

## **Governor's Amendments and Vetoes 2016 Session of the General Assembly**

The Division of Legislative Services staff prepared the following summaries to assist General Assembly members during their deliberations at the Reconvened Session on April 20. Not included in the Governor's Amendments and Vetoes sections are the Budget Bill and the bills returned with amendments or vetoes that were acted on by the members during the 2016 Regular Session.

### **Governor's Amendments**

#### **House Bills**

**HB 36. Government courses at public high schools; civics portion of the U.S. Naturalization Test.** The enrolled bill requires each local school board to implement in *each government course* in the school division a program of instruction on all information and concepts contained in the civics portion of the U.S. Naturalization Test. The Governor's amendments specify that such program of instruction be included *only* in the high school Virginia and U.S. Government course and amend the title to accurately reflect the text of the bill.

**HB 47. Mixed-Delivery Preschool Fund and Grant Program established.** The enrolled bill permits Mixed-Delivery Preschool Grant Program applicants to request, and the Board of Education to grant, such waivers of regulations as are required to permit greater flexibility for the applicant's mixed-delivery preschool services system. The Governor's amendments replace this provision with more specific provisions that (i) permit grant recipients to request and receive waivers of Board regulations and guidelines; (ii) require the Board of Education to waive teacher licensure requirements upon the request of any grant recipient so long as the teachers for whom such licensure requirements have been waived meet certain basic conditions for licensure prescribed by the Board, including education and experience qualifications that do not exceed the education and experience qualifications for program leaders of licensed child day centers as set forth in relevant regulations; (iii) permit, upon the request of any grant recipient, other relevant state agencies and boards to grant additional waivers from agency or board regulations and guidelines, as deemed appropriate; and (iv) require each grant recipient that receives any such waiver to annually report that fact to the Chairmen of the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health.

**HB 52. Structured settlements.** The enrolled bill amends the Structured Settlement Protection Act to provide, among other things, that an application for approval of a structured settlement transfer shall be brought in the circuit court of the county in which a Virginia-domiciled payee is domiciled at the time the transfer agreement was signed. The Governor's technical amendment clarifies that if the payee is domiciled in a city, the application shall be brought in the circuit court of the city.

**HB 90. Possession of handguns by members of the Virginia National Guard.** The enrolled bill allows a member of the Virginia National Guard to possess a concealed handgun at National Guard facilities and facilities under contract with the National Guard if such member has a valid concealed handgun permit. The enrolled bill also provides that the member's commanding officer may prohibit the member from possessing a concealed handgun while participating in training or other exercises where the commanding officer "reasonably determines" that such

possession would interfere with the conduct of such training or other exercises or would “otherwise impair the mission.” The Governor’s amendments remove the word “reasonably” before “determines” and allow the commanding officer to ban possession if the officer determines that such possession may result in mission impairment or if the member is unfit to carry a handgun.

**HB 97. Interstate 95 corridor traffic congestion evaluation.** The enrolled bill directs the Department of Transportation to conduct an evaluation with the Fredericksburg Area Metropolitan Planning Organization of traffic congestion on the Interstate 95 corridor in the George Washington Regional Commission region to determine the feasibility of extending the HOT lanes south on Interstate 95. The Governor’s amendments direct the Department to evaluate alternative solutions to alleviating traffic congestion on the corridor, which may include extending the HOT lanes south on Interstate 95.

**HB 485. Assault; family or household member.** The enrolled bill provides that a first offense of simple assault against a family or household member may be subject to deferral and dismissal. The Governor’s amendment is technical and conforms the language in two subsections that list the conditions for finding a person eligible for deferral.

**HB 577. Interpleader; earnest money deposits.** The enrolled bill allows the general district court, in an interpleader case involving an earnest money deposit held in escrow by a real estate broker, to escheat the funds to the Commonwealth to be credited to the Virginia Housing Trust Fund upon default of the stakeholders, provided that such funds have been abandoned for more than one year from the date of written notice to all stakeholders and claimants and the plaintiff and defendants are in default in the interpleader action. The Governor’s amendments change the fund into which the escheated money is credited from the Virginia Housing Trust Fund to the Literary Fund.

**HB 653. Consent to organ donation.** Technical amendment. SB 176, which is identical as enrolled, was signed into law without the correction (2016 Acts, Chap. 135).

