for further study because of its proven effectiveness in reducing evictions. We suggest a Virginia-based cost-benefit analysis of various models for counsel.

²⁵ Central Virginia Legal Aid Society, 7 New Laws that are More Fair, Favorable and Friendly to Tenants, www.reduceevictions.org/wp-content/uploads/2019/04/new-landlord-tenant-laws-0319.pdf.

²⁶ Kathryn Howell, Eviction and Educational Instability in Richmond, Virginia, RVA Eviction Lab, https://rampages.us/rvaevictionlab/wp-content/uploads/sites/33937/2020/02/RVAEL_Eviction-and-Educational-Instability-in-Richmond.pdf.

²⁷ Tayla Lockman-Fine and Olivia Rosenthal, Evictions in Richmond: Overview, Current Responses, and Program Proposals (August 2019), <https://pharva.com/wp-content/uploads/Achieving-Coordinated-Access.pdf>

²⁸ Heidi Schultheis and Caitlin Rooney, A Right to Counsel is a Right to a Fighting Chance, Center for American Progress (Oct. 2, 2019), <https://www.americanprogress.org/issues/poverty/reports/2019/10/02/475263/right-counsel-right-fighting-chance/>

RECOMMENDATION 7: Revise Virginia's landlord-tenant laws to:

- Increase pay-or-quit period from 5 to 14 days
- Decrease allowed judgment use period from 6 month to 30 days
- Increase the number of times a tenant can use the right of redemption
- Extend the appeal bond period in eviction cases to 30 days, allow waivers for indigency like in other civil cases
- Create stricter consequences for informal evictions
- Seal/expunge eviction records after two years, or provide a court process for expungement, similar to Minnesota²⁹
- Automatic expungement for eviction cases that are dismissed
- Treat hotel/motel residents as tenants after 30 days of stay
- Limit what screening rules landlords may use to exclude poor tenants
- Clarify that income requirements must be based on tenant's portion of the rent (e.g. for voucher holders)
- Limit tenancy application fees

One of the biggest harms of eviction is its nearly permanent future damage to an individual's chances to get back on their feet. While a landlord may lose a small percentage of profit from unpaid rent, an evicted person may forever be screened from housing and unable to provide their family and children a safe space to live. Landlords use a variety of screening tools, including background checks, credit checks, and former eviction filings, to find ways to keep the poor out of their homes.

The current court process favors landlords over tenants. If we want people to stay in their homes, and our neighborhoods, schools, and economy to flourish, we should balance the process and help all Virginians be safely and stably housed. These recommendations are extensive, but each would help tenants stay in their homes and prevent unnecessary evictions.

²⁹ Minnesota Education for Justice Fact Sheet H-27: Expunging an Eviction Case (Fall 2011), https://www.mncourts.gov/mncourtsgov/media/assets/documents/0/public/Self_Help_Center/3981H-27-Expunging-Evictions.pdf

EDUCATION

The importance of public education is well-documented in the annals of Virginia state history. On June 12, 1776, the Virginia Declaration of Rights declared:

*That free government rests, as does all progress, upon the broadest possible diffusion of knowledge, and that the Commonwealth should avail itself of those talents which nature has sown so liberally among its people by assuring the opportunity for their fullest development by an effective system of education throughout the Commonwealth.*³⁰



In July of 1870, the Virginia General Assembly enacted a statute to establish and maintain a uniform system of free public schools. The statute also mandated that this new school system be racially segregated. *"Educational Progress in Virginia, The Schools for Colored Children in Richmond," Frank Leslie's Illustrated Newspaper, July 21, 1883, from the Visual Studies Collection of the Library of Virginia.*

On June 8, 1779, nearly three years after the drafting of Virginia's Declaration of Rights, Thomas Jefferson furthered this declaration by proposing a more detailed plan to educate the citizenry. In his *Bill for the More General Diffusion of Knowledge*, Jefferson aimed to provide three years of state-sponsored education in an array of subject areas that would help to "guard the sacred deposit of the rights and liberties of their fellow citizens."³¹ Jefferson's bill languished in the state

³⁰ Virginia Constitution, Art. I, § 15.

³¹ "A Bill for the More General Diffusion of Knowledge" (1779), <https://founders.archives.gov/documents/Jefferson/01-02-02-0132-0004-0079>

legislature for years until 1796, when a significantly scaled down version was passed.³² Though his plan to construct a broader system of state-run education in Virginia ultimately failed to meet his expectations, Jefferson's vision for constructing such a system was finally realized nearly 80 years later. On October 8, 1869, the newly-adopted Virginia Constitution established, among other things, the state's first system of free public schools.³³ The central aim of this newly-established system was to, "prevent children [from] growing up in ignorance, or [from] becoming vagrants."³⁴ Despite this seemingly placid history, public education in Virginia was not meant to be available to all Virginians on equal terms.

Only a few years removed from defeat in the Civil War, Virginia ratified the Thirteenth, Fourteenth, and Fifteenth Amendments, which abolished slavery, guaranteed equal protection of the laws, and protected the right to the franchise, respectively.³⁵ When Reconstruction failed in 1877, the vestiges of slavery and White racial terror pervaded in Virginia—and much of the south— through "Pig Laws."³⁶ These restrictive, racist laws were designed by recalcitrant White southerners to subjugate Black Americans to a life of social control, violence, and second-class citizenship.³⁷ By 1902, school children of different races were constitutionally prohibited from attending the same schools in Virginia, which served as the first instance that the state had expressly required racial segregation in schools.³⁸ It was not until the seminal *Brown v. Board of Education I* and *II* decisions half a century later that such *de jure* segregation—that is, formal segregation that existed as a result of local mandates—was outlawed. Yet, the era of massive resistance following *Brown* stymied any meaningful progress.

³² April Barkes, A Bill for the More General Diffusion of Knowledge, Jefferson's Monticello (April 2009), https://www.monticello.org/site/research-and-collections/bill-more-general-diffusion-knowledge#footnote2_02gn9k1

³³ Virginia Museum of History and Culture, Education in Virginia, <https://www.virginiahistory.org/collections-and-resources/virginia-history-explorer/education-virginia>

³⁴ *Id.*

³⁵ The National Constitution Center, The Reconstruction Amendments, <https://constitutioncenter.org/learn/educational-resources/historical-documents/the-reconstruction-amendments>

³⁶ Slavery by Another Name: Black Codes and Pig Laws, PBS, <https://www.pbs.org/tpt/slavery-by-another-name/themes/black-codes/>

³⁷ Ferris State University, Black Code, Jim Crow Museum of Memorabilia, <https://www.ferris.edu/htmls/news/jimcrow/links/mislink/blackcode.htm>; *see also* PBS, Slavery by Another Name: Black Codes and Pig Laws, <https://www.pbs.org/tpt/slavery-by-another-name/themes/black-codes/>

³⁸ Virginia Museum of History and Culture, Jim Crow to Civil Rights in Virginia, <https://www.virginiahistory.org/collections-and-resources/virginia-history-explorer/jim-crow-civil-rights-virginia>.

EDUCATION - VIRGINIA

VIRGINIANS!

Protect the rights of your children and yourself by voting FOR the convention on January 9, 1956.

A vote FOR the Convention is a vote

(1) Against enforced MIXED schools

(2) For the PRESERVATION of the public school system.

Do not be confused by the NAACP, the integrationists and the misinformed. A vote FOR the convention is simply a vote against enforced mixed schools. Nothing more.

Both DOCTORS DABNEY S. LANCASTER and DOWELL J. HOWARD, respectively, past and present State Superintendent of Schools, say that

A VOTE FOR THE CONVENTION IS A VOTE IN THE BEST INTEREST OF YOUR PUBLIC SCHOOLS.

**WORK FOR
TALK FOR
VOTE FOR THE CONVENTION**

Virginia's General Assembly Bars State Funds for Mixed Schools

RICHMOND, Va. A BATTERY of new laws—including one to deny state funds to integrated schools—was enacted by the Virginia General Assembly during its month-long special session which adjourned Saturday, Sept. 22. They were signed by the governor on Sept. 29.

The legislators adopted a program designed to implement Gov. Thomas B. Stanley's announced policy of "unyielding resistance" to the Supreme Court's anti-segregation decision. (See "Legislative Action.")

The plan provides for creation of a three-member Pupil Placement Board, appointed by the Governor, to take over from the local school boards the full authority to assign pupils to schools.

AUTOMATIC CLOSING

If the races are mixed in any school, that school is automatically closed and removed from the public school system. The governor then takes over, and by the reassigning of pupils or the reorganization of the school, attempts to make it possible to reopen the school on a segregated basis.

If the school cannot be reopened and if the pupils cannot be reassigned to segregated schools, tuition grants are made available to the children so that they can continue their education in nonsectarian private schools.

The big controversy in the Assembly was over the question whether one firm statewide anti-integration policy was to be established, or whether there was to be local option.

NARROW MARGIN



—Richmond Times-Dispatch

the wholesale. Let's stop kidding ourselves."

Sen. A. S. Harrison Jr. of Lawrenceville—Resistance should be on a statewide basis. "There may come a time when we have to retreat, but now is not the time." Any assignment plan to be valid can't stop at integrating only a few Negro pupils. "And who plays God to decide which superior colored child" should be integrated? Local option referendums would turn every locality into "little battlegrounds" of emotional struggles that would be dangerous. "There is more affection and more desire to help the Negro in these 140 members of the General Assembly than there is in the entire NAACP."

FAVORING OPTION IN AN

A person dissatisfied with the placement of a pupil may appeal to the governor, and from the governor to the state courts.

If a court orders a Negro child admitted to a white school, or if local authorities attempt to integrate a school, that school will automatically be closed.

GOVERNOR TAKES OVER

The governor then will take over direct control of that school and by reassigning pupils or reorganization of the school attempt to reopen it on a segregated basis. If that is not possible, he will try to reassign the children to other segregated public schools. Failing in this, the state will offer tuition grants to the children so that they may attend nonsectarian private schools.

In order to make the issue one directly between the state (rather than local officials) and the federal government, the law declares:

"Every action authorized and taken in conformity with the provisions of this act shall be and is hereby declared to be the act of the General Assembly of Virginia and an act of the governor of Virginia and an act taken on behalf of the sovereign commonwealth of Virginia, and if any suit, action or other legal proceedings be instituted relative thereto, the same shall be regarded and is hereby declared to be a suit, action or proceeding against the commonwealth of Virginia, and the commonwealth hereby declines and refuses for the commonwealth of Virginia or the governor of Virginia to be subject to such suit unless it shall be one brought by the attorney general of Virginia to enforce the laws of the commonwealth."

SCHOOL BOARDS AND SCHOOLMEN

The boycott of Surry County's Lebanon Elementary School for Negroes was resumed when schools opened last month.

The boycott started last February when the school board rented a cinderblock building close to Lebanon School and converted it for use as a temporary classroom. At the same time, work was being done on plans for a new \$240,000 12-room school building which is expected to be ready by next fall.

Approximately 30 third-graders were supposed to attend school in the cinderblock building pending completion of the new structure, but their parents kept them home. The parents took the view that the arrangement was not satisfactory.

BOYCOTT CONTINUED

When the fall term began last month, the same children were supposed to return to the cinderblock building, but the boycott was resumed. Miss Helen B. Slade, the teacher, sat in the building and waited in vain for her class.

Two weeks later, however, two of the Negroes returned to the school.

Three adult Negroes attempted unsuccessfully to register a group of about 30 Negro children at the all-White Stone Elementary School in Lancaster County when schools opened on Sept. 4.

The children and a number of adults with them waited in eight or 10 automobiles parked outside the school while the three spokesmen talked with the principal, T. Benjamin Hall. The three soon left the school and the entire

Jarnette, who recommended the change, said he felt the month-to-month appropriation was unnecessary for the remainder of the fiscal year since the schools had opened for the fall term "with everybody in his cubbyhole."

COMMUNITY ACTION

Asa Carter, head of the Alabama White Citizens Council, addressed a segregation rally in Charlottesville early last month, at which about 30 persons indicated they would form a Charlottesville branch of the Seaboard White Citizens Council.

Carter said he was willing to attend school to avoid integration. He said "they don't build a federal government big enough to integrate my children."

POLITICAL ACTIVITY

T. Coleman Andrews, the Richmonder who formerly headed the U. S. Bureau of Internal Revenue, will appear on Virginia ballots as a third party candidate for President.

One of the chief supporters of Andrews in Virginia is Robert B. Crawford of Prince Edward County, president of the Virginia Defenders of State Sovereignty and Individual Liberties, the strongly pro-segregation organization that has been active in the school controversy.

New Legislation

The Virginia General Assembly, in its special session which adjourned

In 1956, U.S. Senator Harry Byrd infamously stated that Massive Resistance laws were passed to "prevent a single Negro child from entering any White school." *Virginia's General Assembly Bars State Funds for Mixed Schools. Southern School News, October 1956, from the Visual Studies Collection of the Library of Virginia. Virginians! Protect the Rights of your Children, 1956. Library of Virginia Special Collections Broadside.*

Between 1954 and 1970, massive resistance to school desegregation continued virtually unabated. By way of example, only 170 of 204,000 Black students in Virginia were enrolled in formerly White public schools as of 1960.³⁹ Massive resistance helped bolster White supremacists' cause of preventing school desegregation across the Commonwealth. Massive resistance effectively ended with the Virginia 1971 Constitution's repeal of § 140 of the state's 1902 constitution, which had mandated school segregation.

And yet, the legacy of segregation—be it racial or socioeconomic—lives on in Virginia's schools. Since 2003, the number of racially-isolated, underserved public schools has nearly doubled.⁴⁰ Such *de facto* segregation not only undermines the spirit of our laws, but also proves counterintuitive given the overwhelming research finding a net positive relationship for students enrolled in integrated school environments.⁴¹ Students in integrated schools are less likely to drop out, more likely to enroll in college, more likely to earn higher overall test scores, and more likely to develop critical thinking, creativity, and problem-solving skills.⁴² Perhaps more critically, students of color and students from lower income families are not the only ones to receive these benefits. Rather, all students benefit from diverse environments.⁴³ Despite the recognized, collective benefit, Virginia's practices demonstrate that it has not prioritized integration.

In terms of socioeconomic disparities, Virginia's educational funding scheme ranks in the bottom half of states nationwide, creating vastly different low- and high-income school experiences.⁴⁴ Worsening this inequity, Virginia's state-level contributions to education rank among the bottom ten states in the nation (#41).⁴⁵ Under Virginia's funding scheme, nearly 60% of non-federal school dollars in Virginia come from localities (compared to a 48% national average).⁴⁶

³⁹ University of Virginia's Digital Resources for United States History, Virginia's "Massive Resistance" to School Desegregation, http://www2.vcdh.virginia.edu/xslt/servlet/XSLTServlet?xml=/xml_docs/solguide/Essays/essay13a.xml&xsl=/xml_docs/solguide/sol_new.xml§ion=essay

⁴⁰ Chris Duncombe and Michael Cassidy, Increasingly Separate and Unequal in U.S. and Virginia Schools, The Commonwealth Institute (2016), <https://www.thecommonwealthinstitute.org/2016/11/04/increasingly-separate-and-unequal-in-u-s-and-virginia-schools/6>

⁴¹ The Century Foundation, The Benefits of Socioeconomically and Racially Integrated Schools and Classrooms (Apr. 29, 2019), <https://tcf.org/content/facts/the-benefits-of-socioeconomically-and-racially-integrated-schools-and-classrooms/?session=1>

⁴² *Id.*

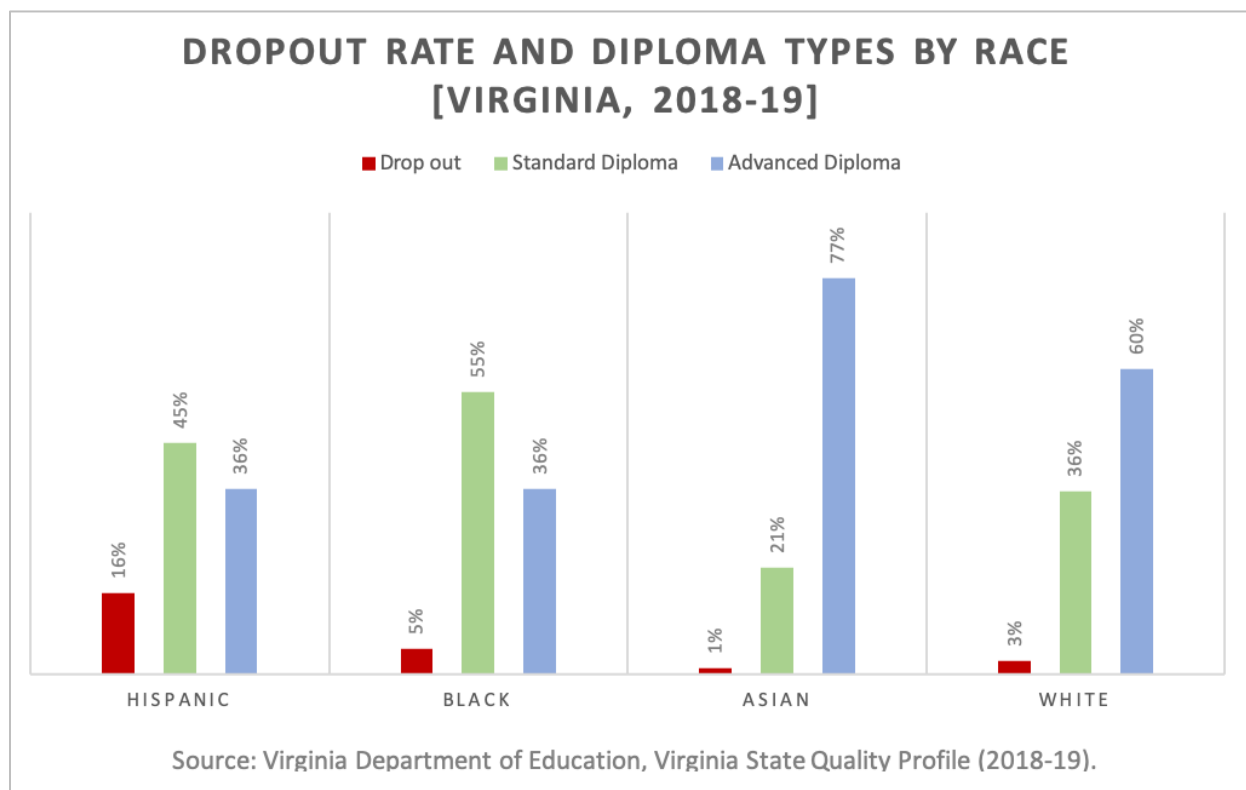
⁴³ *Id.*

⁴⁴ Cary Lou and Kristen Blagg, School District Funding in Virginia, Urban Institute (2018), https://www.urban.org/sites/default/files/publication/99540/school_district_funding_in_virginia_3.pdf

⁴⁵ National Education Association, Rankings of the States 2019 and Estimates of School Statistics 2020, https://www.nea.org/sites/default/files/2020-07/2020%20Rankings%20and%20Estimates%20Report%20FINAL_0.pdf

⁴⁶ *Id.*

This is a problem because local funding depends on property values, which align with racial disparities from historical government practices.



These inequities have stark impacts on outcomes. Today, Black and Hispanic students are twice as likely to lack proficiency in reading by third grade compared to their White peers.⁴⁷ By graduation, this achievement gap results in wide differences in dropout rates.⁴⁸ There is a noticeable disparity between the majority of White students who receive advanced diplomas, and their Black and Hispanic peers who receive standard diplomas.⁴⁹ COVID-19's disruption of education, particularly for low-income students, is likely to only worsen these disparities.

This section outlines education proposals adopted by the Commission. Each proposal seeks to address negative racial disparities in Virginia's education system. The Commission prioritized proposals which are shown by empirical data or other research to be effective in achieving equity outcomes and likely to have a large impact.

⁴⁷ Virginia Department of Education, Virginia State Quality Profile (2018-19), <https://schoolquality.virginia.gov/virginia-state-quality-profile>

⁴⁸ *Id.*

⁴⁹ *Id.*

The following topics are addressed in this section:

- Racial & Socioeconomic Integration
- School Funding Equity
- Early Childhood Education
- Teacher Diversity
- School-to-Prison Pipeline
- COVID-19 Education Recovery and Crisis Spending Guidelines

Region III
220 7th Street, N. E.
Charlottesville, Virginia 22901

OFFICE FOR CIVIL RIGHTS

MAR 15 1968

Dear Mrs. Hall:

Dr. Severinson has asked me to thank you for your February 28 letter regarding Henrico County Schools.

Your letter expresses displeasure at a suggestion, evidently published in the newspaper, for the grouping of Ratcliffe and Central Gardens Elementary Schools. We have read the newspaper account of this suggestion and we find it to be as unacceptable as you do. The suggestion did not originate in our office or with any member of our staff. It would be interesting to know just how it did originate and how it got into the newspaper.

Suggestions made by our staff for the desegregation of Henrico County Schools are, in our judgment, educationally sound. At the same time, we have made it clear to Henrico County School officials that this office is not requiring that any particular plan be adopted by school officials in order to comply with the requirements of Title VI of the Civil Rights Act of 1964. We have asked school officials to submit to this office a plan for completing the desegregation process and for removing all vestiges of a racially dual structure of schools. The county is operating illegal, segregated schools and must cease to do this. The procedures by which it eliminates the racial identification of its Negro schools must be determined by local school officials. Our staff will be pleased to give every possible assistance to school officials in their efforts to develop and implement such a plan.

We appreciate your concern for the education of Henrico County students. I am sure the Henrico County Board of Education will welcome any suggestions you may have for helping it to accomplish the purposes and meet the requirements under Title VI.

Sincerely yours,

/s/ W. Kenneth Haddock

W. Kenneth Haddock
Chief, Education Branch

Mrs. Edmund Hall
2602 Byron Street
Richmond, Virginia 23223

In 1956, only 49% of Americans—61% of Northerners and 15% of Southerners— supported school integration efforts.⁵⁰ Letter regarding integration of Henrico County Schools, 15 March 1968, from the Virginia. Dept. of Education, School Division, Desegregation files, 1965-1971, Accession 29479, State Government Records of the Library of Virginia.

⁵⁰ BROWN v. BOARD: Timeline of School Integration in the U.S., Teaching Tolerance, (2004), <https://www.tolerance.org/magazine/spring-2004/brown-v-board-timeline-of-school-integration-in-the-us>.

BACKGROUND

Substantial research supports the idea that, in addition to the social benefits of diversity, integration makes a positive difference in student learning outcomes. Students in integrated schools are less likely to drop out, more likely to enroll in college, they have higher overall test scores and smaller achievement gaps. These benefits don't just accrue to minority or poor students: all students benefit from diverse environments.⁵¹ Yet Virginia has not prioritized integration. Schools in Virginia are increasingly isolated by race and socioeconomic status, with the number of highly-segregated, high-poverty schools nearly doubling in the last twenty years.⁵²

RECOMMENDATION 1: Repeal 22.1-25 (A) 1-3⁵³ to allow regional solutions to inequity. This statutory language strictly limits the power granted to the Board of Education under the Virginia Constitution to draw school zone lines that “promote the realization of the standards of quality.”⁵⁴ Instead, it preserves division lines from the 1970s, after *Milliken v. Bradley*, the Supreme Court decision that forbade integration plans that crossed district lines. This law effectively protects segregation created by families who had moved to avoid integration. The statute prevents regional solutions to school inequality and exacerbates problems caused by housing discrimination. Note that no other statutes currently on the books regulate student assignment or school zone drawing within districts. The Commission recommends the statute's repeal because of its problematic purpose and history.

⁵¹ *Id.*

⁵² Chris Duncombe and Michael Cassidy, *Increasingly Separate and Unequal in U.S. and Virginia Schools*, The Commonwealth Institute (2016), <https://www.thecommonwealthinstitute.org/2016/11/04/increasingly-separate-and-unequal-in-u-s-and-virginia-schools/6>; see also Genevieve Siegel-Hawley, et al., *School Segregation by Boundary Line in Virginia: Scope, Significance, and State Policy Solutions*, The Center for Education and Civil Rights (Nov. 2020), https://cecr.ed.psu.edu/sites/default/files/School_Segregation_by_Boundary_Line_in_Virginia_Nov_2020.pdf (finding that segregation between schools in the same division is prominent, and that division boundary lines around independent cities in metro areas “are related to higher school segregation.”).

⁵³ Current Virginia Code § 22.1-25(A) 1-3. *How School Divisions Made*. ... 1. The school divisions as they exist on July 1, 1978, shall be and remain the school divisions of the Commonwealth until further action of the Board of Education taken in accordance with the provisions of this section except that when a town becomes an independent city, the town shall also become a school division. 2. No school division shall be divided or consolidated without the consent of the school board thereof and the governing body of the county or city ... 3. No change shall be made in the composition of any school division if such change conflicts with any joint resolution ... of the General Assembly ...

⁵⁴ The Constitution of Virginia, Article VIII, Section 5(a) reads as follows: Section 5. Powers and duties of the Board of Education. The powers and duties of the Board of Education shall be as follows: (a) Subject to such criteria and conditions as the General Assembly may prescribe, the Board shall divide the Commonwealth into school divisions of such geographical area and school-age population as will promote the realization of the prescribed standards of quality, and shall periodically review the adequacy of existing school divisions for this purpose. (emphasis added)

RECOMMENDATION 2: Incentivize and facilitate integration programs such as controlled choice zoning, magnet schools, and metro-wide agreements. There are many models to use. For example, the merged city-suburban school district of Louisville and Jefferson County in Kentucky started controlled choice in the 1990's. The school district has been able to meet diversity goals for the vast majority of its schools while receiving broad support from parents and students. Other examples include Hartford's magnet school programs, which draw suburban students in and send urban students out to nearby districts, and the METCO program in Massachusetts (in which the state covers transportation and other costs for underprivileged students from inner-city Boston to fill empty seats in suburban schools). METCO also provides wraparound services such as social worker counseling and college visits. Another model of regional funding is Omaha's "Common Levy," which helps achieve equity in school funding by sending more money where it is most needed.⁵⁵ Virginia could encourage integration through a number of methods, including funding incentives, new laws and policies, and resource incentives. The Commission notes that it is important for such programs to be well-funded, include free transportation, and include sufficient funding for building awareness and enrollment through marketing.

RECOMMENDATION 3: Add a diversity metric to school accreditation ratings. Research has shown that diversity is important for the growth of all students, from resource equity and to personal growth and relationship building. Since diversity is necessary for a quality education and adequate workforce preparation, it should be part of the state accreditation process. Adding a diversity metric can be done by the Board of Education, which has authority to set the state accreditation process under the Every Student Succeeds Act.⁵⁶

RECOMMENDATION 4: Eliminate bias by changing course access, counseling, and gifted regulations. All children deserve learning experiences that adequately challenge them and prepare them for long-term studies. Yet Virginia's advanced courses disproportionately leave out students of color. White students are 2.1 times more likely to be enrolled in a gifted or Advanced Placement (AP) course than Black students and 1.9 times more likely than Hispanic students.⁵⁷ There are several possible reasons. First, students are not being identified or counseled to take

⁵⁵ John Britton, Larkin Willis, and Peter Cookson, *Sharing the Wealth: How Regional Finance and Desegregation Plans Can Enhance Education Equity*, The Learning Policy Institute (Feb. 2019),

https://learningpolicyinstitute.org/sites/default/files/product-files/Sharing_The_Wealth_REPORT.pdf

⁵⁶ Genevieve Siegel Hawley, et al., *Confronting School and Housing Segregation in the Richmond Region: Can We Learn and Live Together?* (2017),

<https://scholarship.richmond.edu/cgi/viewcontent.cgi?article=1074&context=spcs-faculty-publications>

⁵⁷ Lena Groeger, Annie Waldman, and David Eads, *Miseducation: Is there Racial Inequality at Your School?* ProPublica (October 16, 2018), <https://projects.propublica.org/miseducation/>

advanced courses.⁵⁸ Second, their families are unable to pay private costs required to advocate through the appeals process.⁵⁹ Third, students of color disproportionately attend under-resourced schools that do not offer advanced courses. To respond, we should add cultural sensitivity training to the gifted identification process. Second, we must reform the gifted appeals process. In Northern Virginia in particular, many wealthy families have their children privately identified as gifted (at the cost of at least several hundred dollars), then appeal their school's initial decision, ultimately succeeding in getting their children into advanced programs. But many families cannot afford such expensive exams or appeals processes. If the state offers gifted programming, it must reform the identification and appeals processes to remove the inherent advantage to certain families.⁶⁰

Lastly, there should be checks on bias in career counseling and guidance. Virginia guidance counselors provide career counseling in middle school, and then help students choose the best diploma option for their life and professional goals. Somehow in this process, Black and Hispanic students are ending up with standard diplomas and worse options. According to the New York Times, this may actually be due to biased counseling.⁶¹ The Commission recommends legislation that would require the Board of Education to revise the career counseling and diploma regulations to combat this trend, or direct regulatory reform.⁶²

⁵⁸ Steven Vegh, Statistics show a Gap in Gifted Education, *The Virginian-Pilot* (Sep. 19, 2012), https://www.pilotonline.com/news/education/article_9d576f91-7b15-5adc-8bea-9ffd39d0bc7b.html

⁵⁹ Matthew Barakat, School System's Appeals Process Leaves Some Minorities Out, *Business Insider* (Feb. 3, 2018), <https://www.businessinsider.com/ap-school-systems-appeals-process-leaves-some-minorities-out-2018-2>

⁶⁰ See regulations at 8VAC20-40.

⁶¹ Erica Green and Annie Waldman, "You are still Black": Charlottesville's Racial Divide Hinders Students (Oct. 16, 2018), <https://www.nytimes.com/2018/10/16/us/charlottesville-riots-black-students-schools.html>

⁶² See regulations at 8VAC20-131-140. See diploma regulations at 8VAC20-131-51.

BACKGROUND

According to at least two national research centers, Virginia ranks poorly—near the bottom of the 50 states—in the equity of its state educational funding scheme.⁶³ In 2015, students in Virginia’s highest-poverty districts received 7% fewer dollars overall than their peers in the lowest-poverty districts, one of the largest of such disparities nationwide.⁶⁴ These school funding disparities are more pronounced when assessing race and ethnicity data, with districts serving the most students of color receiving 8% less funding from the state.⁶⁵ In addition to an inequitable funding scheme, Virginia’s state-level contributions to education rank in the worst ten states in the nation (#41), leaving nearly 60% of non-federal school dollars in Virginia to come from localities (compared to a 48% national average).⁶⁶ This is a problem because local funding is dependent on property values – which align with racial disparities from historical government practices, such as redlining, as previously mentioned. As the Commonwealth’s school-aged population continues to grow and diversify, one of the chief problems for government leaders becomes reassessing how funds are distributed to districts of higher need statewide.

⁶³ Cary Lou and Kristen Blagg, *School District Funding in Virginia*, Urban Institute (2018), https://www.urban.org/sites/default/files/publication/99540/school_district_funding_in_virginia_2.pdf; Bruce Baker, Danielle Farrie, David Sciarra, *Is School Funding Fair? A National Report Card*, Education Law Center with Rutgers School of Education (2018), https://edlawcenter.org/assets/files/pdfs/publications/Is_School_Funding_Fair_7th_Edit.pdf. Note that the Education Trust ranks Virginia in the middle of states for funding disparities based on socioeconomic status alone, but ranks Virginia near the bottom in terms of racial disparities. The Education Trust, *The State of Funding Equity in Virginia* (2017), <https://edtrust.org/graphs/?sname=Virginia>.

⁶⁴ Andrew Warren and Chris Duncombe, *In Funding High-Poverty Schools, Virginia Gets a Failing Grade*, The Commonwealth Institute: Half Sheet (Aug. 28, 2018), <https://thehalfsheet.org/post/177487398498/in-funding-high-poverty-schools-virginia-gets-a>

⁶⁵ The Education Trust, *The State of Funding Equity in Virginia* (2017), <https://edtrust.org/graphs/?sname=Virginia>.

⁶⁶ National Education Association, *Rankings of the States 2019 and Estimates of School Statistics 2020*, https://www.nea.org/sites/default/files/2020-07/2020%20Rankings%20and%20Estimates%20Report%20FINAL_0.pdf

RECOMMENDATION 5: Invest in educational infrastructure. The COVID-19 pandemic has highlighted how important good technology and healthy learning environments are for students in our schools. Yet our state funding scheme generally does not provide funding for school buildings or other capital expenses, expecting cash-strapped municipalities to foot the bill. This means that our poorest districts have the worst buildings, the most outdated software, and the weakest data security, making it even harder for them to provide a quality education and meet the state and federal reporting requirements. It is time for Virginia to recognize that capital expenses are a part of the Commonwealth’s responsibility to our children. The Commission supports using state operating and capital funds to support Virginia’s school infrastructure.

RECOMMENDATION 6: Reconfigure the funding formula to take account of student need.

The inequities above are, in part, the result of simple budget language. Virginia should reform the “Local Composite Index” formula to consider levels of need and concentration of need. While the current formula considers a locality’s ability to pay, it generally ignores the proportion of high-needs students the district is educating.⁶⁷ This results in major inequities: the districts that most need additional resources aren’t getting them. Note that both the Commonwealth Institute and the Virginia Legislative Black Caucus suggest increasing the At-Risk Add-on as an alternative measure, and the Board of Education has suggested a new line item called the Equity Funding for addressing concentrated poverty. Though the Add-On and Equity Fund are ways to achieve equity that the Commission would also support, the Commission officially recommends changing the foundation formula entirely so that equity does not depend on an annual allocation. As an example, the COVID-19 economic crisis resulted in an unallotment of millions of dollars meant to improve school equity through the Add-On during the spring of 2020.⁶⁸ This unallotment—though later restored—shows why it’s better not to leave equity of funding up to a separate line item in the budget. It is important to work equity into the foundational funding system.

⁶⁷ “Virginia could consider ... whether to cap the required local share and at what level, whether the local share of the state’s poor school-age children should be accounted for in sales tax revenue distributions, whether to fund cost of competing adjusted salaries in selected districts, and the size of various funding streams targeting low-income, special education, and other at-risk students.”

https://www.urban.org/sites/default/files/publication/99540/school_district_funding_in_virginia_2.pdf

⁶⁸ “The funds that were unallotted (but later restored) included \$490 million in aid for early education and K-12 schools. The General Assembly had voted earlier this year to substantially increase Virginia’s At-Risk Add-On program, which directs resources to school divisions with the highest concentration of students from low-income families, to help address Virginia’s long-standing inequity in school funding, and that funding has now been suspended. Other unallotted investments include resources for the Virginia Preschool Initiative (\$91.5 million) and increasing students’ access to school meals (\$10.6 million).” Chris Duncombe and Chad Stewart, Virginia Can Choose Equity for School Funding During Economic Crisis, The Commonwealth Institute (June 8, 2020), <https://www.thecommonwealthinstitute.org/2020/06/08/virginia-can-choose-equity-for-school-funding-during-economic-crisis/>

BACKGROUND

According to the Centers for Disease Control and Prevention (CDC), for every \$1 spent on a state or district early childhood education program, \$3 to \$5 worth of benefits follow.⁶⁹ Not only do students have better academic outcomes in the first few years of schooling, they have better long-term outcomes, such as reductions in criminal offenses and increased health benefits. Pre-K is also associated with reductions in poverty and increases in parental employment. While Virginia has made progress in recent years on expanding access to early childhood education, challenges in equity and access remain. One problem that can be solved is the lack of data. Because Virginia's early childhood education system is so fragmented—between home-grown daycare, Federal Head Start, Virginia Preschool Initiative (VPI), and private preschools—researchers do not have a clear picture of where disparities are or how to make improvements. In addition, kindergarten teachers lack information on the abilities of their entering students.

RECOMMENDATION 7: Advocate for high quality pre-kindergarten programs for all children.

Universal Pre-K is one of the most powerful long-term investments Virginia could make, and increasing both access and quality is essential to the Commonwealth's long-term success. Research suggests such programs should be at least full day, five days a week, and should be available for children at as young an age as possible in order to reap the best benefits in education, public health, and family stability.⁷⁰ The Commission encourages further Pre-K access.

RECOMMENDATION 8: Support the Governor's initiative to unify the Pre-K data system and create Pre-K student identifiers. Identifying and researching Pre-K disparities is essential to the work of the racial justice. The Commission therefore supports efforts to unify the Pre-K data collection system by assigning student identifiers to younger children, specifically those not in state-run Pre-K programs.⁷¹ This will allow the Commonwealth to know where students are getting Pre-K experiences, what those experiences are like, and how their kindergarten-readiness relates to those experiences.

⁶⁹ Centers for Disease Control and Prevention, Early Childhood Education, <https://www.cdc.gov/policy/hst/hi5/earlychildhoodeducation/index.html>

⁷⁰ Kelsey Piper, Early Childhood Education Yields Big Benefits—Just Not the Ones You Think, Vox (Oct. 16, 2018), <https://www.vox.com/future-perfect/2018/10/16/17928164/early-childhood-education-doesnt-teach-kids-fund-it>

⁷¹ Current Virginia Code § 22.1-287.03(B) Unique Student Identification Numbers: ... (B) The Department of Education shall develop a system of unique student identification numbers.... to each student enrolled in a public elementary or secondary school.

BACKGROUND

Teacher diversity has a huge impact on student outcomes. Studies have shown that minority students who had a teacher from their own background during elementary school were 7% more likely to graduate from high school and 13% more likely to enroll in college.⁷² Teachers of color serve as role models, effective educators, and valuable signals of the importance of education and diversity. While half of Virginia’s students are children of color, nearly 80% of Virginia teachers are White. In fact, while the proportion of students of color continues to rise, the proportion of teachers of color has fallen in recent years. We must reverse this trend. This problem is one of both recruitment and retention. Only a quarter of individuals in Virginia’s teacher preparation programs are individuals of color. In addition, Virginia loses nearly one fifth of its teachers of color every year (compared to 15% of White teachers) due to high turnover. Teachers of color with provisional licenses, particularly Black teachers, are significantly less likely to complete the requirements and remain teachers long term (63% for Black teachers compared to around 75-80% for other races).⁷³

RECOMMENDATION 9: Mandate data collection and reporting on diverse teacher recruitment and retention. The Commission recommends that VDOE or the Board of Education annually collect and publish district-level data on teacher diversity at each stage of the teacher pipeline, including recruitment, application, hiring, and retention. This can be mandated by statute, for example at § 22.1-290.01(C), where the Teacher Loan program is established. This data will help inform how best to combat the high turnover and poor recruitment of diverse teachers in Virginia, while also incentivizing districts to improve their outcomes.

RECOMMENDATION 10: Endorse recommendations by the Taskforce on Diversifying Virginia’s Educator Pipeline. The Commission recommends that VDOE approval of a 4-year Bachelors-to-licensure program and VDOE creation of a model “Grow-Your-Own” program for districts to implement. While not a goal of the Commission, we also include the following recommendations that would require state budgetary changes: increased state funding for teacher compensation in high-needs schools, scholarships for Praxis and other licensure exams, stipends for student teachers, and expansion of the teacher loan program; and state investment in marketing programs to recruit more minority teachers.

⁷² Seth Gershenson, et al., *The Long-Run Impacts of Same-Race Teachers*, NBER Working Paper 25254 (Nov. 2018), <https://www.nber.org/papers/w25254.pdf>; *see also* <http://educationnorthwest.org/resources/resources-recruiting-hiring-and-retaining-teachers-color>

⁷³ Report from the Taskforce on Diversifying Virginia’s Educator Pipeline (Aug. 2017), <https://www.education.virginia.gov/media/governorvirginiagov/secretary-of-education/pdf/final-tdvrep-report.pdf>

BACKGROUND

What has come to be called the “School-to-Prison Pipeline” has been confirmed by multiple long-term studies: students overexposed to exclusionary discipline practice—such as out-of-school suspensions, or court referrals for simple school misconduct—are more likely to drop out of school, fall behind academically, and get caught up in the juvenile justice system. By relying on exclusionary discipline for relatively minor classroom misbehavior, school actors aggravate and worsen students’ long-term outcomes.⁷⁴ Despite a massive increase in Virginia’s student enrollment numbers, support staff numbers have dropped in the last fifteen years, with a corresponding increase in exclusionary discipline use.⁷⁵ The damaging consequences of this trend are overwhelmingly felt by students of color. For example, Virginia’s unusually high use of police officers to manage behavior in classrooms (one of the top 3 states in the nation) falls far more harshly on Black students, who are 2.5 times more likely to have the police called on them from class. Suspensions are also used disparately: as of 2018, Black students were 4.5 times more likely than their White classmates to be suspended from school.⁷⁶

RECOMMENDATION 11: Establish the Virginia Council to Dismantle the School-to-Prison Pipeline via statute. The Commission proposes the creation of the Virginia Council to Dismantle the School-to-Prison Pipeline, a statutorily-established body charged with tracking law enforcement and disciplinary practices within public schools. Creating such a body will build upon efforts from previous administrations, while also establishing a central authority that can continue to effect positive change in this space long after the Northam administration has ended. Specifically, this body will be responsible for (1) studying current disciplinary practices and data trends, particularly as they relate to disparate educational outcomes and justice involvement by racial category within Virginia K-12 schools; and (2) recommending best practices and statutory changes that will lead to safer school environments and more equitable disciplinary practices.

⁷⁴ Emily Morgan, et al., The Council of State Governments Justice Center, *The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System* (2014), http://knowledgecenter.csg.org/kc/system/files/The_School_Discipline_Consensus_Report.pdf

⁷⁵ Sherri Egerton, et al., Legal Aid Justice Center, *Investing in Student Safety and Success: The Growing Importance of Effective Staffing in Schools* (August 2018), <https://www.justice4all.org/wp-content/uploads/2018/08/Investing-in-Student-Safety-and-Success.pdf>

⁷⁶ Amy Woolard, et al., Legal Aid Justice Center, *Suspended Progress 2018: An Update on the State of Exclusionary Discipline and Alternative Education in Virginia’s Public Schools* (October 2018), <https://www.justice4all.org/wp-content/uploads/2018/10/FullSuspendedProgress2018.pdf>

RECOMMENDATION 12: Limit the presence of School Resource Officers (SRO) in Virginia K-12 schools by reallocating a portion of the resources from the state’s SRO program to invest in increased school counselors/mental health supports in schools. A school resource officer (SRO) is a “certified law-enforcement officer hired by a local law enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.”⁷⁷ A 2017-2018 School Safety audit, the most recent data available, found that approximately 770 SROs were placed in nearly 1100 schools across the Commonwealth.⁷⁸ This total amounts to roughly 55% of all Virginia schools.⁷⁹ The presence of SROs in Virginia schools has had a disproportionately adverse effect on children of color.⁸⁰ Specifically, though students of color represent approximately 40% of the school-age population, they accounted for nearly 60% of school arrests.⁸¹ According to Justice Forward Virginia, “Black girls make up 17% of the school population,” but were “43% of the students arrested or referred to law enforcement for prosecution.”⁸²

The American Civil Liberties Union (ACLU) has recently provided helpful guidance on how to remove police from schools while creating and maintaining a safe school environment.⁸³ Specifically, the ACLU recommends that states provide additional school-based mental health professionals and counselors, provide trauma-informed training for staff, and ensure accurate data collection so as to better identify and address safety concerns.⁸⁴ The President of the Fairfax NAACP, Sean Perryman, recently drafted and sent a letter signed by more than a dozen organizations in Virginia to Governor Northam requesting that \$9 million in state funds be reallocated away from the SRO program during the special session.⁸⁵ More than a dozen advocates signed onto the letter, including Delegate Kaye Kory (D-Fairfax).⁸⁶ The Commission recommends an action along these lines.

⁷⁷ Virginia Code § 9.1 - 101.

⁷⁸ Legal Aid Justice Center, School Resource Officers and Virginia Law (2020), <https://www.justice4all.org/2020/06/05/sro-va-law/>

⁷⁹ Jason Langberg and Angela Ciolfi, Protecting Childhood: A Blueprint for Developmentally Appropriate School Policing in Virginia (2016), <https://www.justice4all.org/wp-content/uploads/2016/01/School-Policing-Report-Full.pdf>

⁸⁰ Alliance for Educational Justice, We Came to Learn: A Call to Action for Police-Free Schools, <https://wecametolearn.com/>

⁸¹ *Id.*

⁸² Justice Forward Virginia, Do Police in Schools Really Make Our Kids Safer? <https://justiceforwardva.com/police-in-schools>

⁸³ Amir Whitaker, et al., Cops and Counselors: How the Lack of School Mental Health Staff is Harming Students, ACLU, https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf

⁸⁴ *Id.*

⁸⁵ Michelle Murillo, Letter to Governor Northam Pushes for Shift in School Resource Officer Funding, WTOP News, (July 7, 2020), <https://wtop.com/virginia/2020/07/letter-to-gov-northam-pushes-for-shift-in-school-resource-officer-funding/>

⁸⁶ *Id.*

RECOMMENDATION 13: Impose stronger statutory limits on out-of-school suspension. By relying on exclusionary discipline for relatively minor classroom misbehavior, school actors aggravate and worsen students’ long-term outcomes. Due to the devastating effects that out-of-school suspensions can have on students and the racially disproportionate use of such suspension, Virginia, in 2018, reduced the maximum length of long-term suspensions from a full year to 45 days, and limited available suspensions for K-3 students to 3 days. However, Virginia could go further still. New York, for example, has a 20-day limit.⁸⁷ The Commission recommends that Virginia impose stronger statutory limits on such suspensions.

RECOMMENDATION 14: Increase support staff funding as an alternative to suspension.

Access to quality support staff, where a student is supported academically, socially and emotionally, can lead to positive outcomes in a student’s life. Specifically, recent research has found that “just one additional counselor at a school can have nearly a 10 percentage point increase on average in 4-year college attendance rates.”⁸⁸ For nearly 15 years, however, Virginia’s student population has increased by nearly 60,000, but such critical investments—like these social and emotional supports—have decreased.⁸⁹ Currently, a Virginia school counselor’s average caseload is more than 360 students per counselor. In some jurisdictions, this ratio balloons to more than 1,000 students per counselor.⁹⁰ The Commission recommends an increase of state funding to adequately staff schools with such critical counseling and student support services.

⁸⁷ Alex Zimmerman, NYC to Curb Suspensions longer than 20 days, a major victory for discipline reform advocates (June 20, 2020), <https://chalkbeat.org/posts/ny/2019/06/20/nyc-is-capping-suspensions-at-20-days-a-major-victory-for-discipline-reform-advocates/>

⁸⁸ Kathy Mendes, Sufficiently Staffed Counselors are Key for Safe and Healthy Schools, The Commonwealth Institute: The Half Sheet (Feb. 7, 2020), <https://www.thecommonwealthinstitute.org/wp-content/uploads/2020/02/Sufficiently-Staffed-Counselors-Are-Key-for-Safe-and-Healthy-Schools.pdf>

⁸⁹ *Id.*

⁹⁰ *Id.*

BACKGROUND

The COVID-19 pandemic has had a devastating impact on Virginia’s public schools. Last March schools closed for the year, and this fall schools across the Commonwealth are experimenting with online coursework, hybrid learning, and limited opening plans. Despite the heroic efforts of educators during this difficult time, new alarming research shows that all these learning disruptions are having a big impact, and one that is disparately harming children of color.⁹¹ Some of this disparity is due to lack of access to computers, quiet spaces at home, good and affordable internet service, as well as stable housing.⁹² Other disparities are a result of schools themselves—some schools and school divisions have far more resources to provide engaging face-to-face online learning.⁹³ Students with special needs in particular are struggling with online learning, which requires high executive functioning and rarely includes the special support and redirection needed from qualified educators in the classroom.⁹⁴

All in all, researchers estimate the learning loss to be significant for all children, but to be most severe for children in low income homes, particularly Black and Hispanic/Latinx children.⁹⁵ It will be essential for Virginia to prioritize equity next year as it begins to lay out plans for recovery. Rather than laying out a specific solution, below are several principles the Governor should follow in making choices on spending, budget cuts, and allocation of emergency funds for education during or following a crisis. These guidelines were created in collaboration with The Commonwealth Institute.

⁹¹ Maya King and Nicole Gaudiano, The Pandemic could widen the achievement gap. A generation of students is at risk. Politico (Sept. 23, 2020), <https://www.politico.com/news/2020/09/23/how-the-coronavirus-is-making-school-segregation-worse-420839>

⁹² Dana Goldstein, Research Shows Students Falling Months Behind During Virus Disruptions, New York Times (June 5, 2020), <https://www.nytimes.com/2020/06/05/us/coronavirus-education-lost-learning.html>

⁹³ *Id.*

⁹⁴ Anna North, We Need to Talk About What School Closures Mean for Kids with Disabilities, Vox (Aug. 6, 2020), <https://www.vox.com/2020/8/6/21353154/schools-reopening-covid-19-special-education-disabilities>

⁹⁵ Emma Durn, et al., COVID-19 and student learning in the United States: The hurt could last a lifetime, McKinsey & Company (June 1, 2020), <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/covid-19-and-student-learning-in-the-united-states-the-hurt-could-last-a-lifetime>

RECOMMENDATION 15: The Commission proposes the following guidelines for crisis education spending: A. Federal emergency funds should be distributed proportionally by need. The use of federal recovery funds is essential help in an emergency, but acting as if all schools need the same amount of help ignores the reality of a crisis’s effect on education.⁹⁶ Crises harm poor and disadvantaged students more severely than their wealthier peers. Thus, to preserve any kind of fairness it is essential that federal funds be distributed based on student need. While the federal CARES funds have largely been allocated, there are ongoing discussions for additional federal assistance. State leaders should allocate any additional federal assistance based on student need.

One way to do this is to allocate assistance based on the previous year’s Title I shares similar to the Elementary and Secondary School Emergency Relief funds (ESSER) in the CARES Act. Another way would be to count the ADM (average daily membership) for each district, add an additional ADM number for each child from a family in poverty, and an additional ADM for children with an Individual Education Plan (IEP) or English Language Learner (ELL) status. The resulting ‘score’ for each school will be proportionally based on the concentration of need, and funds distributed based on these scores will give those who most need help a greater chance of recovery.

B. When using emergency funds to support education during a crisis, decision makers must consider affordability issues for families. Since the COVID-19 crisis has thrown much into disarray, state and local leaders have also allocated new resources to important factors outside of the school building that affect education. These include food security, housing stability and evictions, and broadband access or computer ownership for remote learning. All of these are excellent priorities, but it is important to consider not just access to each of these elements, but also affordability. For example, the Commonwealth Institute discovered that despite legislators’ focus on broadband expansion, there is actually a huge broadband affordability problem. Therefore, many children of color who live in cities with broadband networks are still excluded from effective online schooling.⁹⁷ When state leaders use federal funds or other emergency funds to solve problems like these, it is important for them to consider the issue of affordability for families. For example, Alabama used its CARES Act funding to provide internet credits for students who are recipients of free and reduced-price lunch.⁹⁸ Just like housing vouchers can help people pay the rent, internet

⁹⁶ Northam Announces Additional \$220 million in Federal Funds for Schools, NBC4 Washington (Oct. 8, 2020), <https://www.nbcwashington.com/news/local/northam-announces-additional-220m-in-federal-funds-for-schools/2439348/>

⁹⁷ Gabriel Worthington et al., Addressing Barriers to Virtual Learning for Virginia Students, The Commonwealth Institute: The Half Sheet (Aug. 21, 2020), <https://thehalfsheet.org/post/627080175386066944/addressing-barriers-to-virtual-learning-for>

⁹⁸ Trisha Powell Crain, Alabama to Give \$100 Million in Internet Vouchers for Low-Income Students, Alabama.com (July 31, 2020), <https://www.al.com/news/2020/07/alabama-to-give-100-million-in-internet-vouchers-for-low-income-students.html>

credits can help people purchase the expensive broadband service that has become essential in an emergency. [Note that these are not “vouchers” that would offer alternate private education services but similar to coupons for internet service].

C. Cuts to state spending due to crisis economic conditions should preserve equity efforts. Even in a budget shortfall, it is critical to look at the entire budget and preserve equity-based investments. The suspension of new state K-12 funding this spring did not affect all students equally. School divisions with the highest share of students of color and students from low-income households lost significantly more funding on a per pupil basis from the suspension of new state budget spending.⁹⁹ Though it appears these funds are being restored under the new special session budget,¹⁰⁰ the initial decision was exactly the reverse of what policymakers should have done, since there is increasing evidence that students of color and students from low income households face major barriers to education at this time. If state spending on education is cut during a crisis, the Governor should preserve the At-Risk Add-On (as has been proposed by the General Assembly) and other equity efforts, while cutting from general education assistance instead. This is a matter of policy effectiveness: losing a dollar in a high poverty school hurts a lot more than losing a dollar in other schools.

D. Spending restoration after a crisis should prioritize equity funding first. The Board of Education last year passed new Standards of Quality that not only realistically addressed staffing and resource needs for Virginia’s schools but prioritized equity by creating a brand-new fund for addressing students learning in settings of concentrated poverty—the Equity Fund.¹⁰¹ The combination of the Equity Fund and the At-Risk Add-On (or alternatively, a recalculation of the Local Composite Index that includes these same factors) should be the first priority of state leaders as soon as the crisis begins to wind down and budgets begin to grow. Recovery requires resources—great teachers, great curriculum, safe buildings, and plenty of support staff. The Commonwealth has the power and capacity to raise funds to provide these things to our high-needs schools. It is essential, in the wake of an educational crisis, to do so.

⁹⁹ Chris Duncombe and Chad Stewart, Virginia Can Choose Equity for School Funding During Economic Crisis, The Commonwealth Institute (June 8, 2020), <https://www.thecommonwealthinstitute.org/2020/06/08/virginia-can-choose-equity-for-school-funding-during-economic-crisis/>

¹⁰⁰ Amy Friedenberger, General Assembly Passes Budget, But it’s Unlikely to Go into Effect for Weeks, The Roanoke Times (Oct. 16, 2020), https://roanoke.com/news/general-assembly-passes-budget-but-its-unlikely-to-go-into-effect-for-weeks/article_3bcf8e07-f040-55e9-bb03-390c550acedf.html

¹⁰¹ Megan Pauly, Virginia Board of Education Prioritizes Equity in Funding Recommendations, VPM (Oct. 17, 2019), <https://vpm.org/news/articles/7760/virginia-board-of-education-prioritizes-equity-in-funding-recommendations>

CRIMINAL JUSTICE

Virginia’s criminal justice system, like many institutions in our Commonwealth, has explicitly racist roots.

After the federal Reconstruction Amendments were passed, Virginians quickly sought to suppress Black people in both civic and social life.¹⁰² John Goode, president of Virginia’s 1902 Constitutional Convention and former Confederate Colonel, described that Black voters enfranchised during Reconstruction threatened the “purity and inviolability of the ballot.”¹⁰³ The 1902 Virginia Constitution included a clause disenfranchising Virginians convicted of varied crimes, including “treason or of any felony, bribery, petit larceny, obtaining money or property under false pretenses, embezzlement, forgery, or perjury.”¹⁰⁴ The final suffrage article put forward for the 1902 Virginia Constitution, as its drafter, future U.S. Senator and Treasury Secretary Carter Glass described, “d[id] not necessarily deprive a single White man of the ballot, but will inevitably cut from the existing electorate four-fifths of the negro voters.”¹⁰⁵



Continued. List of Boys sent to work on Chesapeake & Ohio R.R.

Name	Date	Place	Age	Height	Weight	Race	
David Stuard	May 13	Richmond	17	5	128	17	Black
John Campbell	May 20	Richmond	17	5	125	15	"
John Jackson	Sept 20	Richmond	17	5	125	14	White
John Moore	Oct 2	Richmond	17	5	125	14	Black
John Davis	Nov 6	Richmond	17	5	125	14	"
John Miller	"	Richmond	17	5	125	14	"
John Appleby	Nov 10	Richmond	17	5	125	14	White

Received by the Chesapeake & Ohio R.R. Co. from the Virginia Penitentiary, Prisoner Register No. 2, from the State Records Collection of the Library of Virginia.

C. W. Wigham, for Messrs. S. Boyd

The Virginia State Penitentiary, a segregated institution, was known for its exploitation of Black labor. The document here lists laborers by their race used to work on a railroad in the 1870s. *Prisoners from the Virginia Penitentiary on a Work Detail, undated, from the Virginia Studies Collection of the Library of Virginia. List of Boys sent to work on the Chesapeake and Ohio Railroad, January 1873, from the Virginia Penitentiary, Prisoner Register No. 2, from the State Records Collection of the Library of Virginia.*

¹⁰² Matt Ford, The Racist Roots of Virginia’s Felony Disenfranchisement, The Atlantic (April 27, 2016), <https://www.theatlantic.com/politics/archive/2016/04/virginia-felon-disenfranchisement/480072/>

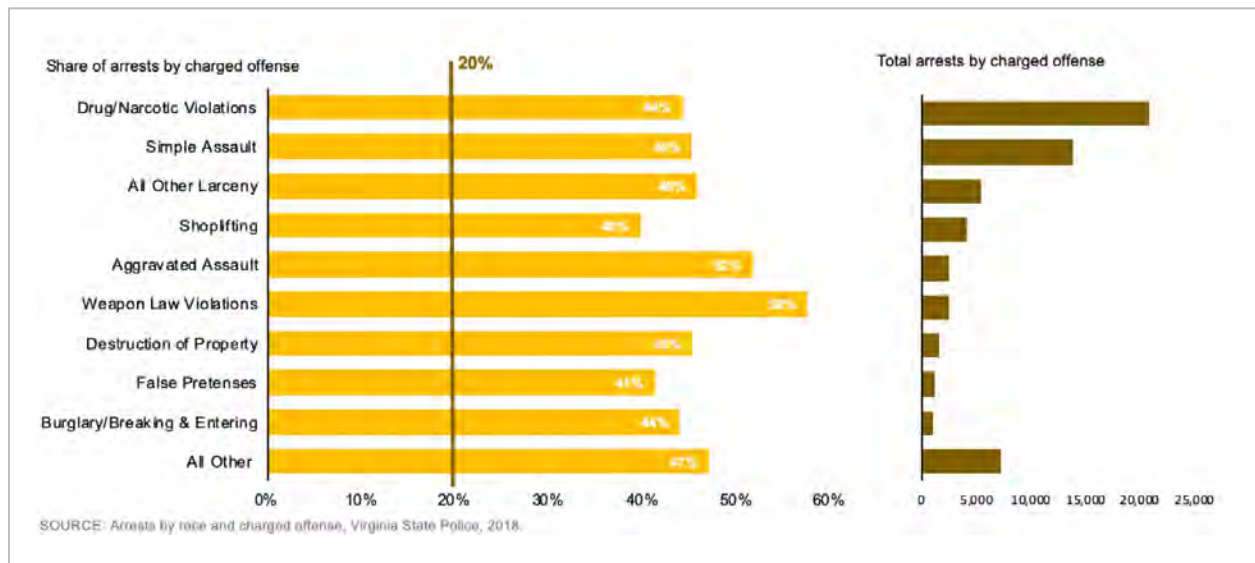
¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

After constitutionalizing felony disenfranchisement (along with poll taxes, voter ‘literacy tests,’ and school segregation), Virginia’s government created a criminal justice system designed to exploit Black labor and exclude Black people from the social world. In the segregated Virginia State Penitentiary, Black children and adults were used as labor for the state.¹⁰⁶ They engaged in life-endangering work, such as working on chain gangs in railroad tunnels and stone quarries. Black Virginians faced harsh punishment, largely designed to promote their further suffering.¹⁰⁷

The Virginia State Penitentiary remained segregated until the early 1970s.¹⁰⁸ The Black prison was infamous nationwide for its systematic torture of inmates. For example, in 1946, Missouri’s governor refused to extradite an escaped prisoner to Virginia because of Virginia’s torturous treatment of inmates, which included flogging and racks.¹⁰⁹ The women in the state penitentiary were separated from the men, raped by guards, and forced to raise their children behind bars.¹¹⁰



In 2018, Black individuals made up 20% of the Virginia population but 45% of all arrests.