**HB 685. Direct primary care agreements.** The Governor’s amendment provides that the bill shall not become effective unless reenacted by the 2017 Session.

**HB 735. Landlord and tenant laws.** Technical amendment.

**HB 752. Stalking; penalty.** The enrolled bill provides that contacting or following or attempting to contact or follow the person at whom stalking conduct is directed after being given actual notice that the person does not want to be contacted or followed because such actions place the person in fear of death, criminal sexual assault, or bodily injury is prima facie evidence that the person intended to place the other person, or reasonably should have known that the other person was placed, in fear of death, criminal sexual assault, or bodily injury to himself or a family or household member. The Governor’s amendments restore the bill to its introduced form by (i) eliminating the requirement that the notice given by the person be because such actions place the person in fear of death, criminal sexual assault, or bodily injury and (ii) providing that such notice is prima facie evidence that the person was placed in “reasonable” fear of death, criminal sexual assault, or bodily injury to himself or a family or household member. The Governor’s amendments have the effect of making the bill identical to SB 339, which has already been signed into law by the Governor (2016 Acts, Chap. 545).

**HB 814. Secretary of the Commonwealth; powers and duties; creation of a Virginia Indian advisory board.** The enrolled bill authorizes the Secretary of the Commonwealth (the Secretary) to establish a Virginia Indian advisory board to assist the Secretary in reviewing applications seeking recognition as a Virginia Indian tribe and to make recommendations to the Secretary, the Governor, and the General Assembly on such applications and other matters relating to recognition. The enrolled bill sets out the membership and powers and duties of any Virginia Indian advisory board established by the Secretary. The Governor's amendment provides that ex officio members shall serve terms coincident with their terms of office; nonlegislative citizen members shall be appointed for a term of two years; appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms; all members may be reappointed; and the Secretary shall appoint a chairperson from among the members for a two-year term.

**HB 815. Method of execution.** The enrolled bill provides that (i) if the Director of the Department of Corrections (the Director) certifies that lethal injection is not available as a method of execution, electrocution shall be used instead, and vice versa, and (ii) the Director shall not certify that lethal injection is not available as a method of execution unless the Director has made reasonable efforts to procure the lethal substances necessary to perform execution by lethal injection. The Governor's substitute authorizes the Director to enter into contracts with a pharmacy or outsourcing facility for the compounding of drugs necessary to carry out an execution by lethal injection and provides that the compounding of such drugs (i) does not constitute the practice of pharmacy; (ii) is not subject to the jurisdiction of the Board of Pharmacy, the Board of Medicine, or the Department of Health Professions; and (iii) is exempt from laws governing pharmacies and from the Drug Control Act (§ 54.1-3400 et seq.). The Governor's substitute requires that any drug compounded pursuant to such a contract must be labeled with the drug name, its quantity, a projected expiration date, and a statement that the drug shall be used only by the Department for the purpose of carrying out an execution by lethal injection. The Governor's substitute also provides that the identities of any pharmacy or outsourcing facility that enters into such a contract with the Department of Corrections, any officer or employee of such pharmacy or outsourcing facility, and any person or entity used by such pharmacy or outsourcing facility to facilitate the compounding of such drugs shall be confidential and exempt from the Freedom of Information Act (§ 2.2-3700 et seq.) and shall not be subject to discovery or introduction as evidence in any civil proceeding unless good cause is shown.

**HB 818. Virginia Freedom of Information Act (FOIA); designation of FOIA officer; posting of FOIA rights and responsibilities.** The enrolled bill requires all state public bodies created in the executive branch of state government to designate and publicly identify one or more FOIA officers whose responsibility is to serve as a point of contact for members of the public and to coordinate the public body's compliance with the provisions of the Freedom of Information Act. The Governor's amendments provide that the requirement for identifying a FOIA officer shall be applicable to all state public bodies.