¹⁰⁶ Dale Brumfield’s book *Virginia State Penitentiary: A Notorious History*, documents some of the practices that occurred in the segregated facility, which was home to Black men, women, and children. See also, Sandy Hausman, *One Man’s Journey Through the Notorious History of the Virginia State Penitentiary*, WVTF (Oct. 27, 2017), <https://www.wvtf.org/post/one-mans-journey-through-notorious-history-virginia-state-penitentiary#stream/0> ; Dave Brumfield, *Excerpt: A New Book Explores How the Electric Chair Came to Virginia*, Style Weekly (Jan. 31, 2017), <https://www.styleweekly.com/richmond/excerpt-a-new-book-about-the-state-penitentiary-explores-how-the-electric-chair-came-to-virginia/Content?oid=2397653>

¹⁰⁷ Richard Foster, *A New Book Tells of the Horrors of the Virginia State Penitentiary*, Style Weekly (Oct. 24, 2017), <https://www.styleweekly.com/richmond/a-new-book-tells-of-the-horrors-of-the-virginia-state-penitentiary/Content?oid=5378240>

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

This past is not fully behind us. Black men and women continue to face unequal treatment in the Virginia criminal justice system. Although Black individuals make up only 20% of Virginia's population, they make up 45% of arrests and over 50% of prison inmates in the Commonwealth.¹¹¹ Black individuals also comprise the majority of those disenfranchised by Virginia's automatic felony disenfranchisement laws.¹¹² Despite this obvious disparity, the Commonwealth tracks little data on race when it comes to sentencing, pre-trial decision-making, or even bail decisions, making it nearly impossible to know which stage of the process is causing the racial disparity.

Even upon release, an individual continues to face collateral consequences. One study found that Virginia imposes nearly 900 collateral consequences on those convicted of felonies.¹¹³ The most significant of these is permanent disenfranchisement from voting.

The Commission puts forward the following six recommendations, which fall within four main problem areas:

- Data gaps throughout the criminal justice process
- Over-Incarceration
- Inequitable Sentencing Laws
- Constitutional Felony Disenfranchisement

Each topic listed has been shown by research to have a disproportionate racial impact in Virginia.

¹¹¹ Virginia State Police, Crime in Virginia 2018, https://www.vsp.virginia.gov/downloads/Crime_in_Virginia/Crime_in_Virginia_2018.pdf; Virginia State Police, Crime in Virginia 2019, https://www.vsp.virginia.gov/downloads/Crime_in_Virginia/Crime%20In%20Virginia%202019.pdf; Vera Institute, Incarceration Trends in Virginia [dataset], <http://trends.vera.org/rates/virginia>

¹¹² Chris Uggen et al., Locked Out 2020: Estimates of People Denied Voting Rights Due to a Felony Conviction, The Sentencing Project (Oct. 30, 2020), <https://www.sentencingproject.org/publications/locked-out-2020-estimates-of-people-denied-voting-rights-due-to-a-felony-conviction/>; Prison Policy Institute, Virginia Profile, <https://www.prisonpolicy.org/profiles/VA.html>

¹¹³ Ronald Fraser, Life After Prison in Virginia, Roanoke Times (Mar. 24, 2019), https://www.roanoke.com/opinion/commentary/fraser-life-after-prison-in-virginia/article_04129dc0-18b9-588d-83f6-165756045829.html

BACKGROUND

Virginia lacks adequate data on racial disparities at each step in the criminal justice process, particularly in the pre-trial and sentencing phases. Having this data is essential to making more substantive policy recommendations.

RECOMMENDATION 1: Require the Sentencing Commission to collect, analyze, and report on sentencing outcomes by race and ethnicity; require courts to publish racial and other demographic data of all low-level offenses. The Black prison population is vastly overrepresented compared to the general population of Black Virginians. Though the State Police provide a robust data source regarding arrest rates, there is no race-based data about sentencing itself. The Virginia Criminal Sentencing Commission does not use race in the sentencing algorithms it employs, which we commend. But there ought to be room for tracking the race of a sentenced person over time for aggregate data analysis, in order to answer questions like, “Are there offenses for which Black defendants are more likely to receive prison terms than White defendants?” or “How often did a judge depart from the Sentencing Commission’s discretionary sentencing guidelines for White defendants compared to Black defendants?”

§ 17.1-803(10) currently reads:

[The Commission shall] [r]eport upon its work and recommendations annually on or before December 1 to the General Assembly, the Governor and the Chief Justice of the Supreme Court of Virginia. Such report shall include any modifications to the discretionary sentencing guidelines adopted by the Commission pursuant to subdivision 1 and shall be accompanied by a statement of the reasons for those modifications.

The Commission recommends adding language to this code section that would require the Sentencing Commission to collect, analyze, and report on sentencing outcomes by race and ethnicity.

RECOMMENDATION 2: Require the collection of data on the results of pretrial hearings, bail decisions, and pre-trial incarceration, including breakdowns by race. The Sentencing Commission does not use race, and the Virginia Pretrial Risk Assessment Instrument (VPRAI) prohibits the use of race. Further, magistrates provide little to no data insight regarding the actual use of the VPRAI, as well as bail outcomes, pretrial sentencing, and demographic data related to that sentencing. A new statute requiring magistrate data be made publicly available would act to increase transparency and, hopefully, increase trust between the public and this slice of the criminal justice system. Such data would also inform policy changes on bail decisions and pretrial incarceration.

The Virginia State Crime Commission has taken valuable steps to study pre-trial outcomes through the Virginia Pre-Trial Data Project, which identified and tracked a cohort of 22,993 adult defendants charged with a criminal offense in October 2017.¹¹⁴ This Project tracked whether defendants were arrested for a new in-state offense punishable by incarceration during the pre-trial period and whether defendants were charged with failure to appear during the pre-trial period. The Project obtained data from seven agencies.¹¹⁵ The Commission encourages further study in this area.

To address these issues, the Commission recommends introducing a new section in Title 19.2 Chapter 9 that requires all magistrate judges to provide data about each pretrial hearing decision, including bail amounts, recognizance decisions, and whether the defendant is placed in pretrial incarceration. Magistrate reports to DCJS should also include the race and ethnicity of the defendant in each case and any data about the use of the VPRAI in that hearing. In addition, the new code section should include a requirement for DCJS to annually publish this data in aggregate, and to analyze whether such pre-trial decisions are disproportionately falling on racial lines.

The legislature did consider part of this effort with HB922 (2020), which would have required DCJS to collect data relating to bail determinations for any person who is held in custody pending trial or hearing for an offense, civil or criminal contempt or otherwise, in every locality, create a uniform reporting mechanism for criminal justice agencies to submit such data, and submit an annual report on the data collected to the Governor and the General Assembly, as well as publish the annual report on the Department's website. The bill was left in committee.

¹¹⁴ Virginia State Crime Commission, Virginia Pre-Trial Data Project Preliminary Findings (Dec. 2019), <https://university.pretrial.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=15a92af3-2ac9-7c2f-c4c8-1666cb4a702f&forceDialog=0>

¹¹⁵ Alexandria Circuit Court, Fairfax County Circuit Court, Compensation Board, Office of the Executive Secretary of the Supreme Court of Virginia, Virginia Department of Corrections, Virginia Department of Criminal Justice Services, and Virginia State Police. *Id.*

BACKGROUND

A disproportionate number of Virginia’s prisoners are individuals of color. This means that policies which encourage over-incarceration have a disproportionate effect on communities of color.

RECOMMENDATION 3: Prevent the Compensation Board from considering the volume of felony cases when calculating Commonwealth Attorney’s office resourcing. The

“Compensation Board Criteria for Allocating New Assistant Commonwealth’s Attorney Positions in Commonwealth’s Attorneys’ Offices” says, “the Compensation Board will use the staffing methodology and weighted three-year average workload criteria developed by the Virginia Association of Commonwealth’s Attorneys (VACA), to determine the appropriate level of Compensation Board assistant Commonwealth’s Attorney support for each office requesting additional positions.”

That formula is:

$$\# \text{ of Attorneys} = \frac{\text{Workload Total (3yr avg felony defendants + 3yr avg sentencing events)}}{\text{Factor}}$$

The “Factor” shifts the recommended new attorney count based on an assessment of economies of scale in an office of a given size.¹¹⁶

Based on this formula, Commonwealth’s Attorneys’ Offices are provided staffing funds based on the number of felonies they try in a given year, incentivizing the felonization (and incarceration) of defendants, while discouraging diversion or sentencing de-escalation. The Compensation Board’s composition and decisions are governed by statute (see § 15.2-1636.5 and § 15.2-1636.8, respectively). The Commission therefore recommends amending § 15.2-1636.8 to prohibit the Compensation Board from considering the number of felony counts pursued by an office or any other criterion that might discourage a Commonwealth’s Attorney from pursuing diversion, in decisions about staffing and funding. The General Assembly did consider a similar reform during the 2020 regular session in HB1035/SB803, but both houses continued the bill to 2021.

¹¹⁶ “Compensation Board Criteria for Allocating New Assistant Commonwealth’s Attorney Positions...,” amended June 25, 2014, <https://www.scb.virginia.gov/docs/fy19staffstd772.pdf>

BACKGROUND

A disproportionately high number of incarcerated people in Virginia are Black. Thus, statutes that target formerly convicted individuals or otherwise make incarceration more aggressive will have an inequitable effect on our communities of color.

RECOMMENDATION 4: Propose legislation that addresses the impact that mandatory minimum sentencing laws have on racially disproportionate rates of incarceration. There were efforts during the 2020 regular session, such as SJ34, that would have directed the Virginia State Crime Commission to study this issue. The Commission recommends further study, or repeal/reduction of mandatory minimums.

RECOMMENDATION 5: Propose legislation that fosters restorative practices like expungement, clemency, sentence reductions and retroactive sentencing. Restorative practices of this nature work to curtail the negative effects of past convictions, allowing a convicted individual to engage with civil, employment, educational, and social opportunities after their conviction.¹¹⁷ Engaging in such restorative practices currently occurs at the federal level¹¹⁸ with certain drug offenses, which would be applicable for marijuana convictions in Virginia.

¹¹⁷ Deborah Ahrens, *Retroactive Legality: Marijuana Convictions and Restorative Justice in an Era of Criminal Justice Reform*, *Journal of Criminal Law and Criminology* (Summer 2020), <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7671&context=jclc> (p. 425, 439)

¹¹⁸ United States Sentencing Commission, *Retroactivity Analyses and Data Report*, <https://www.ussc.gov/research/data-reports/retroactivity-analyses-and-data-reports>

BACKGROUND

Felony disenfranchisement was used historically as a targeted means to strip Black Americans of their rights to be active civic participants. While modern laws may more broadly impact other racial communities, the Black community still suffers disproportionately under felony disenfranchisement. Many states have moved away from Virginia's strict iteration of such laws, and Virginia should follow suit.

RECOMMENDATION 6: Abolish or limit felony disenfranchisement by amending or repealing Article II, Section I of the Virginia Constitution.¹¹⁹ Virginia's current constitutional rule leaves the opportunity to vote for disenfranchised Virginians at the discretion of whatever governor is in office, which is too great a risk to take considering how integral the right to vote is to a well-functioning democracy. Article II, Section I of the Constitution has gone through a number of changes throughout the years, so changes are definitely possible. The Commission recommends that the Governor propose repealing the provision altogether (leaving disenfranchisement to statute) or draft new constitutional language automatically restoring the rights of those who have completed their sentences. The Commission also expresses concern about the events with Florida's Amendment Four, and recommends provisions that prevent the imposition of required payment of fees or other restrictions on re-enfranchisement.

¹¹⁹ Constitution of Virginia, Article II, Section 1: Qualifications of voters. “. . . No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority. . . .”

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Virginia was intentional and thorough about disenfranchising Black voters. In this newspaper clipping, a list of Black male voters who have been disenfranchised is publicly displayed on the front page, in order to ensure that neighbors and community members will enforce their status. List of Colored Male Adults...all of whom are disfranchised... Richmond Daily Dispatch, 4 November 1883, from the Virginia Newspaper Project of the Library of Virginia.

HEALTH

Health systems in Virginia have long been plagued by systemic inequities. In fact, Virginia health care institutions were segregated until the latter half of the twentieth century.

Amongst the segregated institutions, the Central State Hospital (previously the Central Lunatic Asylum for Colored Insane), has a particularly troubling history.¹²⁰ The institution operated from 1870 until 1970 as Virginia's only facility offering psychiatric treatment for African Americans. In an 1870 report from the hospital, patients were described in troubling terms. Patients were categorized in terms of their "use." Examples include: "useless old harlot," "useless," "very useful," and "learning to work."¹²¹ Over half of the patients with detailed remarks in the 1870 report were described by their work ability, as the Freedmen's Bureau wanted to create a labor force of recently freed African Americans.¹²² Juxtaposed with this emphasis on ability for patients to work was a view that patients' insanity came from not wanting to work for free.¹²³

The report details patient Godfrey Goffney who "attempts to kill every White man," describing "freedom" as his cause of psychosis.¹²⁴ "Freedom" was likewise listed for several other patients.¹²⁵ Additionally, another patient was described: "will not work now free."¹²⁶ Yet another, Caleb Burton, was described as seeing himself on a "mission to free the world," and suffering from "delusional insanity" of the "freedom-result of war."¹²⁷

¹²⁰ Rachel Nuwar, Psychiatric Records for African American Patients Are Rare, And This Hospital Has a Century's Worth, *Smithsonian Magazine*, Feb. 4, 2014, <https://www.smithsonianmag.com/smart-news/former-hospital-virginia-holds-centurys-worth-rare-african-american-psychiatric-records-180949586/>.

¹²¹ Craig Swenson, Seeking Asylum, Clara Barton Museum, May 17, 2017, <https://www.clarabartonmuseum.org/asylum/>.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

(Page 2)

Ans About Seven Days.

Ques 5th Where were they

Ans At Thompson Whites in Fluvanna County Virginia.

Ques 6th Does the disease appoints increase?

Ans it happens to yesterday.

Ques 7th Are there Periodical Exacerbations Any Lucid Intervals and of What Duration?

Ans The first spell lasted for day and night, then got better for about one day then got Rud again for five days and to day he seems better, dont know how long it may last.

Ques 8th is his Amusement on one or two several subjects what are they?

Ans Talk more about his in neighborhood than anything else. Also talk about money with him after him. Talk about Snakes & etc.

Ques 9th is the supposed cause of disease?

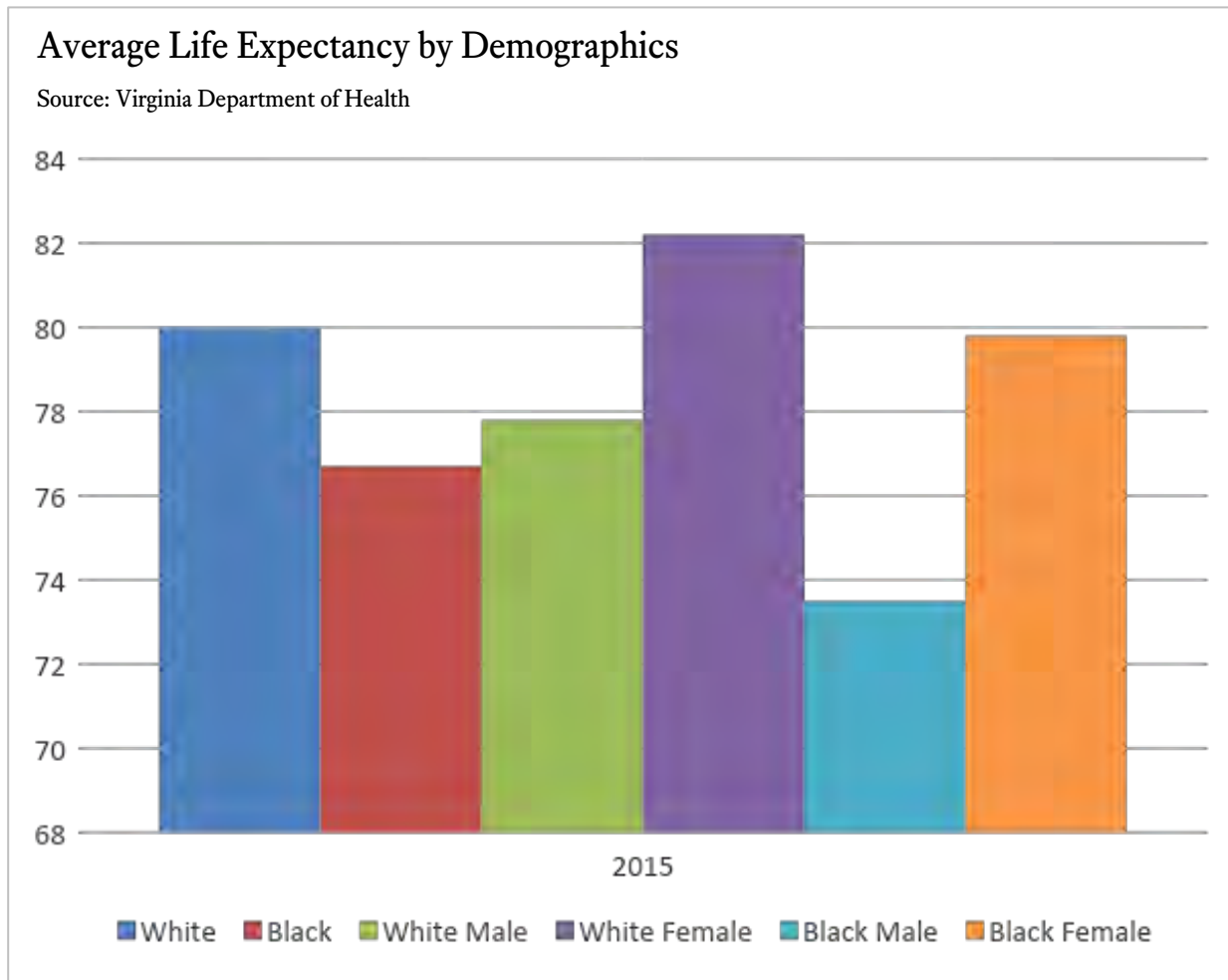
Ans is what except I have heard drinking a deal of Turpentine Oil and that the girl seem to be mind a good deal.

(to page 1)



Hiram Steele was a Central State Hospital patient several times throughout his life. After being convicted of a crime, he was found insane and sent to Central State Hospital. The attached document describes the condition of Steele upon his commitment to the institution. *Photograph of Hy Steele, No. 1679, from the Virginia State Penitentiary, Prisoner Records, Photographs and Negatives; Commitment Papers for Hiram Steele, February 1895, from the Central State Hospital, Commitment Orders. State Records Collection of the Library of Virginia.*

Until the mid-1960s, hospital discrimination in Virginia was expressed in a number of ways, including “denial of staff privileges to minority physicians and dentists, refusal to admit minority applicants to nursing and residency training programs, and failure to provide medical, surgical, pediatric, and obstetric services to minority patients.”¹²⁸ It took a series of court cases, litigated by the NAACP Legal Defense and Education Fund between 1956 and 1967 to end the overt discrimination in hospitals and professional health care associations.¹²⁹ While these lawsuits won some battles, Virginia continues to experience negative racial disparities in health care.



In Virginia, life expectancy varies by both race and gender. White Virginians in 2015 on average lived longer than Black Virginians, with White females having the longest life expectancy and Black males having the shortest.¹³⁰

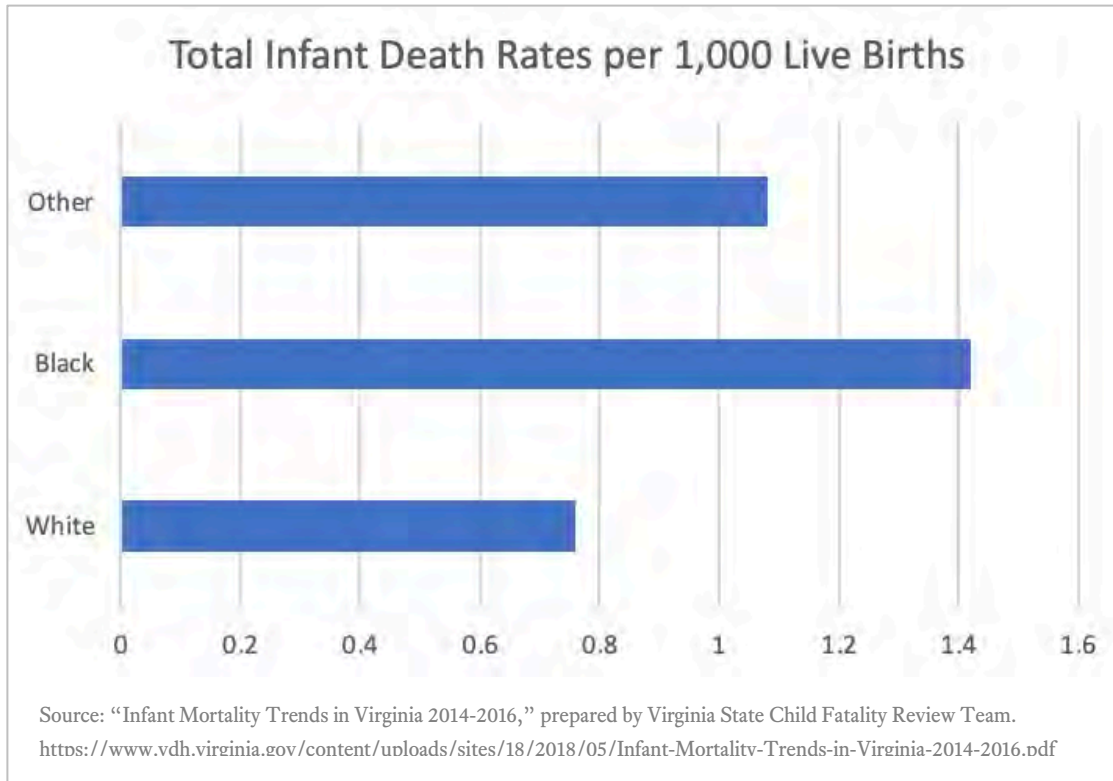
¹²⁸ P. Preston Reynolds, Professional and Hospital DISCRIMINATION and the US Court of Appeals Fourth Circuit 1956-1967, Am. J. Public Health, May 2004, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1448322/>.

¹²⁹ *Id.*

¹³⁰ Statistical Reports and Tables, VDH, <https://apps.vdh.virginia.gov/HealthStats/stats.htm>.

Black Virginians are also more likely to deal with health issues related to obesity and diabetes than those of other racial or ethnic backgrounds.¹³¹

Additionally, infants born to African American women are twice as likely to die in Virginia.¹³² Black women in Virginia are three times more likely to die from pregnancy complications than White women.¹³³

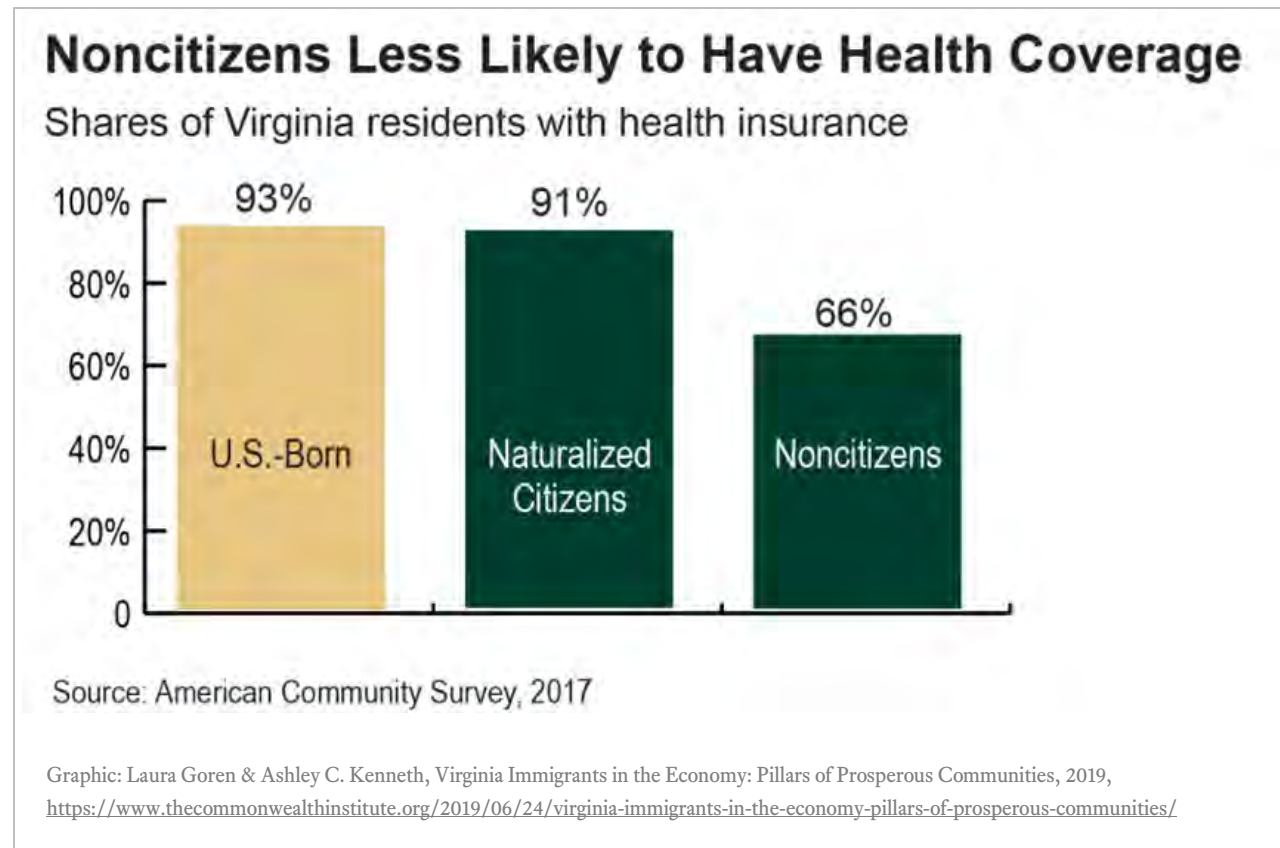


¹³¹ Behavioral Risk Factor Surveillance System (BRFSS) Data from the CDC, <https://www.cdc.gov/brfss/index.html>.

¹³² Virginia State Child Fatality Review Team, Infant Mortality Trends in Virginia 2014-2016, 2018, <https://www.vdh.virginia.gov/content/uploads/sites/18/2018/05/Infant-Mortality-Trends-in-Virginia-2014-2016.pdf>.

¹³³ Megan Pauly, Lawmakers Act to Correct Racial Disparity in Maternal Mortality Rates, VPM NPR News, March 4, 2020, <https://vpm.org/news/articles/11186/lawmakers-act-to-correct-racial-disparity-in-maternal-mortality-rates>.

Black Virginians are also disparately represented in Commonwealth HIV cases. In Virginia, Black, non-Hispanic persons were almost seven times more likely to be living with HIV at the end of 2015 than White, non-Hispanic persons.¹³⁴ Hispanic/Latino individuals were around twice as likely to be living with HIV at the end of 2015 than White, non-Hispanic persons.¹³⁵ This disproportionate health representation leads to increased risk in terms of Virginia’s criminal HIV laws (Virginia Code §§ 18.2-67.4:1, 18.2-11, 18.2-62, 18.2-346.1).¹³⁶



¹³⁴ VDH, Virginia HIV Epidemiologic Profile, 2016, https://www.vdh.virginia.gov/content/uploads/sites/10/2016/01/HIV_Epi_Profile_2016.pdf.

¹³⁵ *Id.*

¹³⁶ In the future, the Commission aims to further consider the disparities inherent to HIV criminalization laws in Virginia. The Commission recognizes that the American Medical Association, American Nursing Association, National Alliance of State and Territorial AIDS Directors, HIV Medicine Association, Association of Nurses in AIDS Care, U.S. National HIV/AIDS Strategy, Presidential Council on HIV/AIDS, U.S. Conference of Mayors, American Psychological Association, the U.S. Department of Justice, and other public health, legal and public policy organizations have called for an end to HIV criminalization.

In Virginia and nationally, minorities tend to have less health insurance coverage, higher cost barriers to healthcare access, and lower self-rated health.¹³⁷ Uninsured Americans have lower cancer survival rates, lower rates of receiving important screening tests, are more likely to have preventable hospitalizations, and are more likely to be diagnosed with diseases at later stages.¹³⁸

Although immigrants may receive emergency-only Medicaid services, their access to comprehensive Medicaid coverage has historically been limited and complex, creating negative health disparities. For years, Virginia imposed a 40-quarter work requirement, by which immigrants must have worked in Virginia for 40 quarters, or ten years, to qualify for Medicaid coverage.¹³⁹ However, in November 2020, Governor Northam approved a budget amendment allocating funds for certain noncitizens' health coverage without the 40-quarter barrier, which had been previously passed then unallocated in response to the COVID-19 pandemic.¹⁴⁰

Additionally, research indicates that people have a higher comfort level and are willing to share more information with a physician who looks like them.¹⁴¹ Further, physicians' implicit biases can be dangerous for people of color. For example, research has shown that half of White medical trainees believe myths purporting that Black people feel less pain because they have thicker skin or less sensitive nerve endings than White people, prompting inadequate treatment of Black patients' pain.¹⁴² In 2019, of the approximately 45,000 people with a Virginia medical license, only around 8% identified as African American.¹⁴³

¹³⁷ Office of Minority Health & Public Health Policy, Virginia Health Equity Report 2008: Executive Summary, 2008, <https://www.vdh.virginia.gov/content/uploads/sites/76/2016/06/health-equity-report-summary.pdf>; Center on Society and Health, Health Equity in Richmond, Virginia, 2016, <https://societyhealth.vcu.edu/media/society-health/pdf/RVAHealthEquityFINAL.pdf>.

¹³⁸ Virginia Health Care Foundation, Profile of Virginia's Uninsured, <https://www.vhcf.org/data/profile-of-virginias-uninsured/>.

¹³⁹ Freddy Mejia, A Harsh, Little Known Rule Leaves Many Immigrants Without Health Coverage, The Commonwealth Institute, January 29, 2019, <https://thehalfsheet.org/post/182403343218/a-harsh-little-known-rule-leaves-many-immigrants>; Virginia Immigrants Have to Work 10 Years to Qualify for Medicaid, VPM NPR News, June 25, 2019, <https://vpm.org/news/articles/6073/virginia-immigrants-have-to-work-10-years-to-qualify-for-medicaid>.