**HB 834. Virginia Growth and Opportunity Act; report.** The enrolled bill establishes the Virginia Growth and Opportunity Board (the Board) to administer grants from the Virginia Growth and Opportunity Fund (the Fund) for regional economic and workforce development projects. The bill provides that regional councils will be established across the Commonwealth, consisting of representatives of government and the business and education communities, and councils may submit applications for collaborative projects in their regions that enhance private-

sector growth, competitiveness, and workforce development. The Board is composed of 22 members: four members of the House of Delegates, three members of the Senate, three Cabinet Secretaries, four nonlegislative citizen members from different regions appointed by the Speaker of the House, four nonlegislative citizen members from different regions appointed by the Senate Committee on Rules, and four nonlegislative citizen members from different regions appointed by the Governor. The enrolled bill provides that any decision to award grants from the Fund requires an affirmative vote of the majority of the members of the Board present and voting, a majority of the members of the House of Delegates present and voting, a majority of the members of the Senate present and voting, and a majority of the Cabinet Secretaries present and voting. The Governor's substitute changes the size and composition of the Board as follows: The Board would consist of 24 members: four members of the House of Delegates, three members of the Senate, three Cabinet Secretaries, two nonlegislative citizen members from different regions appointed by the Speaker of the House, two nonlegislative citizen members from different regions appointed by the Senate Committee on Rules, two nonlegislative citizen members from different regions appointed by the Governor, and eight nonlegislative citizen members appointed by the Governor and subject to confirmation by the General Assembly. Of the eight nonlegislative citizen members subject to confirmation, no more than two appointees can be from any one region. The General Assembly will provide a list of recommended nonlegislative citizen members for the Governor to consider in making his appointments. The Governor's substitute also replaces the special voting requirement for the award of grants with a general provision that all decisions of the Board require an affirmative vote of a majority of the members of the Board. SB 449, which is identical as enrolled, has the same Governor's Amendment in the Nature of a Substitute.

**HB 846. Virginia Collaborative Economic Development Act.** The enrolled bill creates the Virginia Collaborative Economic Development Performance Grant Fund (the Fund), to be administered by a policy board created by legislation adopted by the 2016 Session of the General Assembly with a legislatively stated purpose of promoting collaborative regional economic development and workforce development opportunities (the Go Virginia Board). If no such board is created, the Virginia Economic Development Partnership (the Partnership) will administer the Fund. Two or more localities that collaborate and adopt a collaborative economic development plan will be eligible for grants from the Fund over a period of six years if the collaboration results in the location or expansion of a company in the Commonwealth that (i) creates at least 200 new jobs with average salaries at least 25 percent higher than the average wage and (ii) makes a capital investment of at least \$25 million. The company must maintain the job creation and investment for a period of three years before being eligible for the first grant payment. The total amount of the grant applied for shall not exceed the total investment of the localities in executing the collaborative economic development plan, and each annual installment of the grant may not exceed 50 percent of the total annual amount of personal income tax withheld by the certified company from the newly created jobs. Upon making a written finding of significant fiscal distress in or extraordinary economic opportunity for the participating localities, the Go Virginia Board (or the Partnership if the Board does not exist) may lower the job and capital investment requirements to no fewer than 25 new jobs and no less than \$1 million in capital investment and may award up to 100 percent of the total investment of the localities. The Governor's substitute allows the Governor to make the final determination as to the award of a grant from the Fund, at the recommendation of the Go Virginia Board, and allows the Governor to make the finding of significant fiscal distress of extraordinary economic opportunity

to lower the job and capital investment requirements or to award grants up to 100 percent of the local investment. The Governor's substitute would not become effective unless 2016 legislation creating the Go Virginia Board becomes law. Accordingly, the Governor's substitute does not contain provisions that in the enrolled bill require certain actions by the Partnership if the Go Virginia Board does not exist. SB 459, which is identical as enrolled, has the same Governor's Amendment in the Nature of a Substitute.

**HB 858. Virginia International Trade Corporation.** The enrolled bill establishes the Virginia International Trade Corporation (the Corporation) to promote international trade in the Commonwealth. The enrolled bill has a delayed effective date of December 1, 2016, for creation of the Corporation with its full authority beginning April 1, 2017. The Governor's amendments (i) authorize the Chief Executive Officer of the Corporation to employ or retain employees and provides for such employees to be eligible for membership in the Virginia Retirement System and participation in health and related insurance and other benefits available to state employees; (ii) grant additional powers to the corporation, including the power to adopt bylaws, execute contracts, charge and collect fees, and maintain accounts and records; (iii) exempt the corporation from state taxation and the Virginia Public Procurement and Personnel Acts; and (iv) provide for the Virginia Economic Development Partnership Authority to transfer all portions of its budget currently allocated for trade-related programs, personnel, and costs to the Corporation.