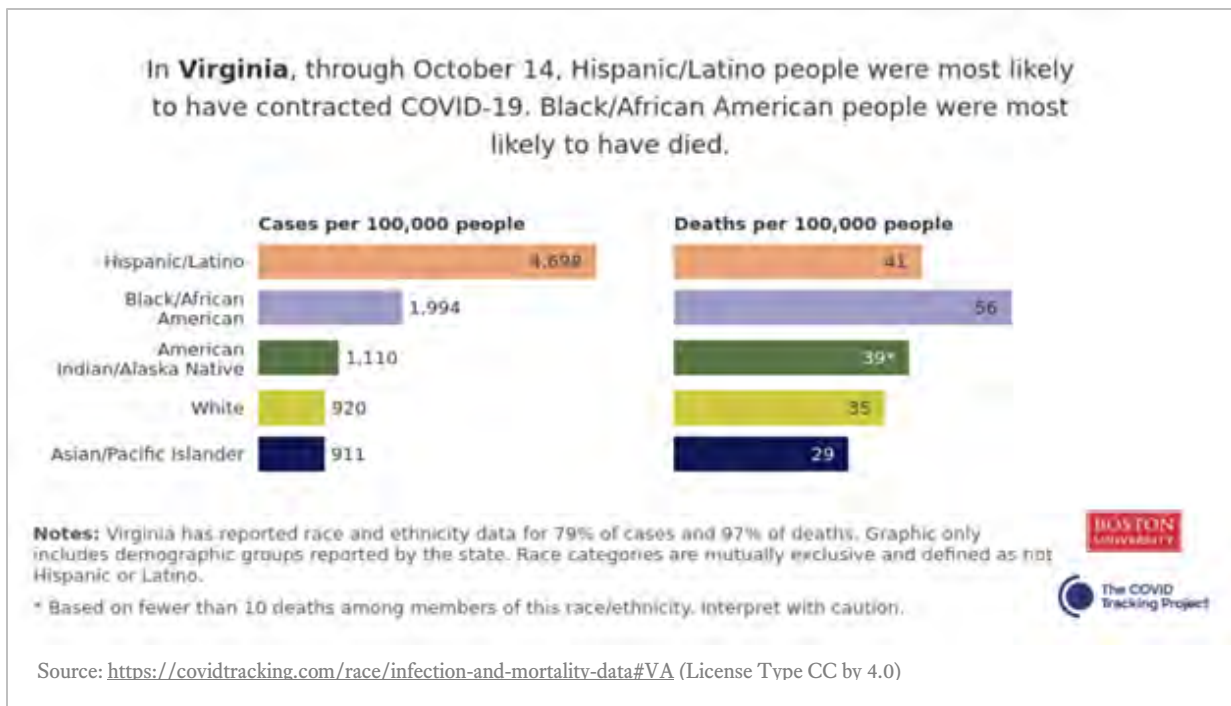
¹⁴⁰ Budget Amendments – HB 5005, <https://budget.lis.virginia.gov/amendment/2020/2/HB5005/Introduced/MR/482.20/6h/>.

¹⁴¹ Joseph P. Williams, Why America Needs More Black Doctors, US News, Aug. 31, 2018, <https://www.usnews.com/news/healthiest-communities/articles/2018-08-31/why-america-needs-more-black-doctors>.

¹⁴² Janice A. Sabin, How we fail black patients in pain, AAMC, Jan. 6, 2020, <https://www.aamc.org/news-insights/how-we-fail-black-patients-pain> (discussing 2012 and 2016 studies).

¹⁴³ Jason Fuller, Improving the Doctor to Patient Ratio in the African American Community, WVTF, Nov. 14, 2019, <https://www.wvtf.org/post/improving-doctor-patient-ratio-african-american-community#stream/0>.

Research also suggests that Black Virginians are exposed to a higher levels of trauma in their communities than other Virginians. Trauma can affect children’s health, development, and functioning later in life, but risk and protective factors play a valuable role in children’s long-term outcomes.¹⁴⁴ Black and Hispanic children are more likely to have adverse childhood experiences (ACEs) than their White and Asian peers, which can lead to toxic stress.¹⁴⁵ ACEs have long-term effects, which increase in risk with each additional ACE. Effects include smoking, alcohol, and drug abuse; mental and physical health problems; relationship troubles; suicide; criminal activity; and even early death.¹⁴⁶ However, social support and protective conditions can prevent these repercussions for children with ACEs.¹⁴⁷



The COVID-19 pandemic has increased focus on health disparities. Black, Hispanic, and Native American coronavirus cases and deaths exceeded their share of the population nationally and in Virginia.¹⁴⁸ Yet, as evidenced in the preceding data, negative health disparities for racial and ethnic minority groups in Virginia are nothing new.

¹⁴⁴ Center on Society and Health, Health Equity in Richmond, Virginia, 2016, <https://societyhealth.vcu.edu/media/society-health/pdf/RVAHealthEquityFINAL.pdf>.

¹⁴⁵ Alysse ElHage, Nearly Half of U.S. Children Have Suffered At Least One Adverse Childhood Experience, Institute for Family Studies, March 1, 2018, <https://ifstudies.org/blog/nearly-half-of-us-children-have-suffered-at-least-one-adverse-childhood-experience>.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ Daniel Wood, As Pandemic Deaths Add Up, Racial Disparities Persist – And In Some Cases Worsen, NPR, Sept. 23, 2020, <https://www.npr.org/sections/health-shots/2020/09/23/914427907/as-pandemic-deaths-add-up-racial-disparities-persist-and-in-some-cases-worsen>.

By calling attention to longstanding health-based inequities, COVID-19 may eventually produce positive changes in health policy. Our recommendations take into account the need to continue policies reducing health-based inequity after the pandemic, recognizing that health inequities run far deeper than just what the statistics present in coronavirus cases.

The Commission puts forward six recommendations, aimed to mitigate inequity in the Commonwealth's health system.

These recommendations fall within three main problem areas:

- Health Care Access
- Medical Professionals Support
- Mental Health

Each topic listed has been shown by research to have a disproportionate racial impact in Virginia.

HEALTH CARE ACCESS

BACKGROUND

Based on 2018 US Census data, prior to Virginia's Medicaid expansion, which went into effect on January 1, 2019, 10.2% of Virginians under age 65 were without medical insurance, the vast majority of which (64.2%) were part of families with at least one full time worker.¹⁴⁹ Since then, Governor Northam has expanded Virginia's Medicaid program, promoting historic health care disparity reductions.¹⁵⁰ Following the January 2019 Medicaid expansion, more than 450,000 additional individuals were enrolled in Medicaid by August 2020.¹⁵¹ Even with this progress, however, most immigrants may receive emergency-only Medicaid services. Because their access to comprehensive Medicaid coverage is limited and complex, negative health disparities persist.

¹⁴⁹ Virginia Health Care Foundation, Profile of Virginia's Uninsured, <https://www.vhcf.org/data/profile-of-virginias-uninsured/>.

¹⁵⁰ Office of the Governor, Governor Northam Announces More than 300,000 Virginians Now Enrolled in Expanded Medicaid Program, July 31, 2019, <https://www.governor.virginia.gov/newsroom/all-releases/2019/july/headline-841926-en.html>.

¹⁵¹ Louise Norris, Virginia and the ACA's Medicaid Expansion, HealthInsurance.org, Oct. 3, 2020, <https://www.healthinsurance.org/virginia-medicaid/>.

RECOMMENDATION 1: Close the gap in healthcare access for immigrants. The following are specific steps that could be taken to close this gap:

A. Adopt the CHIP Option to provide prenatal care to all children regardless of the expectant mother’s immigration status. For over a decade, this CHIP option has been available to provide prenatal care to pregnant immigrants who can’t otherwise get Medicaid, including undocumented immigrants who are not legally residing in the U.S. According to the Kaiser Family Foundation, 17 states have taken this option.¹⁵² In all other states (including Virginia), while the pregnant woman can’t get Medicaid during her pregnancy, if she’s a state resident and income eligible for Medicaid, the state is required to provide her emergency Medicaid services at the time of her labor and delivery. Of course, the newborn will be a U.S. Citizen and typically deemed eligible for Medicaid for one year. The recommended option enables states to provide the pregnant woman comprehensive prenatal care before the baby is born—a compassionate as well as cost-effective approach to protecting the health of the mother and the baby.

B. Increase the age that “legally residing” immigrant children can qualify for Medicaid and FAMIS. “Legally residing” is a broad term that includes any documented immigrant status, including valid visas. Currently, “legally residing” immigrant children in Virginia qualify for coverage until they turn 19 years old. Federal law allows this optional coverage to continue up to age 21. Raising the age threshold would protect continuity of care for these young people.

C. Expand emergency Medicaid coverage to include COVID-19 testing and treatment. Immigrants qualify for emergency Medicaid coverage if they are eligible by income but do not meet the Medicaid non-citizen requirements. Emergency Medicaid coverage is only for life-threatening or severe medical needs. Several states have included COVID-19 testing and treatment under emergency Medicaid coverage, and Virginia should follow this example.¹⁵³

RECOMMENDATION 2: Exercise the option for 12-month continuous coverage to Medicaid and CHIP for children. Low-income individuals may experience financial ups and downs throughout the year. One month they may be eligible for Medicaid, and the next month they may be slightly over the income line for Medicaid. States have the option to provide children with 12 months of continuous coverage through Medicaid and CHIP, even if their family’s income

¹⁵² Tricia Brooks et al., Medicaid and CHIP Eligibility, Enrollment, and Cost Sharing Policies as of January 2020: Findings from a 50-State Survey, Henry J. Kaiser Family Foundation, March 2020, <http://files.kff.org/attachment/Report-Medicaid-and-CHIP-Eligibility,-Enrollment-and-Cost-Sharing-Policies-as-of-January-2020.pdf>.

¹⁵³ Approved State Actions to Address COVID-19, Henry J. Kaiser Family Foundation, Oct. 29, 2020, <https://www.kff.org/coronavirus-covid-19/issue-brief/medicaid-emergency-authority-tracker-approved-state-actions-to-address-covid-19/>.

changes throughout the year.¹⁵⁴ This allows for reliable access to health care for children.¹⁵⁵ Twenty-three states have exercised this option for Medicaid, and twenty-five have adopted it for CHIP.¹⁵⁶ Virginia should follow suit.

MEDICAL PROFESSIONALS



The vast majority of healthcare workers in Virginia are White, while patients are increasingly diverse. *Nurse interviewing a patient, undated, from the Visual Studies Collection, Library of Virginia.*

BACKGROUND

In 2019, of the approximately 45,000 people with a Virginia medical license, only around 8% identified as African American.¹⁵⁷ In 2018, the Virginia Department of Health Professions (VDHP) conducted a “Physician Workforce Survey” where over 33,000 physicians responded, and only 1,700 respondents identified as Black or African American, whereas the state’s African

¹⁵⁴ Continuous Eligibility for Medicaid and CHIP Coverage, Medicaid.gov, <https://www.medicaid.gov/medicaid/enrollment-strategies/continuous-eligibility-medicaid-and-chip-coverage/index.html>.

¹⁵⁵ *Id.*

¹⁵⁶ State Adoption of 12-Month Continuous Eligibility for Children’s Medicaid and CHIP, Henry J. Kaiser Family Foundation, <https://www.kff.org/health-reform/state-indicator/state-adoption-of-12-month-continuous-eligibility-for-childrens-medicaid-and-chip/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>; Judith Solomon, Continuous Coverage in Families First Act Prevent Coverage Gaps by Reducing “Churn,” Center on Budget and Policy Priorities, July 16, 2020, <https://www.cbpp.org/research/health/continuous-coverage-protections-in-families-first-act-prevent-coverage-gaps-by>.

¹⁵⁷ Jason Fuller, Improving the Doctor to Patient Ratio in the African American Community, WVTF, Nov. 14, 2019, <https://www.wvtf.org/post/improving-doctor-patient-ratio-african-american-community#stream/0>.

American population exceeds 1.6 million. The Black doctor to Black patient ratio is approximately 1 doctor for every 1,000 patients, while the White doctor to White patient ratio is approximately 1 doctor for every 400 patients.

RECOMMENDATION 3: Create a pipeline program to support Black college students' preparation for medical school, particularly at Virginia's HBCUs. This would also work to reduce the number of health provider shortage areas (HPSAs) in Virginia.¹⁵⁸ Similar pipelines have been used for recruiting Black teachers,¹⁵⁹ and specifically STEM educators,¹⁶⁰ in Virginia.

RECOMMENDATION 4: Require Virginia continuing medical training to include implicit bias training. California passed a bill with such a requirement in 2019,¹⁶¹ and Virginia should do the same.

MENTAL HEALTH

BACKGROUND

In general, African Americans appear to have the same or lower incidence of diagnosed mental disorders compared to other racial/ethnic groups, but this may reflect lower access to mental health services, less frequent recognition of mental health needs among African Americans by physicians, and relative exclusion of vulnerable populations from national epidemiological surveys.¹⁶² There is also concern that Black Virginians are exposed to a high level of trauma in their communities, as discussed above.¹⁶³

As of 2013, Virginia had 50 Mental Health Professional Shortage Areas.¹⁶⁴ Since then, legislation has sought to reduce socioeconomic and racial mental health disparities. However, nationally, in 2018, 8.7 percent of African American adults received mental health services compared with 18.6

¹⁵⁸ Shortage Designations and Maps, VDH, <https://www.vdh.virginia.gov/health-equity/shortage-designations-and-maps/>.

¹⁵⁹ Brian McNeill, VCU School of Education joins national effort to recruit, prepare and retain black teachers, VCU, Oct. 1, 2019,

https://news.vcu.edu/article/VCU_School_of_Education_joins_national_effort_to_recruit_prepare; Report from the Task Force on Diversifying Virginia's Educator Pipeline, Aug. 2017,

<https://www.education.virginia.gov/media/governorvirginiagov/secretary-of-education/pdf/final-tdvrep-report.pdf>.

¹⁶⁰ Office of the Governor, Virginia Works to Grow, Diversify STEM Educator Pipeline, Feb. 10, 2020,

<https://www.governor.virginia.gov/newsroom/all-releases/2020/february/headline-851715-en.html>.

¹⁶¹ SB-464 California Dignity in Pregnancy and Childbirth Act,

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB241.

¹⁶² Center on Society and Health, Health Equity in Richmond, Virginia, 2016,

<https://societyhealth.vcu.edu/media/society-health/pdf/RVAHealthEquityFINAL.pdf>.

¹⁶³ *Id.*

¹⁶⁴ The Virginia Health Care Landscape, Henry J. Kaiser Family Foundation, May 20, 2014,

<https://www.kff.org/medicaid/fact-sheet/the-virginia-health-care-landscape/>.

percent of non-Hispanic White adults; 8.8 percent of Hispanic adults received mental health services compared with 18.6 percent of non-Hispanic White adults.¹⁶⁵ This indicates a need for greater attention on mental health inequities.

RECOMMENDATION 5: Increase mental health support in schools. Differences in use of school-based behavioral health services by racial and ethnic groups suggest the need for culturally appropriate support and tailoring of services to increase resource utilization.¹⁶⁶ Reallocating funds previously used for school resource officers (SROs) to hire more school counselors is one way to increase mental health support in schools. School counselors provide direct and indirect mental health services for students and build alliances in school communities.¹⁶⁷ This goes beyond teaching about mental health by encouraging a climate of wellness. However, teaching about mental health could also increase utilization of mental health services.¹⁶⁸ In 2018, legislation passed requiring a review and update of the health Standards of Learning for students in grades 9 and 10 to include mental health. Recognizing the negative effects of trauma in childhood, the health Standards of Learning for younger students should also be reviewed and updated to include mental health. SB1440 and HB2593 would have done so in 2019, but these bills were left in the Appropriations Committee.¹⁶⁹ Additionally, the feasibility of Mental Health First Aid training for relevant school personnel should be considered.¹⁷⁰

RECOMMENDATION 6: Direct the Commission Studying Mental Health Services in the 21st Century to specifically address racial disparities in their work. The Commission has considered a variety of topics, including tele-mental health, mental health services in jails, and housing for the serious mental ill.¹⁷¹ This Commission should consider racial disparities in mental health services in one of its upcoming meetings.

¹⁶⁵ Sofia Carratala & Connor Maxwell, Health Disparities by Race and Ethnicity, Center for American Progress, May 7, 2020, <https://www.americanprogress.org/issues/race/reports/2020/05/07/484742/health-disparities-race-ethnicity/>.

¹⁶⁶ Jill Locke et al., Ethnic disparities in school-based behavioral health service use for children with psychiatric disorders, *J. Sch. Health*, Jan. 2017, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5142755/>.

¹⁶⁷ Ariane Datil, Virginia teachers want school police funding reallocated to mental health, WUSA9, June 18, 2020, <https://www.wusa9.com/article/news/education/school-resource-officers-reallocating-funds-for-mental-health/65-d4d9bc7b-282e-469b-9e87-cea7e249da07>; Carol J. Kaffenberger & Judith O'Rorke-Trigani, ASCA, <https://www.schoolcounselor.org/asca/media/asca/ASCAU/Mental-Health-Specialist/Kaffenberger.pdf>.

¹⁶⁸ Lucy Hood, More states requiring mental health education, *Education Dive*, Sept. 3, 2019, <https://www.educationdive.com/news/more-states-requiring-mental-health-education/561250/>.

¹⁶⁹ Ashley Airington, Children's Mental Health: 2019 Session Wrap-Up, *Voices for Virginia's Children*, Feb. 25, 2019, <https://vakids.org/our-news/blog/childrens-mental-health-proposed-legislation-2019-legislative-session>.

¹⁷⁰ See SB 1472, 2019, <https://lis.virginia.gov/cgi-bin/legp604.exe?191+sum+SB1472&191+sum+SB1472>

¹⁷¹ See, e.g., Mental Health Services in the Twenty-First Century, Joint Subcommittee to Study, <https://studies.virginiageneralassembly.gov/studies/341>.

ENVIRONMENTAL JUSTICE

Racial inequity linked to environmental justice has deep roots in the Commonwealth. In January 2020, the Fourth Circuit vacated a Clean Air permit for a natural gas compressor station in Union Hill and remanded back to Virginia’s State Air Pollution Control Board. The Fourth Circuit stated that “[e]nvironmental Justice is not just a box to be checked.”¹⁷² The Virginia Environmental Justice Act, which the General Assembly enacted during the 2020 session, defines environmental justice as “the fair treatment and meaningful involvement of every person, regardless of race, color, national origin, income, faith, or disability, regarding the development, implementation, or enforcement of any environmental law, regulation, or policy.”¹⁷³ The Act provides for a specific focus on “environmental justice communities” and “fenceline communities,” which are defined as “any low-income community or community of color” and “an area that contain all or part of a low-income community or community of color and that present an increased health risk to its residents due to its proximity to a major source of pollution,” respectively.¹⁷⁴ The Act’s focus on these communities stems from their long history of lower environmental quality due to their being effectively shut out of decision-making processes. By focusing on the fair treatment and meaningful involvement of these communities, the General Assembly has given clearer guidance on how to achieve environmental justice.

Environmental justice should be about giving communities a voice in decision making processes and making sure they are treated fairly, not merely checking a box. These recommendations seek to further these goals in the areas of public involvement, access to outdoor recreational areas, access to clean energy, and tribal consultation.

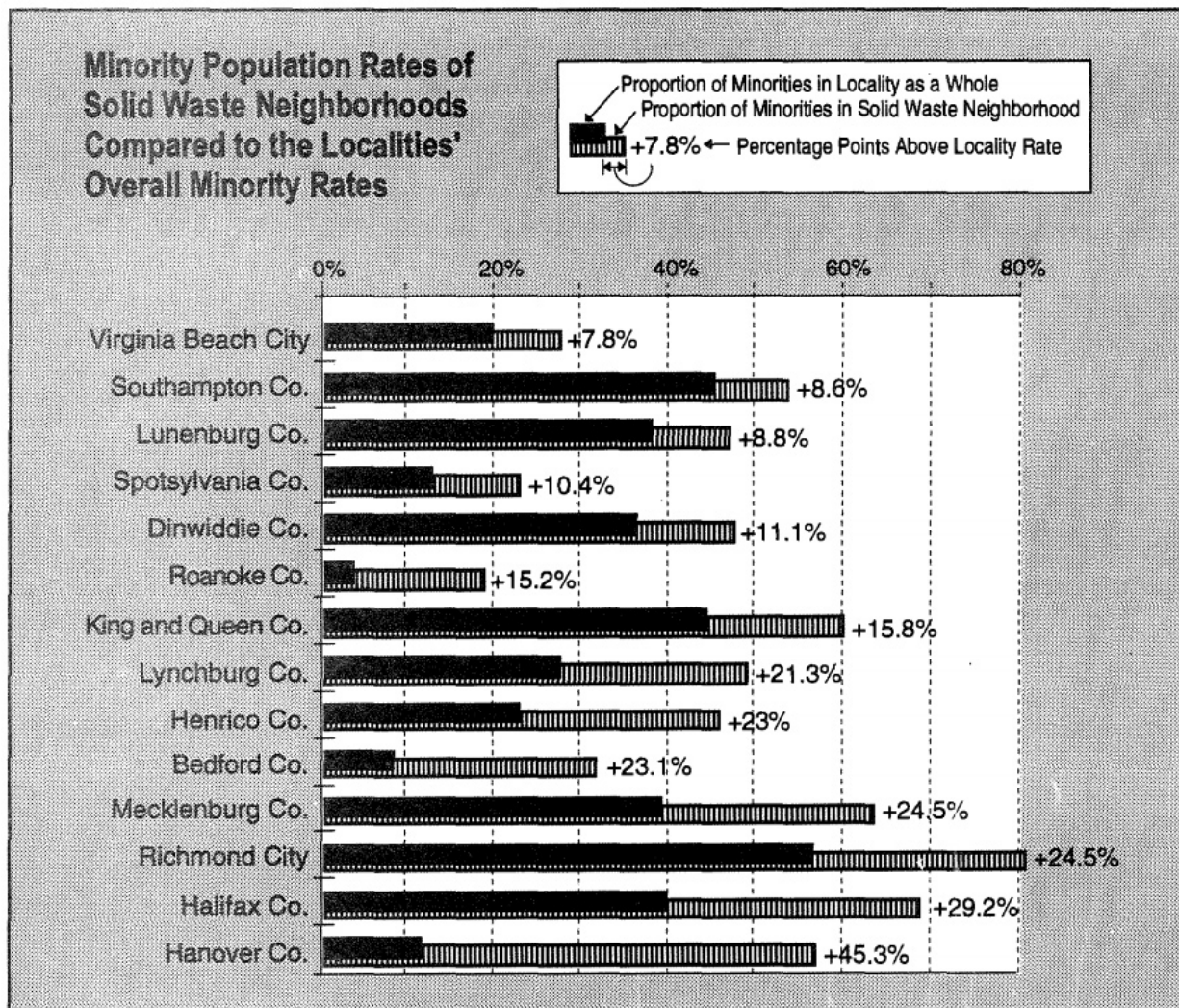
¹⁷² Friends of Buckingham v. State Air Pollution Control Board, No. 19-1152 at 44 (4th Cir. 2020).

¹⁷³ Virginia Environmental Justice Act, Va. Code § 2.2-235, <https://law.lis.virginia.gov/vacode/title2.2/chapter2/section2.2-235/>.

¹⁷⁴ *Id.*



Pollution has negative environmental and health effects on nearby residents. Communities of color disproportionately bear the burden of pollution. *Pollution, undated, from the Visual Studies Collection of the Library of Virginia.*



Source: Joint Legislative Audit and Review Commission of the Virginia General Assembly, *Solid Waste Facility Management in Virginia: Impact on Minority Communities*, 1995, <http://jlarc.virginia.gov/pdfs/reports/Rpt166.pdf>.

The story of Union Hill captures the need for increased attention to environmental justice. In January 2019, the state approved Dominion Energy’s plan to site a natural gas compressor station for the Atlantic Coast Pipeline in Union Hill, a historic community founded by freedmen.¹⁷⁵ While Dominion argued that the decision to place the compressor station in Union Hill was a matter of economics and environmental footprint, the Fourth Circuit vacated the air permit a year later.¹⁷⁶ The case highlighted an issue central to environmental justice. Communities of color are often disproportionately burdened by locally undesirable land uses. For example, a 1995 Joint Legislative Audit and Review Commission report found that in Virginia, minorities were

¹⁷⁵ Sarah Vogel song, In Virginia, Union Hill and racial tensions have put environmental justice back on the map, *Virginia Mercury*, Dec. 5, 2019, <https://www.virginiamercury.com/2019/12/05/in-virginia-union-hill-and-racial-tensions-have-put-environmental-justice-back-on-the-map/>.

¹⁷⁶ *Friends of Buckingham v. State Air Pollution Control Board*, No. 19-1152 at 44 (4th Cir. 2020).

disproportionately likely to live in neighborhoods near solid waste facilities.¹⁷⁷ While the placement of these facilities frequently meet technical legal requirements, they can be justified in non-discriminatory terms, this does not make these decisions just. In order to combat these racial disparities, the Commission's first recommendation is to develop measures to ensure the members of the affected communities and meaningfully involved in government decisions to site environmentally harmful facilities.

While meaningful public involvement is a core component of environmental justice, there are other areas of environmental law that should be considered through an equity-oriented lens. While the COVID-19 pandemic has highlighted the importance of ready access to nature and outdoor recreation, a study has found that, nationally, people of color are 51% more likely to be nature deprived than White people.¹⁷⁸ Thus, the Commission's second area of recommendations concern access to outdoor recreational space.

Environmental justice must also consider energy costs. Electricity burden is defined as "the percentage of your household income that is spent on electricity costs."¹⁷⁹ Virginians, on average, experience an electricity burden of 3.1%, which is higher than the national average of 2.7%.¹⁸⁰ It is estimated that low-income households in Virginia have an electricity burden of approximately 8.8%.¹⁸¹ While it is estimated that a typical set of residential solar panels would meet more than half of a low-income household's electricity needs, much of the growth in residential solar energy in recent decades has benefited middle-class families.¹⁸²

Lastly, the concerns of Virginia's 11 Commonwealth-recognized American Indian Tribes need to be meaningfully included in the decision-making process, as it is important to ensure that their concerns are considered in government decisions.

¹⁷⁷ Joint Legislative Audit and Review Commission of the Virginia General Assembly, *Solid Waste Facility Management in Virginia: Impact on Minority Communities*, 1995, <http://jlarc.virginia.gov/pdfs/reports/Rpt166.pdf>.

¹⁷⁸ Jenny Rowland-Shea, Sahir Doshi, Shanna Edberg, and Robert Fanger, *The Nature Gap*, Center for American Progress, <https://www.americanprogress.org/issues/green/reports/2020/07/21/487787/the-nature-gap/>.

¹⁷⁹ Virginia Poverty Law Center, *Affordable Clean Energy Project*, <https://vplc.org/electricity-burden-and-the-myth-of-virginias-rate-utopia/>.

¹⁸⁰ *Id.*

¹⁸¹ Virginia Council on Environmental Justice, *2020 Annual Report* at 31, https://www.naturalresources.virginia.gov/media/governorvirginiagov/secretary-of-natural-resources/pdf/VCEJ-Report-Final_July-2020.pdf.

¹⁸² *Id.*

Previously existing via Executive Order number 29,¹⁸³ SB1042 made the Virginia Council on Environmental Justice a permanent advisory committee.¹⁸⁴ The Council’s 2020 annual report provides a useful list of findings and broad initial recommendations for executive and legislative action; some of the following proposals seek to turn those recommendations into specific changes to the code or regulations. Additionally, the Virginia Department of Environmental Quality (DEQ) has released its report following an 18-month study as part of its Environmental Justice Initiative which details many legislative and executive policy recommendations.¹⁸⁵ The report includes numerous findings and recommendations that would further environmental justice within DEQ.

The Commission puts forward the following five recommendations, aimed to further the objectives of environmental justice, which fall into four categories:

- Public Involvement
- Access to Outdoor Recreational Areas
- Clean Energy Access
- Tribal Consultation

PUBLIC INVOLVEMENT

BACKGROUND

Meaningful public involvement in decisions that will affect a community’s environmental quality is a central tenet to the concept of environmental justice. For a multitude of reasons, the siting of locally undesirable land uses has historically occurred near low-income communities and communities of color. Because these communities have historically been politically disenfranchised, there is also concern that they are seen as the path of least resistance by private companies in government approval processes.¹⁸⁶

¹⁸³ Executive Order 29, <https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-29-Establishment-Of-The-Virginia-Council-On-Environmental-Justice.pdf>.

¹⁸⁴ HB 1042, <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=hb1042>.

¹⁸⁵ Environmental Justice Study for the Virginia Department of Environmental Quality, October 2020, <https://www.deq.virginia.gov/Portals/0/DEQ/ConnectwithDEQ/EJ/Environmental%20Justice%20Study%20Report%20to%20DEQ.pdf?ver=2020-10-16-102023-147>.

¹⁸⁶ Tamara Deitrich, Pipeline projects draw criticism for “environmental racism,” Bay Journal, June 8, 2020, https://www.bayjournal.com/news/energy/pipeline-projects-draw-criticism-for-environmental-racism/article_99af061e-a98e-11ea-bcdf-33bf50122f39.html.

The consequences of this pattern are reflected in public health. A number of studies have shown an association between exposure air pollution and asthma.¹⁸⁷ The distribution of asthma cases in Virginia varies according to race, income, and education. While 16.5% of African American residents have Asthma, only 13.5% of White residents do.¹⁸⁸ Adults in the lowest income bracket (\$15,000 - 24,000) had the highest Asthma prevalence in 2018; those who did not graduate high school were almost 3% more likely to have Asthma than those who have graduated.¹⁸⁹

RECOMMENDATION 1: Require the Department of Environmental Quality (DEQ) to develop measures designed to ensure meaningful public involvement from environmental justice communities. Last session, the General Assembly passed SB1075, which modified the duties of the Air Pollution Control Board, forcing it to meet additional procedural requirements when granting a variance to a regulation or issuing a permit to certain facilities that will “particularly affect” one locality. Something similar could be accomplished at a broader level by adding another section to the DEQ’s general powers in Va. Code § 10.1-1186, which would read “Develop procedures to solicit meaningful involvement from environmental justice communities, particularly when the Boards make determinations affecting such communities.”¹⁹⁰

¹⁸⁷ Centers for Disease Control and Prevention, Asthma and the Environment, <https://ephtracking.cdc.gov/showAsthmaAndEnv#:~:text=Important%20asthma%20triggers%20are%3A%201%20env%20ironmental%20tobacco%20smoke%2C,high%20humidity%2C%20or%20freezing%20temperatures%3B%20More%20ite%20ms...%20>.

¹⁸⁸ Virginia Council on Environmental Justice, 2020 Annual Report at 24, https://www.naturalresources.virginia.gov/media/governorvirginiagov/secretary-of-natural-resources/pdf/VCEJ-Report-Final_July-2020.pdf (data reported to CDC).

¹⁸⁹ *Id.*

¹⁹⁰ The term “Boards” is defined by § 10.1-1186(B)(9) as the State Air Pollution Control Board, the State Water Control Board, and the Virginia Waste Management Board.



The siting of environmental projects such as pipelines and waste dumps can have inequitable impacts on communities of color. *Images from the Visual Studies Collection, Library of Virginia.*

Examples in other states include Oregon’s requirement that its agencies hold hearings at times and in locations that are convenient for people in affected communities.¹⁹¹ Tennessee offers an online interactive map that shows public participation opportunities throughout the state.¹⁹² Lastly, the West Virginia Department of Environmental Protection has an Office of Environmental Advocate that responds to citizen requests, guides citizens through Department processes, and helps implement informational workshops and public education forums.¹⁹³ DEQ could also alter the general focus of its notice requirements during a proceeding by focusing on input received instead of notice given. For example, DEQ could require a party to show that it received public input from a certain number of interested individuals or contacted a certain number of people instead of the mere showing of something like publication of notice in a newspaper.

ACCESS TO OUTDOOR RECREATION AREAS

BACKGROUND

Historically, the United States has systematically segregated and excluded people of color from public lands and other natural places. The legacies of this exclusion persist in many forms, including the continued underrepresentation of people of color in hiring at natural resource agencies, as well as in the histories of different groups underrepresented by national parks and public lands.

State parks provide opportunities for families to be outdoors and engage with nature in ways that would otherwise not be available to many. There are concerns that high parking fees at current state parks may limit access for low-income families, and new state parks may not be placed in areas close enough to environmental justice communities to adequately serve them.¹⁹⁴

¹⁹¹ Or. Rev. Stat. § 182.545, <https://www.oregonlaws.org/ors/182.545>.

¹⁹² Tennessee Dep’t of Environment & Conservation, Public Participation Opportunities Map, <https://www.tn.gov/environment/ppo-public-participation.html>.

¹⁹³ W. Va. Dep’t of Environmental Protection, Office of Environmental Advocate, <https://dep.wv.gov/Pages/agencydetail.aspx?CustomID=16>; *see also* Environmental Justice Study for the Virginia Department of Environmental Quality at 37, <https://www.deq.virginia.gov/Portals/0/DEQ/ConnectwithDEQ/EJ/Environmental%20Justice%20Study%20Report%20to%20DEQ.pdf?ver=2020-10-16-102023-147>.

¹⁹⁴ Virginia Council on Environmental Justice, 2020 Annual Report at 19.

RECOMMENDATION 2: Direct the Department of Conservation and Recreation to adopt a Statewide Park Equity Mapper to include demographic and health data necessary to inform equitable decision making. The current Recreation Access Model does not provide adequate data to reflect the needs of certain communities. The Department should use the Equity Mapper to make planning decisions related to state and local land acquisitions, grant funding opportunities and development of conservation and open space lands for recreation access in communities where those amenities do not exist. The Equity Mapper should include the following data points:

- Census tract data for Race, Age, Education
- Localities without a local Parks and Recreation Agency
- Percent of population below the poverty line
- Percent of population considered obese, with diabetes, or heart disease
- Percent of population within a ten-minute walk of a local park/trail
- Percent of population within a thirty-minute drive of a regional park/trail
- Percent of population within an hour drive of a state park/trail
- Native lands
- Urban heat island data
- All local and state-held lands, trails, and water access points that are open to the public

RECOMMENDATION 3: Amend Code § 10.1-200.1 to include access for environmental justice communities as a required consideration in state park master planning. Code § 10.1-200.1 requires the Department of Conservation and Recreation (DCR) to undertake the master planning process (i) for all existing state parks, (ii) following the substantial acquisition of land for a new state park, and (iii) prior to undertaking substantial improvements to state parks.¹⁹⁵ “A master plan shall be considered a guide for the development, utilization and management of a park and its natural, cultural and historic resources and shall be adhered to closely.”¹⁹⁶ This section of the Code should be amended to require DCR to consider access for environmental justice communities, as defined in the Environmental Justice Act, in the state park master planning process.

¹⁹⁵ Va. Code § 10.1-200.1, <https://law.lis.virginia.gov/vacode/title10.1/chapter2/section10.1-200.1/#:~:text=1-200.1.%20State%20park%20master%20planning.%20A.%20The%20Department,prior%20to%20undertaking%20substantial%20improvements%20to%20state%20parks.>

¹⁹⁶ *Id.*

BACKGROUND

Virginians experience a higher electricity burden than the national average, and this burden falls heavily on low-income Virginians. Residential solar panels have the potential to meet more than half of the energy needs of an average low-income household, but growth in residential solar energy has largely been confined to middle-class households.

RECOMMENDATION 4: Develop strategies to target residential solar energy development toward environmental justice communities. Virginia currently has several programs in place to incentivize residential solar development. These include net metering,¹⁹⁷ the VirginiaSAVES Green Community Program,¹⁹⁸ the Energy Efficient Buildings Tax Exemption,¹⁹⁹ and others.²⁰⁰ Additionally, the Clean Energy and Community Flood Preparedness Act (HB981/SB1027) will provide funding to reduce the energy burden on low-income customers through efficiency goals and increased clean energy access.²⁰¹ Either within the current programs or through a new program, agencies should develop strategies to make solar energy available to those in environmental justice communities.

TRIBAL CONSULTATION

BACKGROUND

The Council on Environmental Justice has considered Tribal recommendations. Virginia currently has 11 state and federally recognized tribes, each with their own organizational structure, tribal membership, government, staff, landholding, and economic development plans. The Virginia Council on Indians, active from 1988-2012, pursued a mission of education, research, economic development, and tribal recognition. However, in 2011 Governor McDonnell's Commission on Government Reform and Restructuring recommended the

¹⁹⁷ See Va. Code § 56-594; see also Va. Dep't of Environmental Quality, Net Metering, <https://www.deq.virginia.gov/Programs/PollutionPrevention/VirginiaInformationSourceforEnergy/DistributedGeneration/NetMetering.aspx>.

¹⁹⁸ VirginiaSAVES, Sustainable Energy Solutions, <http://www.vasavesgcp.com/>.

¹⁹⁹ See Va. Code § 58.1-3221.2, <https://law.lis.virginia.gov/vacode/title58.1/chapter32/section58.1-3221.2/#:~:text=1-3221.2.%20Classification%20of%20certain%20energy-efficient%20buildings%20for%20tax,taxation%20separate%20from%20other%20classifications%20of%20real%20property.>

²⁰⁰ Va. Dep't of Environmental Quality, Incentives for Virginians, <https://www.deq.virginia.gov/Programs/PollutionPrevention/VirginiaInformationSourceForEnergy/FinancialIncentives.aspx>.

²⁰¹ Office of Governor Ralph S. Northam, Governor Northam Signs Clean Energy Legislation, <https://www.governor.virginia.gov/newsroom/all-releases/2020/april/headline-856056-en.html>.

elimination of the Virginia Council on Indians, and it was abolished during the subsequent regular session. In 2016, the General Assembly passed a bill allowing the Secretary of the Commonwealth to establish a Virginia Indian Advisory Board, but its activities are limited to matters relating to tribal recognition. Because the 11 tribes have varying organizational structures and administrative capacities, requests for consultation made by state agencies often go unanswered. There is concern among the tribes that agencies interpret this lack of capacity as lack of interest, and their perspectives often go unheard in situations in which they are entitled to be heard.²⁰²

RECOMMENDATION 5: Establish a Tribal Liaison within DEQ. To ensure the meaningful involvement of recognized tribes in decisions affecting environmental quality, the DEQ should establish a Tribal Liaison to commit the Department to effective communication with tribal leaders. The Liaison should consult with leaders from tribal communities to determine the best means of establishing meaningful communicating in Department processes. Pursuant to these initial consultations, the Liaison should ensure that the tribes have adequate information to understand the government action at issue and ensure that the Department receives meaningful input from the affected tribal communities.

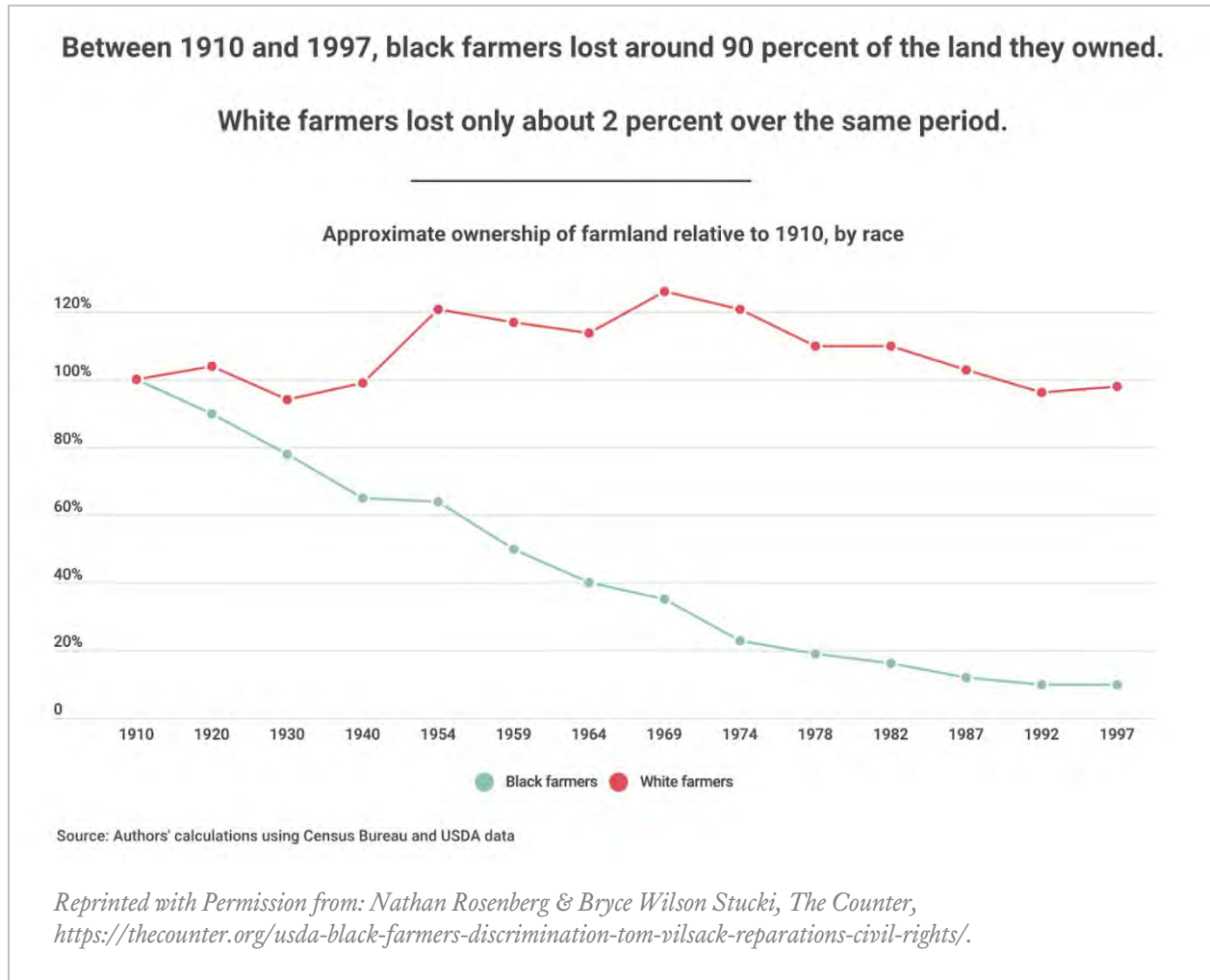
²⁰² Virginia Council on Environmental Justice, 2020 Annual Report at 52.



In the early 1900s, Black farm producers constituted a great number of farms in Virginia and throughout the South. However, throughout the twentieth century, Black farmers were systematically dispossessed of their property. *Images from the Visual Studies Collection of the Library of Virginia.*

AGRICULTURAL EQUITY

Over the last century, African American farmers and landowners have been systematically dispossessed of their property. In 1910, African Americans held title to approximately 16-19 million acres of farmland, and one in seven farmers was Black.²⁰³ However, between 1910 and 2010, 98% of Black farmers were dispossessed through discriminatory practices.²⁰⁴ Today, of the more than 43,000 farm producers in Virginia, only about 2,400 are people of color.²⁰⁵



One historic obstacle for minority-owned farms in Virginia has been the heirs' property system. Land becomes heirs' property when its owner dies without a will, and interests in it are divided among the owner's heirs. Heirs' property has historically been vulnerable to property speculators

²⁰³ Virginia Council on Environmental Justice, 2020 Annual Report at 19.

²⁰⁴ *Id.*

²⁰⁵ *Id.*

who could cause forced sales through partition proceedings.²⁰⁶ Additionally, owners of heirs' property usually do not qualify for certain U.S. Department of Agriculture loans to purchase livestock or cover the cost of planting.²⁰⁷ Individual heirs cannot use their land as collateral with banks or other institutions, so they are denied private financing and federal home-improvement loans.²⁰⁸ Additionally, owners of heirs' property generally are not eligible for disaster relief funds.²⁰⁹

The owners of heirs' property are often unaware of the tenuous state of their title, but even when they are, clearing the title can be a costly and complex process, requiring owners to track down every living heir.²¹⁰ During the 2020 Regular Session, the General Assembly passed HB1605, which incorporated major parts of the Uniform Partition of Heirs' Property Act, consisting of provisions designed to protect the owners of heirs' property during partition proceedings. Even with these protections for heirs' property owners, minority farmers are faced with systemic problems that limit their access to financing, consultation, and education services.

The Commission puts forward the following four recommendations, aimed at equitably serving minority farmers and mitigating systemic inequities.

RECOMMENDATION 1: Modify Code § 58.1-3965 to allow an extended redemption period for tax sales involving heirs' property. Currently, § 58.1-3965 provides for the “owner’s right of redemption” prior to a tax sale. At least 30 days prior to instituting any judicial proceeding for the sale of property at auction for delinquent taxes, the officer charged with collecting taxes must send a notice to several addresses at which the property owner may be located and publish a list of the real estate which will be offered for sale in a newspaper of general circulation. Subsection B provides that “[t]he owner of the property listed may redeem it at any time before the date of the sale by paying all accumulated taxes, penalties, reasonable attorney’s fees, interest, and costs thereon.” Partial payment is insufficient to abate the sale. However, subsection C provides that the treasurer “may suspend any action for sale ... upon entering into an agreement with the

²⁰⁶ Samantha Willis, Growing forward: Facing historic and modern challenges, Virginia’s black farmers look to bolster ranks and grow their communities, *Virginia Mercury*, Dec. 4, 2018, <https://www.viriniamercury.com/2018/12/04/growing-forward-facing-historic-and-modern-challenges-virginias-black-farmers-look-to-bolster-ranks-and-grow-their-communities/>.

²⁰⁷ Lizzie Presser, Their Family Bought Land One Generation After Slavery. The Reels Brothers Spent Eight Years in Jail for Refusing to Leave It, *ProPublica*, July 15, 2019, <https://features.propublica.org/black-land-loss/heirs-property-rights-why-black-families-lose-land-south/>.

²⁰⁸ *Id.*

²⁰⁹ *Id.* In the aftermath of Hurricane Katrina, approximately 25,000 families around New Orleans applied for rebuilding grants for their heirs' property, leading one attorney to estimate that up to \$165 million of recovery funds were never claimed because of title issues relating to heirs' property.

²¹⁰ *Id.*

owner of the real property for the payment of all delinquent amounts in installments over a period which is reasonable under the circumstances, but in no event shall exceed 36 months.”

Historically, many heirs’ property owners are unaware of the state of their title, leading to delinquent property taxes.²¹¹ To the unsuspecting owner, 30 days is likely insufficient to secure the necessary funds to prevent a tax sale. Therefore, the period between notice and sale, during which an owner may redeem the property, should be extended in cases involving heirs’ property. Because of the circumstances unique to heirs’ property, the period over which an owner may set up a payment plan should be extended in these cases as well.

RECOMMENDATION 2: Sufficiently fund Virginia Cooperative Extension services at Virginia State University. The Cooperative Extension services from Virginia’s land grant institutions – Virginia State University and Virginia Tech - provide meaningful education and other support to farmers throughout the Commonwealth. These programs play a vital role in the success of small farms across Virginia, as well as other initiatives within communities. However, Virginia Tech receives almost seven times more funding for its program than Virginia State receives.²¹² While this is understandable given some of the different missions of each school’s extension program, Virginia State, which houses the Small Farms Outreach Program, is primarily responsible for serving Black farmers (who often own small farms). More funding is required to serve more communities and more farmers within those communities. Notably, the Small Farms Outreach Program currently lacks the resources to provide services in the Shenandoah Valley and parts of southwest Virginia, but it would be able to serve these communities with more resources.

RECOMMENDATION 3: Create an Office of Small Farms within the Virginia Department of Agriculture and Consumer Services (VDACS) with a duty to consider racial equity in farming. Stakeholders have expressed concerns that VDACS does not adequately consider the interests of small farm owners.²¹³ Compared to large grain farms, those who operate smaller farms face unique challenges. There are currently seven boards and organizations that operate within

²¹¹ *Id.* See also April Simpson, Racial Justice Push Creates Momentum to Protect Black-Owned Land, Pew, Sep. 21, 2020, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/09/21/racial-justice-push-creates-momentum-to-protect-black-owned-land>. Additionally, communication with Ebonie Alexander, Executive Director of Black Family Land Trust, has conveyed that she is personally aware of these circumstances.

²¹² Research into the state budget bill (Chapter 1289, 2020 Acts of Assembly) shows that the appropriation for Virginia Tech’s program is just shy of \$94 million, while Virginia State’s program is around \$14 million. Moreover, while approximately 80% of Virginia Tech’s funds come from the General Fund, only about half of Virginia State’s funds are from the General Fund.

²¹³ This was revealed through discussions with stakeholders and experts in the areas of agricultural equity and heirs’ property.

VDACS, and none are geared toward addressing issues for small farms or racial equity.²¹⁴ According to the 2017 Agricultural Census, most minority farmers in Virginia operate farms with less acreage while a larger percentage of White farmers operate large farms.²¹⁵ Thus, the creation of an Office of Small Farms within VDACS would allow greater consideration for both the needs of small farmers and racial equity. While creating the Office would be the best means of achieving this outcome, an alternative approach is to add the consideration of racial equity and issues facing small farmers to the list of duties assigned to the Board of Agriculture and Consumer Services in § 3.2-109.

RECOMMENDATION 4: Order State Agencies and Institutions to implement a long-term goal for food procurement from minority producers. In July 2019, Governor Northam issued Executive Order Number 35, which established a 42% target for food procurement from certified Small, Women- and Minority-owned (SWaM) businesses. The SWaM program creates a preferential track for small businesses owned by women, minorities, and service-disabled veterans.²¹⁶ However, those working within the program have found that while it benefits women and veteran-owned businesses, it has largely left out minority farmers who are unable to obtain the required certifications.²¹⁷ The administration should take steps, through executive orders or other means, to help minority-owned businesses participate more fully in the procurement process.

²¹⁴ The organizations and boards include the Aquaculture Advisory Board, Board of Agriculture & Consumer Services, Virginia Agricultural Council, Virginia's Agricultural Commodity Boards, Virginia's Charitable Gaming Board, Virginia Specialty Food & Beverage Association, and Virginia Winery Distribution Company.

²¹⁵ USDA Agriculture Census, 2017, https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_State_Level/Virginia/st51_1_0062_0062.pdf

²¹⁶ Va. Dep't of Small Business and Supplier Diversity, Governor Northam Signs Executive Order 35, <https://www.sbsd.virginia.gov/2019/07/11430/>.

²¹⁷ This information is derived from communications with those in the field.

As the work of this Commission shows, Virginia spent centuries systematically pursuing racial inequity, oppression, and exclusion. And even today, many policies have failed to account for this history or repair its harms, resulting in the perpetuation of those same inequities. Continuing legal practices end up disadvantaging our communities of color in marked ways, from education funding choices to zoning, from choices about Medicaid and CHIP to choices about where to site undesirable waste or industrial facilities.

These realities have revealed the necessity of elevating the Commission's work to official and permanent status in the Commonwealth of Virginia, so that efforts to address racial inequity in Virginia law extend beyond this moment and this Administration. Therefore, the Commission puts forth the following two recommendations to institutionalize racial equity in Virginia law:

RECOMMENDATION 1: Codify the Commission as an ongoing Commission of the Commonwealth of Virginia. The Commission's work so far has barely scratched the surface of a full review of Virginia law and history. Vast swaths of Virginia's policies have yet to be investigated or considered through an equity lens, and the Commission is aware that the work must continue, particularly as the Commonwealth commits to better data collection on many topics. It is therefore recommended that the legislature officially codify the Commission's existence as a permanent Advisory Commission, as defined in §2.2-2100, to outlast any single administration.

RECOMMENDATION 2: Enact a process that would require examination of proposed legislation with an equity lens. The Virginia Department of Budget and Planning reviews every potential law in Virginia for its fiscal impact on the Commonwealth. But there is currently no requirement or review process for a law's equity impact. Does a bill disproportionately and negatively impact a racial or ethnic minority community? What unintended consequences might occur? How will a bill's effect either perpetuate or reduce racial disparities? These are questions that our lawmakers should consider with every bill on which they vote, just as they consider a bill's fiscal impact on the budget.

CONCLUSION AND ACKNOWLEDGMENTS

As described in the introduction, our hope in writing this report and its predecessor is not only to make specific policy recommendations to Governor Northam, but also to contribute to the conversation that Virginians are having about race, equity, and justice. Understanding our past, while at the same time looking clearly at what data and facts tell us about the present, can hopefully move people beyond polarized finger-pointing towards mutual understanding and constructive policy solutions that will make Virginia a fairer and more equitable place for all of our residents.

Despite the breadth of this report and its recommendations, the Commission recognizes that it still has much work to do. The Commission looks forward to planning and executing its 2021 agenda when it hopes to further investigate laws and regulations that contribute directly to inequity in economic achievement and stability. We will review, for example, Virginia's laws and policies on worker rights, consumer protection, debt collection, and other economic areas. As in this work reported here, the Commission will explore these and other areas of statutory and regulatory law that perpetuate racial inequity, and consider specific legislative and policy approaches to addressing identified racial disparities. The Commission will also continue to encourage, welcome, and accept feedback and input from individuals and organizations to help us identify other areas of statutory and regulatory law that perpetuate racial inequity, and require examination and reform.

Lastly, it is important to acknowledge that this report would not have happened without the extraordinary efforts of a number of non-Commission members. In particular, the Commission wants to thank University of Virginia School of Law State and Local Government Policy Clinic students Juliet Buesing, Lukus Freeman, Catherine Ward, and Christopher Yarrell who worked tirelessly on the research and drafting that formed the basis for this report. Your time, effort, and talent made our work easy. In addition, the Commission wants to thank UVA law students Trust Kupupika, Kelsey Massey, and Wes Williams who contributed to much of the initial research on housing, criminal justice, and voting referenced in this report.

Staff at the Library of Virginia, led by Roger Christman, also worked tirelessly to identify some of the powerful historic images found in the report, including Vince Brooks, Greg Crawford, Kelley Ewing, Mark Fagerburg, Cassandra Farrell, Dale Neighbors, Renee Savits, and Ben Steck. Thank you.

Finally, the Commission wants to thank Governor Northam for appointing us to do this important equity examination of Virginia law, and Grace Kelly, Jessica Killeen, Nathan Dowdy, and James “J.D.” Ratliff, who were the lead staff from the Governor’s office who supported our efforts over the last year.

APPENDIX A. RELEVANT LEGISLATION

The following bills passed during the regular or special session in 2020, relating to topics of interest to the Commission. By listing them here, we hope to provide additional context to our recommendations above.

CONFEDERATE MONUMENTS

[HB1537](#), signed during the 2020 Regular Session, allows localities to remove, relocate, contextualize, or cover any monument or memorial for war veterans on the locality's public property. Since enactment, jurisdictions across Virginia have started to remove a range of confederate monuments.

VOTING

Virginia made historic progress in becoming an easier and fairer place to vote:

- [HB1](#): Absentee voting; no excuse required (Permits any registered voter to vote by absentee ballot in any election in which they are qualified to vote). Creates provisions for early voting (“in person absentee” voting).
- [HB108](#) | [SB601](#): Legal holidays; Election Day (Designates Election Day, the Tuesday after the first Monday in November, as a state holiday and removes Lee-Jackson Day as a state holiday).
- [SB65](#): Voter identification; repeal of photo identification requirements (Removes the requirement that voters show a form of identification containing a photograph in order to be allowed to vote).

HOUSING

During the 2020 Regular Session, several improvements were made to Virginia's landlord-tenant laws:

- [HB6](#): Preventing source of funds being used as a proxy/basis for discrimination by landlords with a smaller quantity of rental housing. This protects renters who use federal or state programs to finance their housing.
- [HB99](#): Prohibiting discrimination based on a tenant's status as a victim of family abuse.
- [HB519](#): Requiring legal aid information to be included in any termination of tenancy.

- [HB1420](#): Limiting fees for late payment of rent.
- [HB810](#): Creating a stakeholder advisory group to provide recommendations on starting a Virginia housing opportunity tax credit program to fund affordable housing construction.
- [HB1101](#): Allowing certain localities to adopt affordable housing unit dwelling ordinances.
- [SB834](#): Allowing localities to i) establish jurisdiction-wide affordable housing prices ii) establish jurisdiction-wide affordable housing income guidelines, and iii) offer incentives other than density increases to encourage provisions of affordable housing.
- [HB329](#): Requiring legal aid information to be added to lease termination notices.
- [HB393](#): Creating a tenant bill of rights.

The Special Session primarily addressed aspects of the housing crisis brought on by the pandemic:

- [HB5115](#) | [HB5111](#): Bills brought up to pause or limit evictions during the state of emergency
- [HB5119](#) | [HB5120](#): Bills brought up to govern emergency stays in hotels or motels.
- [HB5106](#): Forbids future landlords from considering evictions that occurred during the COVID-19 pandemic against a potential tenant.
- [HB5064](#): Requires landlords to offer a payment plan prior to eviction for overdue rent (only through July 2021)

EDUCATION

Virginia made important progress in addressing injustices in schools this year:

- [HB256](#): Repeal of Disorderly Conduct statute criminalizing classroom misbehavior
- [HB257](#): Repeal of laws requiring principals to report school-based misdemeanors to the police
- [HB697](#) | [698](#) | [703](#): Prohibition on school meal debt discrimination or punishment
- [HB837](#): Creation of guidelines to ensure dress codes are not racially biased
- [HB916](#): Authorization of a Cultural Relevancy Committee to review social history standards

- [HB415](#): Required learning access during suspensions
- [HB1469](#) | [HB1630](#): Certain extensions to provisional license periods for teachers in high-needs areas
- [HB1419](#): Required training for school resource officers
- [HB292](#): Transparency in MOUs between law enforcement and school districts

CRIMINAL JUSTICE

During the 2020 Regular session, bills addressing the following issues were passed:

- [HB35](#) | [SB103](#): Make eligible for parole any offender convicted of an offense as a juvenile who has served 20 years in prison
- [HB995](#) | [SB788](#): Raise the grand larceny value of goods threshold from \$500 to \$1000
- [HB477](#): Raise the age of juvenile transfer to adult courts from 14 to 16
- [HB744](#): Allow a sentencing court to depart from mandatory minimums for juveniles tried as adults
- [HB972](#): Decriminalize simple marijuana possession and provide a civil penalty of no more than \$25
- [HB974](#): Allow for more than one filed writ of actual innocence per case and increases eligibility criteria for filing said writs

During the 2020 Special Session, bills addressing the following issues were passed:

- [SB5007](#): Provides that Courts, rather than juries, shall determine punishment.
- [SB5013](#): Provides that a violation of possession of marijuana by an adult shall be a pre-payable offense.
- [SB5014](#): Minimum training standards for law-enforcement officers; crisis intervention team training.
- [SB5024](#) | [HB5072](#): Authorizes the Attorney General to file a civil suit or otherwise investigate potentially unlawful actions by law enforcement officers or agencies.

- [SB5030](#): Omnibus policing reform bill, including issues of conduct, equipment, and training.
- [SB5033](#) | [HB5062](#): Requires a court in certain circumstances to grant a motion to dismiss made by the Commonwealth's Attorney.
- [SB5034](#): Provides for parole consideration for the terminally ill.
- [SB5035](#) | [HB5055](#): Authorizes a locality to establish a law-enforcement civilian oversight body with binding legal powers.
- [HB5029](#): Requires that any law-enforcement officer intervene with another officer to end the use of excessive force or attempted use of excessive force.
- [HB5043](#): Provides that the Department of Criminal Justice Services (DCJS) and the Department of Behavioral Health and Developmental Services (DBHDS) shall develop and establish a mental health awareness response and community understanding services (Marcus) alert system throughout the Commonwealth.
- [HB5045](#): Adds law-enforcement officers to those persons who are guilty of a felony if they are in a position of authority over and carnally know without force, threat, or intimidation a person detained or arrested by a law-enforcement officer or an inmate, parolee, probationer, juvenile detainee, or pre-trial defendant or post-trial offender.
- [HB5051](#): Provides for officer decertification based on serious misconduct.
- [HB5058](#): Restricts reasons for which an individual can be pulled over for a traffic stop by a law-enforcement officer.
- [HB5069](#): Prohibits a law-enforcement officer from using a neck restraint in the performance of his official duties and provides for disciplinary sanctions on an officer who uses a neck restraint.
- [HB5098](#): Increases the penalty for falsely summoning or giving false reports to law-enforcement officials because of an individual's race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin.
- [HB5099](#): Prohibits any law-enforcement officer from seeking, executing, or participating in the execution of a no-knock search warrant.
- [HB5104](#): Provides for mandatory disclosure to a prospective law-enforcement or jail employer any information related to the prospective officer's prior misconduct or unlawful actions.

- [HB5108](#): Changes the membership of the Criminal Justice Services Board and its Committee on Training by requiring that some members be representatives of a social justice organization, representatives of community interests of minorities, and mental health service providers.
- [HB5109](#): Requires the Department of Criminal Justice Services (the Department) to develop a uniform curriculum and lesson plans for the compulsory minimum entry-level, in-service, and advanced training standards to be employed by criminal justice training academies approved by the Department when conducting training.
- [HB5148](#): Establishes a four-level classification system for the awarding and calculation of earned sentence credits.