**HB 895. Board of Education; high school graduation requirements.** The third through sixth enactment clauses of the enrolled bill set forth the procedure for the establishment of new high school graduation requirements by the Board of Education. The Governor's amendments replace these enactment clauses with an alternative procedure for the establishment of such graduation requirements that includes requirements for the Board of Education to accept public comments on its website, hold public hearings throughout the Commonwealth, and submit a report on the status of the implementation of the new high school graduation requirements to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than December 1, 2016. SB 336, which is identical as enrolled, was signed into law as enrolled (2016 Acts, Chap. 720).

**HB 1017. Education improvement scholarships tax credit; reporting and other requirements.** The enrolled bill makes changes related to the administration of the education improvement scholarships tax credit, including technical and clarifying changes. One change in the enrolled bill lowers the penalty for failure of a scholarship foundation to disburse 90 percent of tax-credit-derived donations within the applicable 12-month period from 200 percent to 100 percent of the difference between 90 percent of the donations and the actual amount disbursed. The Governor's amendment restores the penalty for failure to disburse the donations at 200 percent, the penalty set forth in current law. SB 589, which is identical as enrolled, has the same Governor's amendment.

**HB 1030. Officers of election; required training.** The enrolled bill requires each officer of election to receive training at least once during the term for which he is appointed. The Governor's amendment requires each officer of election to receive training prior to the first election in which he will be serving as an officer of election. Such requirement will apply to each term for which the officer of election is appointed. SB 574, which is identical as enrolled, has the same Governor's amendment.

**HB 1069. Toll collection procedures, fees, and penalties; period of nonpayment; notice of unpaid tolls; reciprocity agreements and enforcement.** The enrolled bill provides that certified records obtained from the Department of Motor Vehicles identifying the owner of the vehicle described in a summons for a toll violation gives rise to a rebuttable presumption that the owner of the vehicle is the person named in the summons. The Governor's amendments extends this presumption to include owners of vehicles registered in another state when similarly certified records have been obtained from that state's Department of Motor Vehicles. The enrolled bill allows a summons for a toll violation to be mailed to the owner of the vehicle. The Governor's amendments clarify that this is not limited to owners of vehicles registered in the Commonwealth. The enrolled bill requires the Department of Transportation to notify E-ZPass account holders of an unpaid toll within 108 hours of such unpaid toll and provides for a 10-day grace period for unpaid tolls and requires toll operators to attempt to process and collect unpaid tolls twice during such period. The Governor's amendments clarify that notification must be provided and the grace period extended to E-ZPass account holders whose transponder was not detected at the time of the alleged toll violation but whose vehicle is associated with an E-ZPass account as well as E-ZPass account holders whose transponder was detected at the time of the alleged toll violation. The Governor's amendments make technical changes throughout the bill. Finally, the Governor's amendments remove from the enrolled bill the Code section that relates to improper use of the Dulles Access Road; it does not relate to tolling.

**HB 1108. Virginia Public Procurement Act (VPPA) and contracting generally; use of experience factor in contracting prohibited.** Technical amendment.

**HB 1224. Bank franchise tax.** The enrolled bill sets a cap of \$18 million on the total annual bank franchise tax liability per taxpayer and increases the cap to \$20 million if at least five taxpayers pay the \$18 million cap for three consecutive years. The Governor's amendment provides that, after two years at \$20 million, the cap will increase by three percent annually. The General Assembly adopted an identical Governor's amendment to SB 670 during the Regular Session (2016 Acts, Chap. 325), and HB 1224 will be identical to SB 670 if the Governor's amendment is adopted.

**HB 1228. Department of Professional and Occupational Regulation; boxing and wrestling events; sanctioning organizations.** The enrolled bill, among other things, reduces the compliance burden on sanctioning organizations by including specific participant safety criteria rather than referencing the entire law governing boxing and wrestling events and clarifies that amateur-only events may be conducted only under the purview of sanctioning organizations authorized by the Director of the Department of Professional and Occupational Regulation. The Governor's first and second amendments are technical. Amendment three clarifies that a sanctioning organization must be in good standing and in compliance with all safety provisions in order to have the results of amateur events conducted by the sanctioning organization for reporting purposes. Amendment four requires the sanctioning organizations to observe and apply the unified rules of the Association of Boxing Commissions.