HEALTH

During the 2020 Regular Session, a number of bills successfully passed that will aid in reducing health disparities in Virginia. These include:

- [SB903](#): Hospitals; protocols and screening related to substance use disorders and mental health services at emergency department
- [SB818](#): Behavioral health dockets; established.
- [SB280](#): Health insurance; mental health parity; required report.
- [SB279](#) | [HB1549](#): Certificate of public need; criteria for determining need.
- [SB619](#) | [HB74](#): Public schools; mental health awareness training required.
- [SB734](#) | [HB728](#): Residential psychiatric placement and services; SOE, et al., to establish work group.
- [HB1332](#): Statewide Telehealth Plan. Telehealth services; definitions, report.
- [SB172](#) | [HB1251](#): Health insurance; definitions, payment to out-of-network providers, emergency services (banning balance billing; being implemented January 1, 2021)
- [HB42](#): Prenatal and postnatal depression, etc.; importance of screening patients.
- [HB687](#): State-certified doulas; certification, registry.
- [HB826](#): State plan for medical assistance; payment for services provided by certified doulas.

- [HB907](#): Sickle cell anemia; treatment.
- [SB301](#): Medically underserved areas; transporting patients to 24-hour urgent care facilities.
- The Biennial Budget adopted during the regular legislative session included many health initiatives that were “unallotted” in the April 2020 veto session, due to revenue concerns related to COVID-19. However, many of those initiatives were included and re-funded in the budget adopted during the legislature’s 2020 special session. Adopted items that address racial inequity include the elimination of the 40-quarter work history requirement, which limits legal immigrants’ access to Medicaid; the extension of Medicaid and FAMIS post-partum coverage from 60 days to 12 months to address maternal mortality concerns; and a comprehensive Adult Dental Benefit in Medicaid.

ENVIRONMENTAL JUSTICE

The following provides a summary of bills passed by the General Assembly in the 2020 Regular Session:

- [SB406](#) | [HB704](#): Environmental Justice; definitions, agency regulations, Virginia Environmental Justice Act, policy.
- [HB1042](#): Environmental Justice, Virginia Council on; established.
- [HB1162](#): Environmental Quality, Department of; definition of environmental justice.
- [HB1164](#): Environmental Quality, Department of; policy statement.
- [HB1605](#): Partition of property; in partition actions the court shall order an appraisal of property.
- [SB1075](#): Environmental Quality, Department of; public comment.
- [HB572](#) | [SB710](#): Distributed solar & other renewable energy; sales of electricity under third-party agreements.
- [HB528](#): Electric generation facilities; SCC shall determine retirement of facilities.
- [HB981](#) | [SB1027](#): Clean Energy and Flood Preparedness Act; definitions, funds, report.
- [HB1526](#) | [SB851](#): Electric Utility Regulation; environmental goals.
- [HB394](#): Diversity, Equity, and Inclusion, Director of; position created.

- Previously existing via [Executive Order 29](#), [SB1042](#) made the Virginia Council on Environmental Justice (“CEJ”) a permanent advisory committee.

AGRICULTURAL EQUITY

In the 2020 Regular Session, the General Assembly passed [HB1605](#), which incorporated major parts of the Uniform Partition of Heirs’ Property Act, consisting of provisions designed to protect the owners of heirs’ property during partition proceedings.

APPENDIX B. COMMISSION'S LETTER ON POLICING



COMMONWEALTH of VIRGINIA

Office of the Governor

Commission to Examine
Racial Inequity in Virginia Law

August 6, 2020

The Honorable Ralph S. Northam
Governor, Commonwealth of Virginia
1111 East Broad Street
Richmond, Virginia 23219

Dear Governor Northam:

Per your charge to the Commission to Examine Racial Inequity in Virginia Law on June 11, 2020 that the Commission develop a set of legislative or policy recommendations to facilitate needed reforms of law enforcement practices. The Commission has been hard at work to develop such a set of recommendations. Specifically, with the help of research provided by students from the University of Virginia School of Law, and contributions and public comments received from a range of stakeholders, the Commission,¹ over the course of meetings on June 17, 2020, July 1, 2020, and July 22, 2020, forged a series of legislative and policy recommendations for your consideration. This letter details those recommendations that, in general, fall into the following four categories: (1) Transparency; (2) Accountability; (3) Safety; and (4) Policy/Budget Initiatives.

I. INTRODUCTION

The Commission comes to this task in the aftermath of acts of police violence that, of course, demand a response and re-affirm data showing that African Americans are disproportionately arrested, injured and killed by police compared to white people. The Commission has also approached this work within the broader context of an examination of practices and policies in the Commonwealth that have negatively and disparately impacted people of color across almost all areas of life.²

¹ For the research and analysis supporting these recommendations see materials from the June 17th, July 1st, and July 22nd meetings of the Commission, which is available at the Commission's website:

<https://www.governor.virginia.gov/racial-inequity-commission/>.

² See materials from May 21st meeting of the Commission, including memo and presentation detailing racial disparities in Virginia in the areas of housing, education, criminal justice, and health, which is available at the Commission's website: <https://www.governor.virginia.gov/racial-inequity-commission/>.

While the responses we propose are, we think, necessary state legislative mandates, rules, and models, the Commission fully appreciates that legislation only goes so far. In addition to the changes proposed below, and others that you and the legislature may consider, the Commission believes necessary change must also come from the personal and professional commitment of each and every law enforcement agency leader and those who elect or appoint them. This change must help their departments rise to the challenge of this moment and transform their role and relationship with the communities they serve from, to paraphrase Bryan Stevenson, an occupying force to trusted “guardians.”

This level of change is cultural and relational, and something that no law can mandate. Therefore, the Commission supports the leadership that some members of the law enforcement community are already taking to realize that kind of change. The Commission also champions various non-legislative efforts to bring this change about. For example, the Commission encourages programs to promote mutual trust by bringing police and residents in heavily-policed communities together in non-enforcement community/social activities; police ride-along programs that better orient community members to the challenges of policing and needs of officers; intensifying efforts to make police forces more diverse in terms of race, ethnicity, gender, cultural background and language; involvement of citizens in policy and strategy development for dealing with crime in high-crime communities; as well as expanding resources for law enforcement officers' emotional and mental health.

II. DATA COLLECTION AND TRANSPARENCY

- 1. Require local law enforcement data reporting on use of force, pedestrian stops, all civilian complaints (amending the Community Policing Act, Va. Code § 52-30.1.), and enact an enforcement mechanism for local agency data reporting requirements.**

Comment: The Commission recommends adding data collection on pedestrian stops to the recently passed Community Policing Act (CPA), as well as requiring the collection of demographic data and narrative information regarding any use of force, and civilian complaints, which may include complaints of unjustifiable stops or searches, harassment, or profiling. The Commission also proposes adding an enforcement mechanism to both incentivize appropriate data collection and hold accountable agencies that fail to follow statutory requirements.

- 2. Establish a public, free database of downloadable data elements from data collected under the Community Policing Act.**

Comment: The CPA makes great strides in improving statewide collection of data and thereby improves transparency in policing. However, under the CPA, this data still goes solely to the Department of Criminal Justice Services (DCJS) and the Virginia State Police. Currently, this data only gets reported out to the public on an annual basis, in a report in which analysis has already been conducted and conclusions already drawn. Researchers

strongly recommend improving public trust, law enforcement research, and police accountability by allowing the public to download and work with police department data directly.

3. Create more public transparency regarding law enforcement officer misconduct involving improper use of force and criminal investigations of law enforcement officer conduct.

Comment: Due to broad records protection laws created by Freedom of Information Act exemptions, Virginians have been effectively barred from accessing internal affairs investigative files, personnel files, and non-active criminal investigative files about law enforcement officers. As a result, Virginia police are generally exempt from ordinary government and public oversight. The Commission recommends legislation to promote greater transparency.

III. ACCOUNTABILITY

4. Mandate and empower civilian review boards to investigate and address complaints of misconduct, including the use of professional staff, subpoena power, and authority to make recommendations on discipline.

Comment: Many advocates and organizations, including many local governments, are currently calling for mandated civilian complaint review boards (CCRBs) with investigative, auditing, and/or disciplinary authority across the Commonwealth. The Commission, when discussing this issue, recognized both the value of citizen engagement and the need for full-time professional staff if CCRBs were to be successful. While acknowledging that there are costs and benefits to any approach, both in terms of fiscal impact and community value, the Commission recommends the establishment of CCRBs across the Commonwealth, with professional staff, subpoena power, authority to investigate civilian complaints, and pre-established agreements with local law enforcement agencies to make discipline recommendations based on the outcomes of those investigations.

5. Create civil liability for bias-based profiling, as defined by the Community Policing Act (CPA).

Comment: The CPA includes a welcome prohibition of racial profiling by law enforcement on the basis of race and ethnicity, as well as age and gender. While the CPA is a good start for Virginia, additional provisions should be added to make the law enforceable, such as creating express civil liability for officers who illegally profile civilians or their employers. Racial profiling laws, when enforceable, can provide important rights to people who are left behind by gaps in federal constitutional enforcement.

6. Provide additional decertification criteria for law enforcement officers based on repeated or serious misconduct or dishonesty.

Comment: Virginia law currently provides for the decertification of law enforcement officers who fail to complete training requirements, who are found to use drugs, or who are convicted of certain crimes. It does not provide for the decertification of officers who have been found to violate department policy or regulations, or who have a record of misconduct or integrity violations. Expanding the law to also provide for decertification when officers engage in serious misconduct, or demonstrate dishonesty and lack of integrity, will make it easier for local departments to remove problem officers, and make it harder for such officers to move from department to department and avoid accountability.

7. Give the Office of Attorney General concurrent jurisdiction to investigate and prosecute serious criminal allegations against law enforcement officers, without the need for consent from the local Commonwealth's Attorneys.

Comment: Currently, investigation and prosecution of criminal allegations against a police officer are handled by the local prosecutor, who may personally know the involved officer and whose investigation, and prosecution (if any), may be tainted, at a minimum, by the appearance of bias, if not actual bias. To restore public faith in the independence and reliability of such prosecutions, the legislature should grant the Attorney General concurrent, but superseding, authority to investigate and prosecute serious criminal allegations against law enforcement officers.

8. Strengthen civil liability and limit sovereign immunity protections, for both law-enforcement officers engaged in misconduct and their employers.

Comment: The doctrine and codification of sovereign immunity can all too often shield law enforcement officers and those who employ them from appropriate civil liability for harm they may cause to members of the public. The Commission recommends, accordingly, that you propose, or support, legislation instituting or permitting some degree of civil legal liability for law enforcement officers, and their employing entities. So as to ensure that abuses of force, physical violence, and intentional tortious actions are met with accountability, and that employers are held accountable for failure to exercise a defined level of care in hiring, training, and retaining officers who abuse their authority to the detriment of the public.

IV. MAKE POLICING SAFER

- 9. Require development of state model use-of-force policies with minimum requirements to be adopted by law enforcement agencies that address the following: limitations or bans on the use of chokeholds; warnings before shootings; reducing force as a threat subsides; creating duties to intervene to prevent use of excessive force and provide medical aid; and limiting use of force to execute non-violent felony or misdemeanor arrests.**

Comment: The Commission proposes that you recommend legislation requiring DCJS to create a model use-of-force policy for distribution to local law enforcement agencies, and further requiring all law enforcement agencies to adopt a use-of-force policy that includes mandatory provisions addressing the matters set forth in the recommendation above.

- 10. Expand community membership on the Department of Criminal Justice Services (DCJS) law enforcement training committee.**

Comment: Under current law, the membership of DCJS' Training Committee – the body charged with establishing training standards for law enforcement professionals across the Commonwealth – is reserved almost exclusively for law enforcement professionals, with only one seat on the Committee for a “citizen representing community interests.” Adding more diverse community voices to the training committee will better ensure community priorities are reflected in the training requirements for law enforcement officers.

- 11. Further limit the use of no-knock warrants (“Breonna’s Law”).**

The recent shooting of Breonna Taylor, an EMT asleep in her own home, by plain-clothes police officers, has drawn national attention to the problem of the so called ‘no-knock warrant.’ The Commission recommends that you propose or support legislation further limiting the use of such warrants.

- 12. Conduct a comprehensive review of the number and nature of arrestable offenses in Virginia law and recommend reductions in the number of arrestable offenses where the findings warrant.**

Comment: Like no-knock warrants, arrests risk substantial physical harm or injury, indignity, and deprivation of constitutional rights, often for offenses that do not justify this risk. Scholars increasingly argue that many arrests are unnecessary to promote public safety, even when criminal charges may be appropriate as sanctions. Requiring certain low-level offenses to be charged by summons rather than arrest avoids the physical risks of a forceful encounter and encourages police officers to focus their authority on more pressing risks to public safety.

V. OTHER TOPICS & NON-LEGISLATIVE CHANGES

13. Study police militarization.

Comment: Over recent years law enforcement has increasingly obtained military-style equipment and employed military-style tactics during everyday law enforcement. While the Commission recognizes that such equipment and tactics may well be necessary during extreme circumstances, the Commission is also concerned that such equipment and tactics, when available, are deployed, at times, in an unsafe manner. Accordingly, the Commission recommends that the Joint Legislative and Audit Review Commission or other appropriate body study the issue of state funding of the militarization of police in Virginia and make recommendations regarding any necessary changes to current practice.

14. Study reallocation of policing funds.

Comment: Increasingly, law enforcement has been called upon to address social problems such as homelessness, untreated mental illness, or student misbehavior in school. These social problems may be better handled by professionals trained to address those specific problems rather than by a law enforcement officer. The Commission recommends a study of state spending on state and local law enforcement to determine whether and how best to reallocate some portion of those funds to human service interventions better targeted at addressing these underlying community challenges.

15. Incentivize Early Warning System pilot programs.

Comment: Early Warning Systems³ are highly effective local law enforcement programs that flag problem officers for intervention early in their careers, and ideally before they abuse their positions. This change may be best expressed as a budget item to establish several pilot programs in localities across the state.

16. Adjust police training requirements.

Comment: Given the need for safer and more constructive community and police relations, and the likelihood of new practices, policies, and legal obligations, transforming the training of law enforcement should be an urgent priority.

³ For more information on Early Warning Systems see Samuel Walker et al., *Early Warning Systems: Responding to the Problem Police Officer*, *National Institute of Justice* (2001), <https://www.ncjrs.gov/pdffiles1/nij/188565.pdf>.

17. Encourage diversity in law enforcement.

Comment: To build stronger bridges between law enforcement agencies and the communities they serve, the Commission recommends measures to support the recruitment, hiring, and retention of members of those communities as local law-enforcement officers.

CONCLUSION

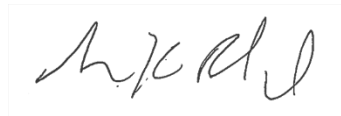
The Commission is grateful for the opportunity to serve you and your administration, and to have the chance to contribute to the important conversations taking place right now about how to better keep our communities safe. The recommendations set forth above result from the Commission's hard, unflinching look at the undisputable facts of racially disparate treatment of citizens at the hands of law enforcement, with the concurrent recognition of the value and need for good, fair, effective policing. The Commission submits that this kind of focus is a critically necessary exercise in the honest confrontation and assessment of the historical racism that continues to influence our laws, our practices, and our community relationships. We look forward to applying this approach to the other areas of racial inequity that continue to impede our progress toward becoming a more fair and just Virginia.

On behalf of the all of the members of the Commission to Examine Racial Inequity in Virginia Law, thank you for your consideration.

Sincerely,



Cynthia Hudson
Commission Chair



Andrew Block
Commission Vice-Chair

BACK COVER: BPOS Foundation, Inc. (Be Part of the Solution, Inc.), Fairfield Court Elementary School in Richmond, VA (Feb. 29, 2016).

<http://www.bposfoundation.com/fairfield-court-elementary-school-richmond-va.html>



SUBCOMMITTEE: SOL AND SOQ

1 SENATE BILL NO. 1303
2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
3 (Proposed by the House Committee on Education
4 on _____)
5 (Patron Prior to Substitute--Senator Dunnivant)

6 A BILL to require each school board to offer certain methods of instruction for the duration of the 2021–
7 2022 school year to students enrolled in the local school division; exceptions permitted.

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

9 1. § 1. Each school board shall offer, for the duration of the 2021–2022 school year, fully in-person
10 instruction or a combination of in-person and remote virtual instruction to each student enrolled in the
11 local school division in a public elementary and secondary school or a public school-based early childhood
12 care and education program. For the purposes of this act, each school board shall (i) adopt, implement,
13 and update, as it deems appropriate, a definition of and specific parameters for the provision of in-person
14 instruction and (ii) provide such in-person instruction in a manner in which it adheres, to the maximum
15 extent practicable, to any currently applicable guiding principles, operational strategies, and mitigation
16 strategies for early childhood care and education programs and elementary and secondary schools during
17 the COVID-19 pandemic that have been provided by the federal Centers for Disease Control and
18 Prevention.

19 § 2. Prior to the start of the 2021–2022 school year, all teachers and school staff shall be offered
20 access to receive an approved COVID-19 vaccination through their relevant local health district.

21 § 3. Notwithstanding the provisions of § 1 of this act, any local school board may, for any period
22 during which the Governor's declaration of a state of emergency due to the COVID-19 pandemic is in
23 effect, provide fully remote virtual instruction to (i) any such enrolled student upon the request of such
24 student's parent and (ii) each student enrolled in any such school or program in the event that the school
25 board determines, in accordance with "Step 2: Determine the Level of School Impact" in the Department
26 of Health's Interim Guidance to K–12 School Reopening or any similar provision in any successor

27 guidance document published by the Department of Health, that the transmission of COVID-19 within
28 the school building is at a high level.

29 § 4. Nothing in this act shall be construed to prohibit any teacher or other school staff member
30 who is permitted to perform any job function in a fully remote or virtual manner as a reasonable
31 accommodation pursuant to Title I of the Americans with Disabilities Act (42 U.S.C. § 12111 et seq.)
32 from continuing to perform any such job function in such a manner.

33 **2. That in order to facilitate the implementation of § 3 of the first enactment of this act, the**
34 **Department of Health shall maintain, for the duration of the period during which the Governor's**
35 **declaration of a state of emergency due to the COVID-19 pandemic is in effect, a guidance document**
36 **for K-12 school reopening that contains metrics for determining whether transmission of COVID-**
37 **19 within public school buildings is at a low, medium, or high level.**

38 **3. That the provisions of this act shall expire on August 1, 2022.**

39

#

**BUDGET PROPOSALS FOR 2020 - 2022
DURING THE 2021 GENERAL ASSEMBLY SESSION
as of February 19, 2021**

Estimated Impact to Fairfax County - Increase/Decrease Over Prior Fiscal Year (\$ Million)

	Governor's Budget		House		Senate	
	FY 2021	FY 2022	FY 2021	FY 2022	FY 2021	FY 2022
Direct County Impact						
Provides targeted salary adjustments for specific positions reimbursed by the Compensation Board.	\$0.00	TBD	TBD	TBD	TBD	TBD
Governor: Provides 1.5% bonus on September 1, 2021 to state supported local employees, contingent on state revenues. The County will need to budget for the bonus in FY 2022.	\$0.00	\$0.42	\$0.00	\$0.00	\$0.00	\$0.00
House: Provides funding for a 3.5% salary increase in FY 2022 for state supported local employees, effective July 1, 2021.	\$0.00	\$0.00	\$0.00	\$1.00	\$0.00	\$0.00
Senate: Provides funding for a 3% salary increase in FY 2022 for state supported local employees, effective September 1, 2021.	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.80
TOTAL DIRECT COUNTY IMPACT	\$0.00	\$0.42	\$0.00	\$1.00	\$0.00	\$0.80
TOTAL OVER THE BIENNIUM	\$0.42		\$1.00		\$0.80	

Impact to the Fairfax County Public Schools (FCPS) Operating Fund Budget

Governor Northam's Budget:

Compared to the FCPS FY 2021 Approved Budget, Governor Northam's budget includes a \$21.9 million increase in state aid and a \$17.3 million decrease in sales tax revenue for FY 2021.

For FY 2022, Governor Northam's Budget includes a \$3 million increase in state aid and a \$12.7 million decrease in sales tax revenue compared to the FCPS FY 2021 Approved Budget.

House: Compared to the FCPS FY 2021 Approved Budget, the House Budget includes a \$15.3 million increase in state aid and a \$17.3 million decrease in sales tax revenue for FY 2021.

For FY 2022, the House includes a \$5.3 million increase in state aid and no change in sales tax revenue compared to the FCPS FY 2022 Advertised Budget. The FY 2022 Advertised Budget does not include the state's share of a 5% salary increase. Based on School Board action on February 18, 2021, the FY 2022 Advertised budget includes a 3% compensation increase and not the 5% increase required to receive the state's share provided in the House proposed amendments.

Senate: Compared to the FCPS FY 2021 Approved Budget, the Senates Budget includes a \$21.9 million increase in state aid and a \$17.3 million decrease in sales tax revenue for FY 2021.

For FY 2022, the Senate includes a \$6.3 million increase in state aid and no change in sales tax revenue compared to FCPS' FY 2022 Advertised Budget.

**BUDGET PROPOSALS FOR 2020 - 2022
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Budget Bill Item #	Issue	Fairfax County Impact
Compensation/Compensation Board		
State-Supported Employee Compensation		
477 LL	Governor Northam's Budget: Contingent on FY 2021 revenues meeting projections, provides \$15.5 million for a 1.5% one-time bonus on September 1, 2021 for state supported local employees. The funding is also contingent on the governing local authority of such employees using such funds to support the provision of a bonus.	Appears that the County will not be able to draw down state funding in FY 2022, unless the County provides a bonus for state-supported local employees. The County would be reimbursed approximately \$0.42 million.
477 #2h	House: Provides funding for a 3.5% salary increase for state supported local employees instead of the bonus proposed by the Governor - effective July 1, 2021.	Requires that the governing body use the funding to support salary increases. The County would be reimbursed approximately \$1 million.
477 #1s	Senate: Contingent on revenues, provides a 3% salary increase for state supported local employees effective September 1, 2021 instead of the bonus proposed by the Governor.	Requires that the governing body use the funding to support salary increases. The County would be reimbursed approximately \$0.8 million.
68	Governor Northam's Budget: Provides \$2.6 million in FY 2022 to fund salary increases for regional jail officers consistent with those received by deputy sheriffs to equalize the pay grade for all entry-level correctional officers in local and regional jails.	The Sheriff's Office believes that there is no fiscal impact as they are not a regional jail.
	House/Senate: No change.	
68	Governor Northam's Budget: Provides \$2.3 million in FY 2022 to fund 25% of staffing needs for Sheriffs' and Commonwealth's Attorneys' offices. This restores funding that was previously unallotted.	The County would realize a potential increase for the Compensation Board reimbursement. TBD.
	House/Senate: No change.	
71, 74	Governor Northam's Budget: Provides \$1.7 million in FY 2022 to fund targeted salary increases for Commissioners of Revenue and local Treasurers' offices. This restores funding that was previously unallotted.	The County would realize a potential increase for the Compensation Board reimbursement. TBD.
	House/Senate: No change.	
73	Governor Northam's Budget: Provides \$1.8 million in FY 2022 to adjust salaries of circuit court clerks to address pay equity with those of the district court clerk positions. This restores funding that was previously unallotted.	Applies to entry-level positions. As a result, the County would realize an increase for the Compensation Board reimbursement. The estimated increase is approximately \$150,000.
	House: No change.	
73 #1s, #2s	Senate: Increases the marriage license fee from \$30 to \$50 and the divorce filing fee from \$86 to \$100, and specifies that any additional revenues shall be used exclusively for compensation increases for the clerk and deputy clerks of the circuit courts.	Revenue generated from the increased fees will go to the state General Fund and then be dispersed as needed to cover the increased Compensation Board reimbursement for compensation increases for the clerk and deputy clerks of the circuit courts.
75 #1s	Senate: Directs the Compensation Board to work with the Virginia Association of Commonwealth's Attorneys to examine the staffing standards used to determine the number of positions allocated to each office, expanding the standards to include workload elements that are not solely based on metrics related to felony charges and convictions. Provides \$250,000 in FY 2022 for the Compensation Board to contract with the National Center for State Courts to perform a time study to determine the comprehensive duties and responsibilities of Commonwealth's Attorneys' offices, including the use of diversion programs and specialty dockets.	The amendment directs and funds a study to address important criminal justice reform issues raised in SB 1266 (Boysko), a County legislative initiative.
75 #2s	Senate: Directs the Compensation Board to review the plan that is to be developed by the Department of Criminal Justice Services by July 1, 2021, outlining law enforcement agencies' roles in the Marcus Alert System established during the 2020 Special Session, and to survey sheriffs' offices to determine anticipated costs to meet the requirements established by the plan.	
87 #1h	House: Provides approximately \$3.5 million in FY 2022 to increase the salary scale for general registrars to equal the salary scale for treasurers and restore full reimbursement for registrars' and electoral board members' compensation.	Currently the state reimburses the County approximately 65% of the electoral board stipend and the general registrar's state mandated salary, but not the County supplement. This proposal would require 100% reimbursement of the mandated salary/stipends. Results in estimated additional funding of \$41,000.
87 #1s	Senate: Provides approximately \$2.5 million in FY 2022 to restore full reimbursement for compensation for general registrars and electoral board members.	Currently the state reimburses the County approximately 65% of the electoral board stipend and the general registrar's state mandated salary, but not the County supplement. This proposal would require 100% reimbursement of the mandated salary/stipends. Results in estimated additional funding of \$41,000.

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Budget Bill Item #	Issue	Fairfax County Impact
Judiciary/Public Safety		
408	State Aid to Localities with Police Departments (HB 599)	
	Governor Northam's Budget: An increase of \$8.6 million was initially included during the regular session, but subsequently unallotted by the Governor. While the December forecast is projecting General Fund revenues to grow in FY 2021 and FY 2022, HB 599 funding is being kept flat at the FY 2020 level.	Fairfax County will receive the same amount as in FY 2020.
	House/Senate: No change.	
Hate Crimes		
406	Governor Northam's Budget: Provides \$1.5 million in FY 2022 to the Department of Criminal Justice Services for competitive grants to localities to combat hate crimes. This funding was included in the budget passed by the 2020 GA and was unallotted due to COVID-19.	TBD.
	House/Senate: No change.	
Expungement		
479	Governor Northam's Budget: Provides \$5 million in FY 2021 and \$20 million in FY 2022 to pay for the cost of expungement reforms, including automatic expungement of misdemeanor marijuana convictions.	TBD.
479 #4h	House: Reallocates \$20 million in FY 2022 provided in Central Accounts pursuant to House Bill 2113 related to the expungement of criminal records. In addition, directs \$5 million in FY 2021 toward the unanticipated agency costs of cannabis legalization pursuant to House Bill 2312.	The County supports the concept of expungement for certain crimes, however sufficient state funding for implementation is essential.
425 #3h	House: Provides approximately \$13.1 million in FY 2022 to cover the one-time and ongoing costs of implementing and operating an automatic expungement process for certain offenses.	The County supports the concept of expungement for certain crimes, however sufficient state funding for implementation is essential.
391 #2s	Senate: Directs the workgroup created pursuant to Senate Bill 1339 to include a comprehensive review of all systems and processes necessary for the expungement or sealing of police or court records and to report on the costs of needed improvements to the General Assembly.	The County supports the concept of expungement for certain crimes, however sufficient state funding for implementation is essential.
COVID-19 Response		
411	Governor Northam's Budget: Provides approximately \$42.0 million in FY 2021 and approximately \$36.9 million in FY 2022 for coordinating response and recovery efforts related to the pandemic. This is in addition to separate funding for vaccination and public health education initiatives shown on the Human Services section.	TBD. Funding is available for the purchase, storage, and distribution of personal protective equipment to fulfill requests received through the Virginia Emergency Support Team.
411 #1h	House: Removes approximately \$31.1 million from the GF in FY 2021 and approximately \$15.9 million from the GF in FY 2022 proposed in the Governor's introduced budget for the Virginia Department of Emergency Management to purchase personal protective equipment. The Department received a \$47 million reimbursement from the Federal Emergency Management Agency that may be used for such purpose.	
411 #1s	Senate: Supplants COVID-19 response and recovery funds with federal funds.	
Equity Emergency Management Positions		
413	Governor Northam's Budget: Provides \$237,772 to fund two equity emergency management analyst positions to support local governments that participate in the Health Equity Program. Positions will provide technical assistance and guidance as localities integrate equity into their emergency management programs, support ongoing responses to COVID-19, and build resilience in at-risk communities. Positions will be supported by the COVID-19 Supplemental Emergency Management Performance Grant through FY 2022.	TBD.
	House/Senate: No change.	
Body Worn Cameras		
391	Governor Northam's Budget: Extends the work of the Body Worn Camera Workgroup until November 2021. The work group is directed to examine the workload impact, as well as other fiscal and policy impacts, of the use of body worn cameras on the Commonwealth's public safety and judicial agencies as a whole.	TBD.
	House/Senate: No change.	