**HB 1231. Dogs injuring, chasing, or killing livestock or poultry.** Technical amendments.

**HB 1250. Virginia Erosion and Stormwater Management Act; consolidation of programs; opt-out for certain localities; penalties.** Technical amendment.

**HB 1343. Virginia Research Investment Committee and Fund established; report.** The enrolled bill creates the Virginia Research Investment Committee (the Committee) to make awards of grants and loans from the Virginia Research Investment Fund. The Committee consists of the Director of the State Council of Higher Education for Virginia; the staff directors of the House Committee on Appropriations and the Senate Committee on Finance; the Secretary of Finance; and three nonlegislative citizen appointees, with one appointment each by the Speaker of the House of Delegates, the Senate Committee on Rules, and the Governor. The Governor's amendments add the Secretary of Education and a fourth nonlegislative citizen member, appointed by the Governor, to the Committee. The Governor's amendments also make technical corrections.

**HB 1344. Bonds; certain capital projects.** The enrolled bill authorizes the Virginia Public Building Authority and the Virginia College Building Authority to issue bonds in a total aggregate amount not to exceed \$2,067,651,677 plus costs to fund certain capital projects. The Governor's amendments increase the total amount of bond issuance to \$2,235,432,677 and authorize the following modified or additional capital projects: expansion of the sexually violent predator facility by the Department of Behavioral Health and Developmental Services, construction of an admissions office at Longwood University, moving the construction of a new juvenile correctional center in Chesapeake from planning stages to full funding for all stages through construction, and adding a new project for planning stages for the construction or renovation of a juvenile correctional center. Funding for construction of the new juvenile correctional center in Chesapeake shall not be released until 30 days after the submission of the interim report by the task force evaluating the future capital and operational requirements for Virginia's juvenile correctional centers required by Item 415 of the 2016-2018 Appropriation Act, and funding for the planning stages for construction or renovation of a juvenile correctional center shall not be released until 30 days after the final report. The enrolled bill also prohibits the release of funds for most of the construction and planning projects in the bill until certain projects in the Capitol Square area previously authorized for construction have had funding released and all phases of the projects are under contract for construction. The Governor's amendments condition the release of funds for the new projects upon his approval of a decision brief that directs the Department of General Services to proceed with all due speed with all phases of the demolition of the General Assembly Building and construction of a new one. Additional Governor's amendments are technical. SB 731, which is identical as enrolled, has the same Governor's amendments.

**HB 1362. Lobbyist reporting, the State and Local Government Conflict of Interests Act, and the General Assembly Conflicts of Interests Act; annual filing of required disclosures; definition of gift; separate reports of gifts; definition of procurement transaction; technical amendments.** The enrolled bill requires the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts to be filed annually; lobbyists are required to file by July 1 for the preceding 12-month period complete through the last day of April, and persons subject to the conflict of interests acts are required to file on or before January 15. The enrolled bill also requires the Governor, Lieutenant Governor, and Attorney General, members of the Governor's Cabinet, and members of the General Assembly to file on or before May 1 a separate report of gifts received during the period beginning January 1 through adjournment sine die of the regular session of the General Assembly. The Governor's amendments change the filing deadline for persons subject to the conflict of interests acts from January 15 to July 31 and eliminate the

separate report of gifts received by certain individuals during a regular session of the General Assembly.

The enrolled bill also exempts from the definition of a gift any gift with a value of less than \$20. The Governor's amendments raise to \$25 this exemption from the definition of a gift and also provide that this exemption does not apply to gifts of food or beverages.

The enrolled bill authorizes travel provided to facilitate attendance by a legislator at certain meetings where attendance is approved by the Chairman of the House or Senate Committee on Rules in addition to approval by either committee. The Governor's amendments require that such approvals be transmitted to the Virginia Conflict of Interest and Ethics Advisory Council within two weeks from the date of approval and that the Council publish such approvals on its website.