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Budget Bill Item #	Issue	Fairfax County Impact
Other Items of Interest		
Virginia Telecommunication Initiative (VATI)		
114.L	Governor Northam's Budget: Provides an additional \$15.25 million in FY 2022 for the VATI, for a total of \$49.7 million.	TBD.
114 #5h, #5s	House/Senate: Establishes a one-year pilot program in FY 2022, capped at 10% of total FY 2022 funding, for the Virginia Telecommunication Initiative (VATI), in which public broadband authorities may apply directly for VATI funds without a private sector partner.	
Virginia Housing Trust Fund (HTF)		
113	Governor Northam's Budget: Provides an additional \$15.7 million (for a total of \$70.7 million) in FY 2021 and additional \$25 million (for a total of \$55 million) in FY 2022. This includes additional funding of \$15.7 million in FY 2021 to continue the Virginia Rent and Mortgage Relief Program after the expiration of the federal Coronavirus Relief Funds.	The County's Legislative Program includes support for additional appropriations to the HTF.
113 #1h	House: Reduces by \$25 million the funding for the HTF in FY 2022. The additional funding for the HTF in FY 2021 served as a bridge to continue the Rent and Mortgage Relief program, and is no longer needed in FY 2022 due to the availability of over \$560 million in federal funds for rental assistance.	
113 #1s	Senate: Reduces by \$15.7 million the funding for the HTF in FY 2021 intended to support the Virginia Rent and Mortgage Relief Program and directs that rental assistance funding provided through the most recent federal relief package be designated to continue that program.	
Elections		
86	Governor Northam's Budget: Provides \$16.7 million GF in FY 2021 to support and replace the Virginia Election and Registration Information System (VERIS).	TBD.
	House/Senate: No change.	
86 #1h	House: Provides an estimated \$1 million for reimbursement to localities for the cost of prepaid postage sent with absentee ballots.	Positive as the County would receive a reimbursement for its postage costs related to absentee ballots.
Economic Development/Workforce		
112	Governor Northam's Budget: Provides \$2 million to restore the Virginia Jobs Investment Program (VJIP).	Support for the VJIP was included in the County's 2021 Legislative Program.
	House/Senate: No change.	
112	Governor Northam's Budget: Provides \$5.6 million for incentive payment for Microsoft to invest \$64 million and create 1,500 jobs in Fairfax County by creating a new software research and development hub.	Positive.
	House/Senate: No change.	
221	Governor Northam's Budget: Restores \$1.5 million GF in FY 2021 and \$34.5 million GF in FY 2022 for the Get Skilled, Get a Job, Give Back program (G3), the Governor's workforce development initiative.	TBD.
221 #1h	House: Makes technical changes consistent with House Bill 2204 (Filler-Corn) and provides training and programs under the G3 initiative free to healthcare workers, first responders and other essential workers that are serving on the frontline of the COVID-19 pandemic, while Virginia remains in a state of emergency for the pandemic and for two years thereafter.	
	Senate: No change.	
114 #3s	Senate: Provides \$10 million in FY 2022 and establishes the Virginia Community Development Financial Institutions (CDFI) Fund to provide capital through grants to community development financial institutions or other similar entities to provide financing in the form of loans, grants or forgivable loans to small business or community revitalization real estate projects in Virginia.	
128 #2h	House: Directs \$20 million in revenue derived from the monthly tax on games of skill to the Rebuild Virginia program, which provides grants to small businesses and nonprofits affected by the pandemic.	
479.10 #2s	Senate: Directs \$25 million in revenue NGF from the COVID-19 Relief Fund for the purpose of awarding grants to small businesses through the Rebuild Virginia program.	
125 #2h	House: Directs the Department of Mines, Minerals, and Energy to establish a work group to assess the feasibility of creating a Virginia Residential Property-Assessed Clean Energy (R-PACE) Program.	

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Budget Bill Item #	Issue	Fairfax County Impact
<u>Natural Resources</u>		
376, 377, 378	Governor Northam's Budget: In FY 2022, provides \$8.3 million for the Water Protection program, \$2 million for the Air Protection program, and \$1.7 million for the Land Protection program through staffing increases.	TBD.
	House/Senate: No change.	
373	Governor Northam's Budget: Provides \$4.55 million in FY 2022 for technical assistance to soil and water conservation districts for water quality efforts.	TBD.
373 #2h	House: Increases the appropriation for the Virginia Conservation Assistance Program (VCAP) by \$500,000 in FY 2022, bringing total FY 2022 funding to \$1 million.	The VCAP is managed through the Northern Virginia Soil and Water Conservation District. This amendment is beneficial to Fairfax County, as this program is very active in the County and is in high demand. The increase in state funding will assist with meeting the demand in the County.
373 #2s	Senate: Convenes a workgroup to assess the sale and use of invasive plant species in the retail, landscape, greenhouse, and nursery industries, consider measures to reduce or eliminate the sale and use of invasive plant species in the Commonwealth, and promote the sale and use of native plants.	Support for efforts to discourage the sale of invasive species is included in the County's 2021 Legislative Program.
379 #1h	House: Provides \$26 million in FY 2022 for the Stormwater Local Assistance Fund (SLAF).	Support for increased SLAF funding is included in the County's 2021 Legislative Program.
374 #3h	House: Provides \$2 million GF in FY 2022 to support the purchase of River Farm in Alexandria by the Northern Virginia Regional Park Authority for conservation and maintenance as a publicly accessible historic site.	Positive.
374 #3s	Senate: Removes \$3.5 million GF in FY 2022 and provides for the consideration of one-time funding of up to \$5 million GF for the identification, acquisition, and preservation of tribal lands for the Chickahominy Tribe, and for the conservation and preservation of River Farm.	Positive.
374 #1h, #1s	House/Senate: Provides approximately \$1.5 million GF in FY 2022 for the costs of connecting Mason Neck State Park to the local municipal drinking water system.	Positive.
107 #1h	House: Directs the Department of Forestry to convene a stakeholder workgroup to provide recommendations for policies which encourage increased tree cover in communities and preservation of mature tree cover on sites being developed.	Support for increased local flexibility for tree preservation is included in the County's 2021 Legislative Program.
<u>Aid to Local Public Libraries</u>		
247 #1h, #1s	House/Senate: Restores \$1 million GF in aid to local public libraries in FY 2022.	Positive - approximately \$20,000 in additional state aid to the Fairfax County Public Library from a total statewide increase of \$1 million.
<u>Local Property Tax Exemptions</u>		
114 #6h, #4s	House/Senate: Directs the Commission on Local Government to review the effects of mandatory property tax exemptions on local finances, to include recommendations to mitigate the impacts on local budgets.	The County has supported the goals of many of the General Assembly's efforts to provide tax relief for particular groups in recent years, but the County's position has been that such efforts should be provided in the form of state tax relief rather than mandatory local property tax exemptions, as local revenue sources are very limited. This study could be helpful in providing information to the General Assembly about the impacts on localities of the numerous exemptions that have been enacted in recent years.
<u>Other Items of Interest</u>		
113	Governor Northam's Budget: Restores \$3.3 million in FY 2022 to continue the Eviction Prevention and Diversion Pilot Program, which supports local or regional programs that link clients to departments of social services and legal aid.	TBD.
	House/Senate: No change.	
131	Governor Northam's Budget: Provides \$10 million in funding in FY 2022 to increase staffing for the processing of unemployment insurance claims.	The County sent a letter to the Governor asking to commit additional resources for this purpose.
	House/Senate: No change.	
465 #1h	House: Provides \$5 million from the GF in FY 2022 to Fairfax County for projects within the National Museum of the United States Army.	Positive. The County provides annual contributions to the museum through the County's Contributory Fund.

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Budget Bill Item #	Issue	Fairfax County Impact
Human Services		
Medicaid Waivers		
313 #4s	Senate: Provides approximately \$10.7 million GF to match equivalent federal Medicaid matching funds in FY 2022 to increase the number of Family and Individual Support (FIS) waiver slots by 650, bringing the total number of waiver slots in FY 2022 to 1,200 to address the Priority One Waiting List.	Support for increases in state funding and the expansion of Medicaid waivers is included in the County's 2021 Human Services Issue Paper. The amendment would provide the Fairfax-Falls Church CSB with additional waivers which will require additional support coordinators. The full impact to the County is still to be determined. The County estimates that it will receive between 40-80 additional waivers, which could require an additional two to four support coordinators.
Medicaid Waiver Provider Rates		
313 #11h	House: Provides approximately \$36.7 million GF and approximately \$38.1 million in federal Medicaid matching funds in FY 2022 to increase provider rates by five percent for personal care, respite care, and companionship services provided in Medicaid waiver programs effective July 1, 2021.	Support for increases in state funding for Medicaid waivers and the expansion of Medicaid waivers is included in the County's 2021 Human Services Issue Paper. The County estimates that this will have minimal to no fiscal impact, but will benefit the private providers of services to individuals with developmental disabilities in the County.
313 #1s	Senate: Provides approximately \$6.3 million GF and approximately \$6.3 million in federal Medicaid matching funds in FY 2021, and approximately \$60.8 million GF and approximately \$60.8 million in federal Medicaid matching funds in FY 2022, to increase provider rates for personal care, respite care, and companionship services provided in Medicaid waiver programs by 6.4% on May 1, 2021 and 14.3% by November 1, 2021.	Support for increases in state funding for Medicaid waivers and the expansion of Medicaid waivers is included in the County's 2021 Human Services Issue Paper. The County estimates that this will have minimal to no fiscal impact, but will benefit the private providers of services to individuals with developmental disabilities in the County.
Children's Services Act (CSA)		
292	Governor Northam's Budget: Includes an increase of approximately \$2.7 million GF and approximately \$5 million NGF in FY 2022 to reflect the shifting of costs from Title IV-E to Medicaid for children in psychiatric residential treatment facilities. The Department of Medical Assistance Services has indicated that these costs are no longer to be covered by Title IV-E, which is a state-federal cost-share, and will instead be covered by Medicaid, which includes a local match.	Because of a federal ruling about the order of payer, Medicaid, not Title IV-E, will be the first payer for residential services. Fairfax County CSA will begin paying a match to Medicaid for services that had been covered by Title IV-E with no local match. The County estimates that CSA will handle around 10 youth foster care residential placements with a fiscal impact of approximately \$150,000 a year.
House/Senate: No change.		
292	Governor Northam's Budget: Provides approximately \$921,000 GF in FY 2022 to reflect the state share of certain costs for children in foster care shifting from Title IV-E to CSA due to the implementation of the federal Family First Prevention Services Act, which limits federal Title IV-E funding for certain congregate care placements (but expands the eligible uses of Title IV-E funding for prevention services).	This complements the previous item. The previous item provides funding to DMAS to cover their additional costs, while this item covers the state CSA's additional expenditures. The County's projected fiscal impact would be the same for both items - \$150,000 annually. The County can anticipate that the state's CSA reimbursement will be reduced by this amount to cover residential care for children in foster care at the local match rate for residential.
House/Senate: No change.		
292 #1s	Senate: Eliminates the two percent cap on rate increases for private day special education services.	Although removal of the two percent rate cap on tuition rate increases will allow providers to negotiate higher rates and may be more costly to the County, it will restore sum sufficiency for special education services. Since CSA funds mandated private IEP services in collaboration with Fairfax County Public Schools, the County has limited ability to cap services and/or the selection of providers for service delivery.
292 #2s	Senate: Eliminates language that explicitly authorizes localities to adjust daily or monthly rates for the 2020-2021 school year for virtual or distance learning provided by a private school serving students with disabilities.	No impact on the County.

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Budget Bill Item #	Issue	Fairfax County Impact
293	Governor Northam's Budget: Delays the deadline for submission of a report on rate setting for private special education day placement services from September 1, 2020, to September 1, 2021; provides \$100,000 GF in FY 2022 for the Office of Children's Services to contract for assistance in implementing rate setting. Directs the implementation of statewide rate setting effective July 1, 2022. Extends the moratorium on rate increases above 2 percent through the end of the biennium.	This will provide a statewide mechanism to control and regulate special education costs in private settings, which have been rising around seven percent annually. In Fairfax County, the average annual expenditures have increased by 1.8 - 4.7%, a cost increase lower than other parts of the state. The current two percent rate cap has resulted in a reduction in sum sufficiency by not permitting local CSA programs to cover rates over the capped amount in rate setting states like MD. Due to federal law for special education, the IEP must be honored and the costs paid, regardless of VA rate structuring. If these costs to the school system are passed on to local government, then Fairfax will now be covering costs with local funds that previously had a state match. The state has basically limited their financial responsibility for the cost increases and passed it on to the locality (school and then county). The two percent cap does not apply to ancillary services and may not result in lowering overall expenditures. The cost expenditures are also driven by utilization and purchase of more days of service, which will not be controlled by rate setting. The current language in the Appropriations Act is directed at localities, not at Private Special Ed programs or the state. It does not prohibit schools from charging greater than two percent, and merely limits the actions of local government, passing on the expense to the school system. The County estimates that uncovered costs may range from \$25-50K in FY 2021 for youth placed in MD and DC programs.
293 #1h	House: Adds funding to the State Office of Children Services (OCS) to implement new responsibilities for monitoring local program performance and working with local programs that underperform to strengthen their operations pursuant to the passage of HB 2212 (Filler-Corn).	Monitor. OCS may impose new expectations on local CSA programs without providing any additional administration funding increase.
293 #1s	Senate: Reduces funding in FY 2022 that was provided for administration of a rate setting process for private special education day placements by \$50,000 and directs that rate setting be established at a future date to be determined by the 2022 General Assembly (the introduced budget would provide for rate setting to begin July 1, 2022).	Monitor.
<u>Early Childhood Services</u>		
145	Governor Northam's Budget: During the Special Session I, the amended budget restored most of the funding in FY 2022 for Early Childhood initiatives that were unallotted at the 2020 Reconvened Session of the General Assembly. The Governor's Budget includes approximately \$11.1 million in FY 2022 to restore the remaining unallotted amounts for the Virginia Preschool Initiative (VPI) by increasing the funded per pupil amount from \$6,959 to \$7,655.	Based upon the current County VPI service level (FY 2021), the County would draw down an additional \$2.1 million in state funding.
145 #8h	House: Reduces funding by \$11.1 million in FY 2022 from the GF and leaves the per pupil amount in FY 2022 at the level approved during the Special Session I. The FY 2022 level reflects an increase of 10% from \$6,326 in FY 2021 to \$6,959 in FY 2022. The Governor's introduced budget had proposed increasing the per pupil amount to \$7,655 for FY 2022.	Based upon the current County VPI service level (FY 2021), the County would draw down an additional total of \$510,192 in state revenue over the current grant amount in FY 2022 (including the required local match, the total increase to the grant would be \$1,020,384). This amendment would provide the County approximately \$550,000 less than the Governor's introduced budget, since the House amendment includes a 10% increase per pupil instead of the 21% increase per pupil in the Governor's introduced budget
Senate: No change.		
137 #1h	House: Directs the Department of Education to submit a report on implementation of an early childhood mental health consultation program, and identify any barriers to implementation that may be addressed through legislative, regulatory or budgetary action.	No fiscal impact to the County.
137 #2h	House: Expands the Child Care Subsidy Program and appropriates approximately \$52.5 million in FY 2022 from the federal Child Care and Development Fund (CCDF) to implement the provisions of HB 2206 (Filler-Corn), which temporarily expands the Child Care Subsidy Program. Recently, additional CCDF funds became available to states through the Coronavirus Response and Relief Supplemental Appropriations Act of 2021.	This would provide families the opportunity to receive child care subsidies while they look for work. It would also give access to additional families as it increases the income eligibility limit to 85% state median income which is higher than the current 250% federal poverty level. No fiscal impact to Fairfax County as Virginia Department of Social Services makes direct payments to child care programs for state funded child care assistance.

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Budget Bill Item #	Issue	Fairfax County Impact
145	Governor Northam's Budget: Restores Supplemental Education Assistance Programs in FY 2022 that were previously unallotted at the 2020 Reconvened Session of the General Assembly by including \$5 million in FY 2022 for incentive payments to retain early childhood educators.	TBD. Likely positive for educators in community early childhood programs.
145 #1h	House: Requires the Department of Education to prioritize serving at-risk four-year old children when reallocating funds among components of the Virginia Preschool Initiative, such as the community provider add-on and the at-risk three-year-old pilot program.	No fiscal impact to the County.
	Senate: No change.	
145	Governor Northam's Budget: Requires that local VPI programs enroll special education students (defined as students with an Individualized Education Plan) at 10 percent of total enrollment or higher. VPI programs that are unable to meet this target shall provide reasons that the target was not met in their annual comprehensive report.	No fiscal impact to the County.
350 #1h	House: Supplants \$16.6 million from the GF with \$16.6 million in federal CARES Act funding for Child Care for School Age Children to provide support to school divisions, local governments and other entities for the provision of space to increase local capacity to provide care for school-age children, purchase personal protective equipment and cleaning supplies and provide a stable financial environment for the operation of these programs.	No fiscal impact to the County.
350 #3h	House: Expands Child Care Subsidy Program and appropriate approximately \$9.6 million in FY 2021 from the federal Child Care and Development Fund to provide for the temporary expansion of the Child Care Subsidy Program, pursuant to the passage of House Bill 2206 (Filler-Corn).	This bill would provide families the opportunity to receive child care subsidies while they look for work. This bill would also give access to additional families as it increases the income eligibility limit to 85% State Median Income which is higher than the current 250% Federal Poverty Level. No fiscal impact to Fairfax County as Virginia Department of Social Services makes direct payments to child care programs for state funded child care assistance.
	Child Welfare	
354	Governor Northam's Budget: Restores approximately \$9.2 million GF in FY 2022 for the statewide Family First Prevention Services Act (FFPSA) prevention services program. FFPSA is federal legislation that is designed to help keep children safe and out of the foster care system if possible, by keeping families together.	TBD. It is unclear how this funding will be distributed throughout the state. To implement the Families First requirements, it may be necessary to shift workforce resources within Fairfax County's Department of Family Services (DFS).
	House/Senate: No change.	
354 #3s	Senate: Adds language to extend payments to children aging out of Fostering Futures through September 30, 2021.	Positive.
354 #2s	Senate: Directs the Department of Social Services to create a diversion program supporting relative and fictive kin families that makes use of all federal and state monies available to provide a payment to relative and fictive kin families who have temporary custody through a court order. A report is due by December 1, 2021.	The County supports a diversion program that provides financial support to relatives and fictive kin. However, it is unclear if there will be financial implications for local LDSS based on this information.
	Health Departments	
302	Governor Northam's Budget: Provides \$10.2 million GF in FY 2022 for costs associated with updating the current funding formula for local health departments. A portion of the funding is to be used to hold harmless localities that would otherwise experience a decline in state support. Language directs the Virginia Department of Health to conduct an analysis of local match rates and report to the Governor every two years, and warns that similar hold harmless funding is not guaranteed in future years.	No impact to the County since the local Health Department is already supported at the 45% maximum locality match rate.
	House: No change.	
302 #1s	Senate: Modifies a proposal in the introduced budget to update the revenue capacity data in the funding formula for the Cooperative Health Budget (which funds local health departments). As introduced, the formula would be updated in FY 2022, and state funding would be provided in FY 2022 to hold localities harmless that would be required to contribute an additional local match. The amendment would instead phase in the formula update over three years.	No impact to the County since the local Health Department is already supported at the 45% maximum locality match rate.

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Budget Bill Item #	Issue	Fairfax County Impact
299	Governor Northam's Budget: Provides \$30 million GF in FY 2021 and \$59 million GF in FY 2022 to support a mass COVID-19 vaccination campaign, including purchase of equipment, support for local health departments, and warehousing and shipping costs.	TBD
299 #3h	House: Provides approximately \$18 million NGF in FY 2021 in addition to the approximately \$30.2 million GF in FY 2021 included in the introduced budget for COVID-19 mass vaccination efforts. It also supplants the approximately \$59.1 million GF in FY 2022 dedicated for vaccination efforts with equivalent NGFs from the federal Coronavirus Preparedness and Response Supplemental Appropriations Act (P.L. 116-123).	TBD
299 #2s	Senate: Supplants GF dollars with NGF dollars from the federal Coronavirus Preparedness and Response Supplemental Appropriations Act (P.L. 116-123) in FY 2022 for mass vaccination efforts. Additionally, for FY 2021, approximately \$30.2 million GF is supplanted with approximately \$18 million NGF and approximately \$12.2 million unspent Coronavirus Relief Funds previously allocated to the Department of Medical Assistance Services (DMAS).	TBD
299	Governor Northam's Budget: Adds \$722,472 GF in FY 2021 and over \$1.4 million GF in FY 2022 for COVID-19 data modeling.	No fiscal impact to the County.
299 #2h	House: Supplants approximately \$722,000 GF from FY 2021 and approximately \$1.4 million GF from FY 2022 for COVID-19 data modeling with an equivalent amount of funds each year of the biennium from the federal Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC) grant provided through the Coronavirus Preparedness and Response Supplemental Appropriations Act (P.L. 116-123).	No fiscal impact to the County.
299 #3s	Senate: Reduces approximately \$722,00 GF in FY 2022 for COVID-19 data modeling.	No fiscal impact to the County.
307	Governor Northam's Budget: Provides \$6.5 million GF in FY 2021 and \$12.5 million GF in FY 2022 to further enhance the Virginia Department of Health's communication efforts in response to the COVID-19 pandemic through the Virginia's Health is in Our Hands campaign.	No fiscal impact to the County.
307 #2h	House: Reduces \$6.0 million in FY 2022 for the Virginia Department of Health's communication campaign in response to the COVID-19 pandemic. This action will provide level funding of \$6.5 million each year of the biennium for these efforts.	No fiscal impact to the County.
307 #2s	Senate: Supplant COVID-19 communications needs with federal funds.	No fiscal impact to the County.
	Governor Northam's Budget: Provides approximately \$3 million GF in FY 2022 and 26 positions to support epidemiologist and communicable disease nurse positions at the Office of Epidemiology for public health emergency response and the COVID-19 pandemic response.	No fiscal or personnel impact to the County.
	House: No change.	
302 #2s	Senate: Provides approximately \$5.5 million GF in FY 2022 to fund an additional epidemiologist and communicable disease nurse in each local health district.	The amendment would provide two new positions for the County Health Department.
	<u>Dept for Aging and Rehabilitative Services</u>	
291 #2s	Senate: Provides that it is the intent of the General Assembly that a new agency for aging services be established July 1, 2022. The language creates a workgroup to consider the details of such a transition and make recommendations to the GA.	Monitor.
	<u>Mental and Behavioral Health</u>	
321	Governor Northam's Budget: Provides approximately \$3.5 million GF in FY 2022 to support the diversion and discharge of individuals with dementia from state hospitals, to include contracts to support serving individuals in private settings and funding for a pilot mobile crisis program targeted toward individuals with a diagnosis of dementia. Directs the Secretary of Health and Human Resources to convene a workgroup to make recommendations for the use of evidence-based services for individuals with dementia to improve quality of care and reduce hospitalizations.	This is not expected to have any impact to the CSB or County financially. DBHDS will be contracting for this service with outside providers. The Fairfax CSB will be able to access these programs once they are online.
	House/Senate: No change.	

**BUDGET PROPOSALS FOR 2020 - 2022
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Budget Bill Item #	Issue	Fairfax County Impact
321	Governor Northam's Budget: Provides \$2.5 million GF in FY 2022 for discharge assistance planning for individuals returning to the community from state hospitals.	This change places a fund that was typically more at the local level in control of the state. It is not a reduction, but an example of an ongoing shift of DBHDS attempting to control financial line items historically largely managed by the CSBs.
321 #1h	House: Removes the additional \$2.5 million GF in FY 2022 proposed in the introduced budget for discharge assistance planning for individuals returning to the community from state hospitals.	
	Senate: No change.	
320	Governor Northam's Budget: Provides \$80,000 GF in FY 2021 and \$691,612 GF in FY 2022 for administrative costs for implementation of the "Marcus Alert" legislation enacted in the special session.	DBHDS will be making a determination on which localities will get the initial funding within a month. The initial funding will be going to Prince William County. Fairfax has two staff on the statewide planning group, who are helping to write the rules for this new service.
	House/Senate: No change.	
	Governor Northam's Budget: Expands allowable uses for previously appropriated funds for Crisis Intervention Team (CIT) training to support CIT initiatives.	This will allow the CSB some financial flexibility for training, but will have minimal impact due to the small dollar amount of the CIT training budget from the state.
	House/Senate: No change.	
	Governor Northam's Budget: Allows DBHDS to divert Local Inpatient Purchase of Services (LIPOS) funding from localities to a different state funding line.	LIPOS pays for local private hospitalizations. DBHDS is proposing to have this budget moved to a state line item. This is being presented as no net loss to the CSBs, and it is unclear how DBHDS plans to administer these dollars once they are moved. They are also planning on taking back any unused funds. This move has the potential to have a significant impact on the amount of outstanding dollars the CSB has for private regional hospitalizations.
321 #2h	House: Includes language clarifying that funding for purchase of acute inpatient or community-based psychiatric services at private facilities shall continue to be allocated to Community Services Boards so as not to disrupt local service contracts.	Positive.
	Senate: No change.	
318	Governor Northam's Budget: Authorizes the State Board of Behavioral Health and Developmental Services to promulgate emergency regulations for licensing of children's residential facilities to align with federal requirements in the Family First Prevention Services Act provisions for children's residential service providers to meet the standards for Qualified Residential Treatment Programs (QRTPs). Any regulation changes promulgated shall be budget neutral and shall not exceed funding appropriated for these services.	TBD.
	House: No change.	
318 #1s	Senate: Extends conditional licenses for Residential Treatment Centers due to the pandemic (up to six months past the duration of the Governor's emergency declaration).	
	Central Appropriations	
477	Governor Northam's Budget: Provides a 1.5% one-time bonus for full time local social services employees on September 1, 2021.	Fairfax Department of Family Services estimates that the County would receive \$0.5 million increase in state funding in FY 2022 that could help offset the County's cost of providing a bonus, should the Board of Supervisors approve one for FY 2022.
477 #2h	House: Provides funding for a 3.5% salary increase for full time local social services employees effective July 1, 2021.	Fairfax Department of Family Services estimates that the County would receive \$1.4 million increase in state funding in FY 2022 that could help offset the County's cost of providing salary increases, should the Board of Supervisors approve them for FY 2022.
477 #2s	Senate: Provides funding for a three percent salary increase for full time local social services employees effective September 1, 2021.	Fairfax Department of Family Services estimates that the County would receive \$1.0 million increase in state funding in FY 2022 that could help offset the County's cost of providing salary increases, should the Board of Supervisors approve them for FY 2022.
	Department of Social Services	
349, 350, 351	Governor Northam's Budget: Provides approximately \$2 million GF and approximately \$2.9 million NGF in FY 2022 to expand the Supplemental Nutrition Assistance Program's Employment and Training (SNAP-ET) program to 95 additional local departments of social services.	No impact to the County.
	House: No change.	

**BUDGET PROPOSALS FOR 2020 - 2022
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Budget Bill Item #	Issue	Fairfax County Impact
350 #5s	Senate: Reduces funding for expansion of SNAP-ET by \$1 million GF and approximately \$1.4 million NGF in FY 2022. This amendment reduces that additional funding by about half, thereby reducing the number of localities to which the program would expand.	No impact to the County.
351 #1h	House: Restores approximately \$2.2 million GF and approximately \$2.2 million NGF in FY 2022 to increase minimum salary levels for local departments of social services staff. Salary levels for family services staff would be increased by 20 percent, and minimum salary levels for benefit program services, self-sufficiency services, and administrative positions would be increased by 15%.	No impact to the County. Since the County's LDSS has its own classification and salary structure, there would be no impact to the County's minimum salary levels if the minimum state scale adjusts.
351 #1s	Senate: Restores approximately \$2.2 million from the GF and approximately \$2.2 million from NGF in FY 2022 to increase the minimum pay band for local departments of social services positions. The pay band minimum would increase by 20% for family services positions and 15% for all other benefit program services positions, self-sufficiency services positions, and administration positions that are currently below the new minimum threshold.	No impact to the County. Since the County's LDSS has its own classification and salary structure, there would be no impact to the County's minimum salary levels if the minimum state scale adjusts.
312 #1h	House: Amendment adds \$11.1 million from the general fund and \$20.7 million from federal funds to amend the Virginia Family Access to Medical Insurance Security (FAMIS) State Plan to allow prenatal care for all children regardless of the expectant mother's immigration status. Expands FAMIS MOMs prenatal care to eligible undocumented women.	Positive. This would have a substantial impact to healthcare services provided across the county for pregnant undocumented women. This would also result in a workload increase for the County, as these women would become eligible for Medicaid coverage. More information is needed to determine the full scope of the impact.
312 #1s	Senate: Provides approximately \$11.1 million from the GF and approximately \$20.7 million from federal funds to amend the FAMIS State Plan to allow for prenatal care for all children regardless of the expectant mother's immigration status. Expands FAMIS MOMs prenatal care to eligible undocumented women.	Positive. This would have a substantial impact to healthcare services provided across the county for pregnant undocumented women. This would also result in a workload increase for the County, as these women would become eligible for Medicaid coverage. More information is needed to determine the full scope of the impact.
349	Governor Northam's Budget: Provides \$75,000 GF in FY 2022 for an emergency approval process for kinship caregivers in order to help place children with eligible relatives.	No impact to the County.
	House/Senate: No change.	
	Safety Net Programs	
350 #4h	House: Provides approximately \$335,000 GF and approximately \$3.8 million NGF to increase TANF benefits by five percent. The general fund appropriations reflects the increase for the TANF Unemployed Parent program, which is state-funded.	Support for increases in TANF reimbursement rates is included in the County's 2021 Human Services Issue Paper.
350 #1s	Senate: Provides \$1.4 million from the GF and approximately \$15.9 million NGF from TANF in FY 2022 to increase the standards of assistance by 18%. Language requires the Department of Social Services to develop a plan to increase the standards of assistance by 18% annually until the standards equal 50% of the FPL, which is estimated to take four years.	Support for increases in TANF reimbursement rates is included in the County's 2021 Human Services Issue Paper.
350 #2s	Senate: Directs the Department of Social Services to develop demonstration projects with a goal of assisting families to earn a living wage and escape poverty, to include a "benefit cliff" pilot.	Positive.
350 #3s	Senate: Adds approximately \$2.1 million in FY 2022 from TANF block grant for the implementation of individual development accounts for TANF recipients by the Department of Social Services.	Positive.
353 #1s	Senate: Provides \$4.4 million GF in FY 2022 to increase the Auxiliary Grant (AG) rate, a state supplement that provides maintenance and care to aged, blind, and disabled adults residing in assisted living facilities, adult foster care homes, or supportive housing settings, by 20% on July 1, 2021.	Positive.
356	Governor Northam's Budget: Provides \$3 million NGF in FY 2022 to extend Temporary Assistance for Needy Families (TANF) grant funding to the Federation of Virginia Food Banks to provide child nutrition programs.	Positive.
356 #1h, 2h, 3h, 4h, 5h, 6h	House: Provides \$200,000 to the Lorton Community Action Center, \$500,000 to United Community, \$200,000 to Good Shepherd Housing and Family Services, \$250,000 to FACETS, \$200,000 to Koinonia, and \$200,000 to BritePaths in FY 2022 from the TANF block grant to provide services to low-income families during the COVID-19 pandemic.	These nonprofit organizations serve County residents.

**BUDGET PROPOSALS FOR 2020 - 2022
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as of February 19, 2021**

Issue	Fairfax County Impact
Senate: Provides \$500,000 to Northern Virginia Family Services in FY 2022 from TANF to provide wrap-around supports to families suffering impacts from COVID-19.	This nonprofit organization serves County residents.

Budget
Bill
Item #
356 #1s

**BUDGET PROPOSALS FOR 2020 - 2022
DURING THE 2021 GENERAL ASSEMBLY SESSION
as of February 19, 2021**

Budget Item #	Issue	Fairfax County Impact
	Public Education	Fairfax County Public Schools (FCPS) Impact (School Operating Fund)
	<u>Update Sales Tax Revenue</u>	
145 C.25 for Sales Tax	<p>Governor Northam's Budget: Reflects the most recent estimates of sales tax revenue dedicated to public education for FY 2021 and 2022. The net change in state funding to school divisions (due to both the estimated sales tax revenue increase and the Basic Aid offset) is an increase of approximately \$42.3 million in FY 2021 and an increase of approximately \$46.6 million in FY 2022, compared to the estimates from the Special Session I.</p>	<p>Sales tax results in reduced funding of \$17.3 million in FY 2021 and \$12.7 million in FY 2022 as compared to FCPS' FY 2021 Approved Budget.</p> <p><i>Note: In FY 2021, a separate one-time COVID-19 relief payment was provided to school divisions to offset the impact of the reduction of sales tax revenue estimates on the local share of Basic Aid. FCPS' allocation totaled \$11.3 million for FY 2021.</i></p>
	<p>House/Senate: No change in the House and Senate amendments. However, it should be noted that in the most recent mid-session revenue review (February 15), the Governor identified a \$730 million revenue increase for the biennium compared to the December forecast, most of which is due to increased Sales Tax revenue. To the extent that portion of Sales Tax revenue supports public education, there is the possibility of increased funding in the final approved budget.</p>	
	<u>Update Lottery Revenue</u>	
145 B.22	<p>Governor Northam's Budget: Total Lottery proceeds are projected to increase by approximately \$27.1 million in FY 2021 and by approximately \$24.8 million in FY 2022, compared to the Lottery estimate during the Special Session I. Lottery proceeds are being used to fund the state's share of the cost of various programs, such as the Infrastructure and Operations Per Pupil Fund, Early Reading Intervention, K-3 Primary Class Size Reduction, Special Education Regional Tuition, and SOL Algebra Readiness.</p>	<p>Lottery revenues result in an increase of \$0.5 million in FY 2021 and \$0.5 million in FY 2022 as compared to FCPS' FY 2021 Approved Budget.</p>
145 #14h	<p>House: Adds \$20.1 million in FY 2021 and \$9.9 million in FY 2022 to ensure 40% of lottery proceeds are dedicated to Infrastructure and Operations Per Pupil payments. The House increases the Lottery Per Pupil Allocation by approximately \$30 per pupil in FY 2021 and \$15 in FY 2022.</p>	<p>The FCPS impact of the increased Lottery PPA in FY 2021 is \$1.8 million and \$0.9 million in FY 2022. It is important to note that this increase is offset by a decrease in No Loss funding.</p>
145 #7s	<p>Senate: Adds \$30 million in FY 2022 from the Lottery Proceeds Fund disbursed to support the state share of \$117.18 per pupil the second year based on the estimated number of federal Free Lunch participants, in support of one-time programs and initiatives to address learning loss resulting from the COVID-19 pandemic.</p>	<p>This is an increase of \$1.7 million to FCPS in FY 2022.</p>
	<u>Update Average Daily Membership (ADM) and Fall Membership</u>	
145A.1	<p>Governor Northam's Budget: Revises projected ADM based on the latest actual ADM and fall membership data available, reflecting a significant downward adjustment due to the impact of the COVID-19 pandemic on student enrollment. On a statewide basis, the revised ADM projections are 44,096 students lower in FY 2021 and 44,296 students lower in FY 2022 than the original projections during the Special Session I. The ADM and fall membership updates result in an estimated decrease of \$201.2 million in FY 2021 and \$202.9 million in FY 2022.</p>	<p>FCPS' ADM is projected to be 8,060 students lower in FY 2021 and 7,600 students lower in FY 2022, resulting in a state funding decrease of \$37.6 million in FY 2021 and \$28.9 million in FY 2022 as compared to FCPS' FY 2021 Approved Budget.</p> <p><i>Note: A separate amendment includes a No Loss Program provision.</i></p>
	<p>House/Senate: No change.</p>	

**BUDGET PROPOSALS FOR 2020 - 2022
DURING THE 2021 GENERAL ASSEMBLY SESSION
as of February 19, 2021**

Budget Item #	Issue	Fairfax County Impact
<u>Compensation Increase in FY 2022</u>		
145C.44	Governor Northam's Budget: Contingent on FY 2021 revenues meeting projections, provides approximately \$80 million for a two percent, one-time bonus payment in FY 2022 on September 1, 2021. While the bonus payment must be provided by school divisions in order to receive the state funds, a required local match based on the division composite index is not specifically required in FY 2022 under this action. State funding is provided to school divisions that certify to the Virginia Department of Education (VDOE) that a minimum average two percent bonus OR "equivalent action" will be provided in FY 2022, by September 1, 2021, to all instructional and support employees in the division.	For FY 2022, funding of \$7.7 million is included for the state's share of a two percent, one-time bonus payment to FCPS. The FCPS cost of providing a two percent bonus is \$39.3 million. After accounting for the state's share of a two percent bonus, the net expenditure increase to FCPS would be \$31.6M.
145 #10h	House: Provides \$231.4 million in FY 2022 from the GF and \$759,238 from the Lottery Proceeds fund to provide a 5.0% salary increase, effective July 1, 2021. This represents an addition of \$151.7 million the second year, to convert the 2.0% bonus payment that was proposed in the budget as introduced to a 5.0% salary increase. To access these funds, school divisions must certify that salary increases an average of 5.0% will be provided during the 2020-22 biennium.	Adds funding of \$14.7 million in addition to the \$7.7 million in the Governor's budget for FY 2022 to convert the 2% bonus to a 5% pay increase. The cost to FCPS to provide a 5% salary increase is \$122.9 million. After accounting for state funding, the net cost to FCPS would be \$100.4 million. Based on School Board action on February 18, 2021, it is important to note that FCPS FY 2022 Advertised Budget includes a 3% compensation increase and does not meet the requirement to receive the state's share of a 5% salary increase. The County supports state funding for salary increases for K-12 staff, but also supports a suspension of the local match requirement for the 2020-2022 biennium budget.
145 #6s	Senate: Provides \$139.8 million in FY 2022 from the GF and \$455,787 from the Lottery Proceeds fund to provide a 3.0% salary increase for SOQ-recognized instructional and support positions, to become effective August 1, 2021. This represents an addition of \$59.3 million the second year to provide a 3.0% salary increase in lieu of the 2.0% bonus that was proposed in the budget as introduced.	Adds funding of \$5.7 million in addition to the \$7.7 million in the Governor's budget for FY 2022 to convert the 2% bonus to a 3% pay increase. The cost to FCPS to provide a 3% salary increase is \$73.7 million. After accounting for state funding, the net cost to FCPS would be \$60.3 million. Based on School Board action on February 18, 2021, it is important to note that FCPS FY 2022 Advertised Budget includes a 3% compensation increase. As a result of this action, FCPS requested an additional \$60.3 million increase in the County's transfer to cover FCPS cost for the salary increase. The County supports state funding for salary increases for K-12 staff, but also supports a suspension of the local match requirement for the 2020-2022 biennium budget.
<u>Cost of Competing Adjustment</u>		
145 #11h	House: Provides \$13.2 million in FY 2022 to increase the Cost of Competing Adjustment (COCA) for support positions in the school divisions in Planning District 8 and certain adjacent divisions specified in the Appropriation Act that are eligible to receive COCA funds. For the nine Planning District 8 school divisions, this action would increase the adjustment factor from 10.6% to 18%. For the nine adjacent school divisions, this action would increase the adjustment factor from 2.65% to 4.5%. This restores and expands funding that was eliminated in Chapter 56, 2020 Special Session I that would have increased the adjustment factors from 10.6% to 16% and 2.65% to 4%.	Adds \$4.4 million to increase COCA rate to 18% in FY 2022. Restoring funding for COCA is included in the County's 2021 Legislative Program.
<u>School Safety</u>		
145 B.7.g	Governor Northam's Budget: Includes approximately \$26.6 million for school counselors in FY 2022. The funded staffing standards for school counselors in FY 2021 are 455-to-1 in elementary schools, 370-to-1 in middle schools, and 325-to-1 in high schools. This action reduces the staffing ratios to 325-to-1 in all schools in FY 2022.	For FY 2022, FCPS' total counselors funded in Basic Aid increased from 465 to 558 compared to the FY 2021 Approved Budget, a net increase of 93 funded positions for the state share. FCPS currently meets the staffing ratio included in the Governor's proposal.
	House: No change.	

**BUDGET PROPOSALS FOR 2020 - 2022
DURING THE 2021 GENERAL ASSEMBLY SESSION
as of February 19, 2021**

Budget Item #	Issue	Fairfax County Impact
15 #8s; 479.	<p>Senate: Provides the state's share of three specialized student support positions per 1,000 students. Specialized student support positions includes school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions.</p>	<p>FCPS would receive \$4.6 million in FY 2022 for the state's share of 3 specialized student support positions per 1,000. To meet this requirement in FY 2022, the following positions would need to be added: 6 psychologists, 14 social workers, and 86 nurses for a total of \$12.6 million. After accounting for state revenue the net cost totals \$8 million.</p> <p>It is important to note that if additional revenues are available, the requirement could change to 4 specialized student support positions per 1,000. The total cost is estimated to be \$34.3 million prior to accounting for additional state revenue.</p> <p>Additionally, the Superintendent of Public Instruction is directed to convene a workgroup to make recommendations on the staffing standards for school nurses. The recommendations shall include the appropriate school nurse staffing ratio and the required qualifications and training for school nurses.</p>

**BUDGET PROPOSALS FOR 2020 - 2022
DURING THE 2021 GENERAL ASSEMBLY SESSION
as of February 19, 2021**

Budget Item #	Issue	Fairfax County Impact
	<u>No Loss Funding in FY 2021 and FY 2022</u>	
145 C.40	<p>Governor Northam's Budget: Recognizes the effects of the COVID-19 pandemic on school enrollment by providing approximately \$299.4 million in FY 2021 and approximately \$214.2 million in FY 2022 for No Loss funding compared to projections during the Special Session I.</p>	<p>FCPS would receive \$32.4 million in FY 2021 and \$18.3 million in FY 2022 as a result of this policy change. No Loss funding was not included in the FY 2021 Approved Budget as the policy change came after the budget was approved. This exists because of the technical update to ADM. The Governor's budget revises ADM projections based on the latest actual ADM and fall membership data.</p> <p>The Governor's introduced budget includes a No Loss provision which ensures that each school division's bottom line for FY 2022 does not fall below their FY 2022 Special Session I budget allocations.</p>
	<p>House: Provides \$234.7 million in FY 2021 and \$214.2 million in FY 2022 from the GF for No Loss payments. These payments ensure no school division receives less state funding in either fiscal year than the calculated amount in Chapter 56, 2020 Special Session I. In FY 2021, such No Loss payments are reduced by an amount equal to 25 percent of each school division's ESSER II federal relief distribution, and such reduction is capped at 25% of the No Loss payment.</p>	<p>In FY 2021, the House reduced the No Loss funding payment by a total of \$9.8 million from the Governor's Introduced budget. This amendment adjusts the funding for No Loss Payment, based on the equivalent of lottery per pupil amount and technical adjustments combined with a reduction based on 25% of ESSER II.</p>
	<p>Senate: No change.</p>	
	<u>Other Items of Interest</u>	
	<p>Governor Northam's Budget: Reduces unfunded liabilities in the VRS teacher retirement plan by directing a deposit of an estimated \$61.3 million in FY 2021 to expedite repayment of contributions that were deferred during the 2010-2012 biennium.</p>	<p>It is anticipated that this action will have a potential impact on future contributions beginning in FY 2023.</p>
45 #20h, 15	<p>House: Adds \$51.1 million based on the state's share of an add-on, as a percent of the per pupil basic aid cost, for each child who qualifies for the federal Free Lunch Program, based on the concentration of children qualifying for the federal Free Lunch Program. Based on its percentage of Free Lunch participants, each school division will receive a total between 0.0 and 6.0 percent in additional basic aid per Free Lunch participant based on the composite index of local ability-to-pay, and no local match will be required.</p> <p>Provides \$6.5 million to fund the state's share of costs for school divisions to provide any student with a disability who receives special education and related services, reaches age 22 after September 30, 2020, and is scheduled to complete high school in the spring of 2021, the option for an extension to attend high school for the duration of the 2021–22 school year.</p>	<p>FCPS would receive \$1.4 million in FY 2021 for Learning Loss Supplement as a result of this policy change.</p> <p>FCPS would received \$0.6 million in FY 2022 to provide an additional year of high school for special education students who reaches age 22 after September 30, 2020, and is scheduled to complete high school in the spring of 2021. Additional information is being compiled to estimate the impact to FCPS.</p>
145 #11s	<p>Senate: The amendment requires all school divisions to offer in-person instruction options in the 2021-2022 school year to a student if the parent of guardian requests.</p>	<p>FCPS currently has a plan to offer in-person instruction for FY 2022.</p>

**BUDGET PROPOSALS FOR 2020 - 2022
DURING THE 2021 GENERAL ASSEMBLY SESSION
as of February 19, 2021**

Budget
Item #

	Issue	Fairfax County Impact
	<u>Impact to the Fairfax County Public Schools' (FCPS) Operating Fund Budget</u>	
	<p>Governor Northam's Budget: Compared to FCPS' FY 2021 Approved Budget, Governor Northam's budget includes a \$21.9 million increase in state aid and a \$17.3 million decrease in sales tax revenue for FY 2021.</p> <p>For FY 2022, Governor Northam's Budget includes a \$3 million increase in state aid and a \$12.7 million decrease in sales tax revenue compared to FCPS' FY 2021 Approved Budget.</p> <p>House: Compared to FCPS' FY 2021 Approved Budget, the House budget includes a \$15.3 million increase in state aid and a \$17.3 million decrease in sales tax revenue for FY 2021.</p> <p>For FY 2022, the House includes a \$5.3 million increase in state aid and no change in sales tax revenue compared to FCPS' FY 2022 Advertised Budget. The FY 2022 Advertised Budget does not include the state's share of a 5% salary increase. Based on School Board action on February 18, 2021, the FY 2022 Advertised budget includes a 3% compensation increase and not the 5% increase required to receive the state's share provided in the House proposed amendments.</p> <p>Senate: Compared to FCPS' FY 2021 Approved Budget, the Senates budget includes a \$21.9 million increase in state aid and a \$17.3 million decrease in sales tax revenue for FY 2021.</p> <p>For FY 2022, the Senate includes a \$6.3 million increase in state aid and no change in sales tax revenue compared to FCPS' FY 2022 Advertised Budget.</p>	

**BUDGET PROPOSALS FOR FY 2020 - FY 2022
DURING THE 2020 GENERAL ASSEMBLY SESSION
as of January 19, 2021**

Budget Item #	Issue	Fairfax County Impact
Transportation		
REGIONAL ITEMS		
<u>Northern Virginia Transportation Authority (NVTA) Funding</u>		
451	<p>Governor Northam's Budget: Includes the regional funds provided for in HB 2313 (2013), including approximately \$635.3 million for distribution of NVTA Fund revenues over the biennium (approximately \$20.6 million increase).</p>	<p>The amount received by the County is dependent on actual collections of the revenue sources. Through its Six Year Program, NVTA allocates 70 percent (approximately \$444.7 million) to regional projects. This funding has already been approved for projects through adoption of NVTA's FY 2018-2023 Six Year Program.</p> <p>Fairfax County should receive approximately \$85.7 million over the biennium to allocate for local projects approved by the Board of Supervisors (30 percent funding returned to localities), minus the respective shares provided to Vienna and Herndon. Approximately \$14 million annually of this "30 percent funding" will likely be transferred to the Commonwealth's WMATA Capital Fund for the County's share of local funding for State of Good Repair, as required by HB 1539/SB 856 (2018).</p>
	<p>House / Senate: No change.</p>	
<u>Regional Gas Tax</u>		
440	<p>Governor Northam's Budget: Provides approximately \$405.9 million over the 2020-2022 biennium for regional gas taxes (for NVTC, PRTC, Hampton Roads Transportation Accountability Commission (HRTAC), and the Interstate-81 Corridor Improvement Fund). Estimates \$109.9 million for NVTC over the 2020-2022 biennium (no change).</p>	<p>The amount received by NVTC and the County is dependent on actual collections of the revenue sources.</p>
	<p>House / Senate: No change.</p>	
STATEWIDE PROGRAMS		
<u>Department of Rail and Public Transportation (DRPT)</u>		
430/442	<p>Governor Northam's Budget: Provides approximately \$1.055 billion for Public Transportation Programs. There are no changes in the funding for the following related programs:</p> <ul style="list-style-type: none"> • \$221.96 million for Operating Assistance; • Approximately \$122.6 million for Capital Assistance; • Approximately \$341.97 million for WMATA operating and capital costs (state share of WMATA assistance); • \$4 million for federally mandated state safety oversight of fixed rail guideway transit agencies, i.e. the Metrorail Safety Commission (MSC); • \$50 million in each year as the state match for federal PRIIA funding; • \$320 million for the WMATA Capital Fund, which includes the local and regional funding redirected as part of HB 1539/SB 856 (2018); and, • Directs the Secretary of Transportation to ensure that at least \$5 million of the annual allocation to the new Transit Ridership Incentive Fund (established in HB 1414/SB 890) is used to provide operating assistance to transit programs that reduce congestion in urban areas. The Secretary is directed to report on the methodology that will be implemented by June 30, 2021. 	<p>The statewide Operating and Capital funding is subject to the transit prioritization process required by the 2018 GA, entitled MERIT, as well as the new programs created in HB 1414/SB 890, so the impact to Fairfax Connector and VRE is currently unclear.</p> <p>DRPT is currently working to implement the new Transit Ridership Incentive Program, which provides operations assistance to reduce congestion in urban areas. This program could also benefit the County.</p>
442	<p>House: Also authorizes the Commonwealth Transportation Board (CTB) to waive the 25 percent cap for the Transit Ridership Incentive Program that may be "available to support the establishment of programs to reduce the impact of fares on low-income individuals, including reduced-fare programs and elimination of fares." The remainder of the funds will be used to "promote improved transit service in urbanized areas of the Commonwealth with a population in excess of 100,000."</p>	<p>TBD - In general, the County would likely benefit more from the funding directed to improve transit service in urbanized areas. However, due to the COVID-19 pandemic, there has been a decreased demand for multijurisdictional commuter bus service in urbanized areas and an increased demand for fare reduction.</p>
	<p>Senate: Also provides \$5 million in federal funds made available for Highway Infrastructure Programs by the Coronavirus Response and Relief Supplemental Appropriations Act to support transit incentives focused on fare and congestion reduction programs. Of these amounts, half will be allocated to support the establishment of programs to reduce the impact of fares on low-income individuals, including reduced-fare programs and elimination of fares, and half will be allocated for regional connectivity programs focused on congestion reduction and mitigation through the provision of long-distance commuter routes.</p>	<p>The County could apply for both types of funds, which could provide funding to the Connector.</p>
442	<p>House: Also provides \$500,000 from the General Fund in Fiscal Year 2022 pursuant to the passage of a HJ 542 (McQuinn), which requires DRPT to study the Commonwealth's current public transportation system focusing on the equitable delivery of transportation services and the modernization of transit in the Commonwealth.</p>	<p>The County supports HJ 542 (McQuinn), which is consistent with the One Fairfax Policy.</p>

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Budget Item #	Issue	Fairfax County Impact
442	<p>Senate: Also allocates \$22.4 million in NGF revenues from public funds made available for Highway Infrastructure Programs by the Coronavirus Response and Relief Supplemental Appropriations Act to fulfill the Commonwealth's portion of the \$500 million annual commitment to the WMATA Capital program.</p> <p>Senate: Conditions the receipt of funding provided to the Northern Virginia Transportation Commission (NVTC) for distribution to the Washington Metropolitan Area Transit Authority for capital purposes and operating assistance on adopting the petition of Fairfax County related to the naming of the McLean-Capital One Hall station.</p>	<p>Will help support the Commonwealth's portion of the \$500 million annual commitment to WMATA State Of Good Repair. Virginia's share is \$154 million per year, and DRPT has informed the GA of reduced projections to the WMATA Capital Fund due to impacts of the COVID-19 pandemic.</p> <p>Would affect the amount of state funding provided to WMATA, which would impact the County's budget. Stakeholders are working to try to resolve the issue.</p>
442	<p>Governor Northam's Budget: Retains language requiring DRPT, in cooperation with Fairfax and Prince William Counties, to conduct an evaluation of enhanced public transportation services, including the cost and feasibility of extending the Blue Line and other multimodal options along I-95 and U.S. Route 1 from the Franconia-Springfield Metro Station to the Marine Corps Base Quantico in Prince William County.</p> <p>House / Senate: No change.</p>	<p>This could provide additional information about viable transit options on the I-95/U.S. Route 1 corridor. The report is due by December 1, 2021.</p>
442	<p>Governor Northam's Budget: HB 1539/SB 856 (2018) required urban transit agencies to develop and update a strategic plan every five years and the Commonwealth Transportation Board (CTB) to withhold 20 percent of state funding to the Washington Metropolitan Area Transit Authority (WMATA) if the agency does not adopt or update a strategic plan every three years. The Governor's proposed budget includes language allowing the CTB to delay these strategic plan requirements due to the ongoing COVID-19 pandemic.</p> <p>House / Senate: No change.</p>	<p>This may provide transit systems sufficient time to develop and update their plans, which could be beneficial.</p>
443	<p>Governor Northam's Budget: Retains language requiring DRPT to evaluate the cost of extending VRE service to Gainesville.</p> <p>House / Senate: No change.</p>	<p>This study is due in June 2021. Another study on this issue was completed by VRE in the past three years.</p>
443	<p>Rail Programs</p> <p>Governor Northam's Budget: Provides approximately \$384 million for Financial Assistance for Rail Programs (\$50 million increase), including: \$6 million for Rail Industrial Access (no change); approximately \$29 million for Rail Preservation Programs (no change); and, approximately \$349 million for Passenger and Freight Rail Financial Assistance Programs (\$50 million increase). The \$50 million increase is transferred from the General Fund to the Commonwealth Transportation Board (CTB) for the purpose of extending intercity passenger rail service from Roanoke to Blacksburg-Christiansburg and increasing the frequency of rail service along the I-81/Route 29 Corridor from Washington, DC.</p> <p>House: No Change.</p> <p>Senate: Provides \$137.6 million from the Coronavirus Response and Relief Supplemental Appropriations Act for extending intercity passenger rail service from Roanoke, Virginia, to the Blacksburg-Christiansburg, Virginia, area and increasing the frequency of intercity passenger rail service along the I-81/Route 29 Corridor from Washington, DC. This is instead of the \$50 million from the GF as proposed in the Governor's introduced budget. The amendment also requires an assessment of both total project costs and the incremental costs resulting from modelling conducted to assess any infrastructure or network costs needed to service a rail station in Bedford.</p>	<p>TBD</p> <p>TBD</p>
430	<p>Governor Northam's Budget: Retains language requiring that the Major Employment and Investment (MEI) Project Approval Commission approve any Memorandum of Understanding between any political subdivision of the Commonwealth, any political subdivision of the United States, federal government agency, Amtrak, VRE, and any private railroad corporation regarding the construction of the Long Bridge or any issuance of bonds or sale of any land by the new Virginia Passenger Rail Authority.</p> <p>House / Senate: No change.</p>	<p>Would require some legislative approval (the MEI Commission includes members of both the House and Senate) prior to moving forward with the Long Bridge project.</p>

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Budget Item #	Issue	Fairfax County Impact
	<u>Virginia Department of Transportation (VDOT)</u>	
	<u>Environmental Monitoring and Evaluation</u>	
445	<p>Governor Northam's Budget: Provides approximately \$82.3 million for Environmental Monitoring and Evaluation (approximately \$.7 million increase), including approximately \$17.4 million for Environmental Monitoring and Compliance for Highway Projects (approximately \$1.2 million increase) and approximately \$58.0 million for Municipal Separate Storm Sewer System (MS4) Compliance Activities (approximately \$.5 million decrease).</p> <p>House / Senate: No change</p>	The funding change is minimal.
430	<p>Governor Northam's Budget: Retains language requiring the Secretaries of Transportation and Natural Resources to evaluate the scope of drainage outfalls originating from VDOT-maintained roads and make recommendations to address the issue. An interim report is due by December 31, 2020, and a final report, if not provided in the December report, is due by September 30, 2021.</p> <p>House / Senate: No change.</p>	Could provide additional information on how to address stormwater issues.
	<u>Highway Construction</u>	
447	<p>Governor Northam's Budget: Provides approximately \$7.43 billion for Highway Construction Programs, an approximately \$32.3 million decrease from last year's budget. This includes: approximately \$584.9 million for State of Good Repair (approximately \$122.1 million decrease); approximately \$518.6 million for the High Priority Projects Program (approximately \$106.2 million decrease); approximately \$762.6 million for the Construction District Grant Program (approximately \$39.6 million decrease); approximately \$4.58 billion for Specialized State and Federal Programs (approximately \$181.3 million decrease); and, \$902.0 million for Legacy Construction Formula Programs (\$417.4 million increase). Of the Specialized State and Federal Programs:</p> <ul style="list-style-type: none"> • Approximately \$233.4 million is for RSTP; • Approximately \$106.2 million is for HSIP; • Approximately \$166.2 million is for CMAQ; • Approximately \$209.7 million is for Revenue Sharing (approximately \$9.7 million increase); • Approximately \$40.4 million is for the Surface Transportation Block Grant Program Set-Aside; • Approximately \$30.7 million is for the Virginia Transportation Infrastructure Bank (VTIB) (approximately \$26.7 million increase); • Approximately \$20.1 million is for the Transportation Partnership Opportunity Fund (TPOF) (approximately \$18.1 million increase); • Approximately \$2.32 billion represents the estimated project participation costs from localities and regional entities (approximately \$358.7 million increase); • \$218.4 million in the second year represents the bond proceeds to be used for the Route 58 Corridor Development Program. Item 452 also provides \$120 million from the Transportation Trust Fund (TTF) to the U.S. Route 58 Corridor Development Fund in lieu of state recordation taxes that law allocates to the fund; and, • Included in the amounts for specialized state and federal programs is the reappropriation of approximately \$1.06 billion from bond proceeds from various bond programs (approximately \$553 million increase). This is likely due to the increase of new programs, including the I-95 Express Lanes and I-66 Outside the Beltway Project Agreements, the I-81 Corridor Improvement Program, and the Interstate Operations and Enhancement Program. <p>House / Senate: No change</p>	<p>Many of these funds are subject to the Smart Scale prioritization process, so the impact to Fairfax County is unclear.</p> <p>Slightly increases the current funding levels for Revenue Sharing.</p> <p>RSTP, CMAQ, HSIP, and Transportation Alternative funds are similar to what was allocated in previous years.</p> <p>Due to the significant changes in transportation revenues that were approved by the GA during the 2020 session, along with the approval to reallocate previously appropriated funds to address needs due to the revenue impacts of the COVID-19 pandemic, the direct impact for several of these programs is yet to be determined.</p>
447	<p>Governor Northam's Budget: Includes \$5 million from the General Fund to support the planning, development, and construction of multi-use trails, with priority given to new trails with a total length longer than 35 miles. The language also notes that the CTB must seek to ensure geographic diversity in the use of these funds.</p> <p>House: No Change.</p> <p>Senate: Provides for a one-time capitalization of \$40 million for a statewide multi-use trail initiative using federal funds available for Highway Infrastructure Programs by the Coronavirus Response and Relief Supplemental Appropriations Act. This is instead of the \$5 million from the General Fund as proposed in the Governor's introduced budget. This includes up to \$17.5 million for safety enhancements to the Washington & Old Dominion Trail at Wiehle Avenue and improvements of the intermodal connectivity of the Cross County Trail at Difficult Run with Great Falls Park. Funding is also set out for other projects within the Commonwealth, including the Eastern Shore-Bay Coast Railway Rails to Trails project, the Fall Line Trail, and the Ivy Creek Trail, and the completion of the Tobacco Heritage Trail from Skipwith Road to Rudds Creek. The amendment also requires the Office of Intermodal Planning and Investment to coordinate a policy working group comprised of representatives of the Virginia Departments of Transportation (VDOT), DRPT, Conservation and Recreation, the Statewide Trails Advisory Committee, and the staff of the House Appropriations and Senate Finance and Appropriations Committees to recommend a prioritization process for the identification of new multi-use trail opportunities, a master planning process, and funding needs assessment.</p>	<p>While not specifically directed to a project in the County, this could provide a small amount of funding for projects in the region.</p> <p>Provides funding for two projects in Fairfax County.</p>

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Budget Item #	Issue	Fairfax County Impact
	Highway Maintenance	
448	<p>Governor Northam's Budget: Provides \$4.09 billion for Highway System Maintenance and Operations, a \$174.1 million increase. This includes \$971 million for interstates (\$15 million increase); \$1.27 billion for primaries (\$55.4 million increase); \$1.24 billion for secondaries (\$59.8 million increase); and, \$430.7 million for Transportation Operations Services (\$21.1 million increase).</p> <p>House / Senate: No change.</p>	Using historical estimates, approximately \$26 million more may be available for maintenance and operations within Northern Virginia.
	Special Structures	
449	<p>Governor Northam's Budget: Provides \$5 million for this new program, a \$35 million decrease.</p> <p>House / Senate: No change</p>	The reduction is in accordance with the Budget passed in Fall 2020 that allows the CTB to take necessary steps to address the reduction in revenues, to reduce the impacts on currently programmed projects, and to allow for the phased implementation of the additional revenues made available by HB 1414/ SB 890. The Commonwealth report on the overall condition of special structures identified only one such structure in Northern Virginia, so this should have little impact to the region.
	Toll Facilities	
450	<p>Governor Northam's Budget: For the 2020-2022 biennium, provides \$177.3 million for toll facilities (\$9.6 million decrease), including approximately \$3 million for Debt Service (\$.2 million decrease); \$100.9 million for Maintenance and Operations (\$9.4 million decrease); and, \$73.5 million for the Revolving Fund (no change).</p> <p>House / Senate: No change.</p>	TBD.
	Other	
438	<p>Governor Northam's Budget: Retains positions hired to address the workload associated with REAL ID. Would have been reduced from 2,222 to 2,162 in FY 2022.</p> <p>House / Senate: No change.</p>	These positions are necessary to continue the issuance of REAL ID cards, which was delayed by the onset of COVID-19. No additional funding is required for these positions since they will be paid for out of the \$10 REAL ID surcharge approved in 2019.