The Governor's amendments prohibit a lobbyist from allocating the total value of any single expenditure among more than one lobbyist's principal and provide that each principal shall be deemed to be responsible for the total value of the expenditure, which shall be reported by the lobbyist on the disclosure form filed by the lobbyist for each principal.

The Governor's amendments also include several technical amendments. SB 692, which is identical as enrolled, has the same Governor's amendments.



## Senate Bills

**SB 240. Virginia Tort Claims Act; notice of claim; electronic filing when notice filed with Department of Transportation.** The enrolled bill allows for the electronic filing of tort claims when a filing is made with the Department of Transportation. The Governor's amendments specify that, if the Department of Transportation is the agency alleged to be liable, notice of a claim shall be filed with the Commissioner of Highways and allow for electronic filing of tort claims where notice is to be filed with the Commissioner of Highways. The Governor's amendments further require the Commissioner of Highways to promptly deliver the notice of such a claim to the Attorney General if the claim is outside of any settlement authority delegated to the Department of Transportation by the Attorney General.

**SB 246. Grants for science, technology, engineering, or math (STEM) competition teams at qualified schools.** Technical amendment.

**SB 282. Virginia Shoreline Resiliency Fund.** Technical amendment.

**SB 369. Telemedicine pilot program.** The enrolled bill directs the Center for Telehealth of the University of Virginia and the Virginia Telehealth Network to establish a pilot program to expand access to and improve coordination and quality of health care services in rural areas and medically underserved areas of the Commonwealth through the use of telemedicine. The Governor's amendment adds an enactment clause providing that in the case of psychiatric services provided to individuals receiving services from community services boards, free health clinics, or federally qualified health centers by a practitioner engaged by the Center for Telehealth of the University of Virginia to deliver such services, the requirement for an appropriate examination set forth in § 54.1-3303 of the Code of Virginia may be satisfied through the use of telemedicine.

**SB 375. Pickup or panel truck; definitions.** Technical amendments.

**SB 449. Virginia Growth and Opportunity Act; report.** The enrolled bill establishes the Virginia Growth and Opportunity Board (the Board) to administer grants from the Virginia Growth and Opportunity Fund (the Fund) for regional economic and workforce development projects. The bill provides that regional councils will be established across the Commonwealth, consisting of representatives of government and the business and education communities, and councils may submit applications for collaborative projects in their regions that enhance private-sector growth, competitiveness, and workforce development. The Board is composed of 22 members: four members of the House of Delegates, three members of the Senate, three Cabinet Secretaries, four nonlegislative citizen members from different regions appointed by the Speaker of the House, four nonlegislative citizen members from different regions appointed by the Senate Committee on Rules, and four nonlegislative citizen members from different regions appointed by the Governor. The enrolled bill provides that any decision to award grants from the Fund requires an affirmative vote of the majority of the members of the Board present and voting, a majority of the members of the House of Delegates present and voting, a majority of the members of the Senate present and voting, and a majority of the Cabinet Secretaries present and voting. The Governor's substitute changes the size and composition of the Board as follows: The Board would consist of 24 members: four members of the House of Delegates, three members of the Senate, three Cabinet Secretaries, two nonlegislative citizen members from different regions appointed by the Speaker of the House, two nonlegislative citizen members from different regions appointed by the Senate Committee on Rules, two nonlegislative citizen members from

different regions appointed by the Governor, and eight nonlegislative citizen members appointed by the Governor and subject to confirmation by the General Assembly. Of the eight nonlegislative citizen members subject to confirmation, no more than two appointees can be from any one region. The General Assembly will provide a list of recommended nonlegislative citizen members for the Governor to consider in making his appointments. The Governor's substitute also replaces the special voting requirement for the award of grants with a general provision that all decisions of the Board require an affirmative vote of a majority of the members of the Board. HB 834, which is identical as enrolled, has the same Governor's Amendment in the Nature of a Substitute.

**SB 459. Virginia Collaborative Economic Development Act.** The enrolled bill creates the Virginia Collaborative Economic Development Performance Grant Fund (the Fund), to be administered by a policy board created by legislation adopted by the 2016 Session of the General Assembly with a legislatively stated purpose of promoting collaborative regional economic development and workforce development opportunities (the Go Virginia Board). If no such board is created, the Virginia Economic Development Partnership (the Partnership) will administer the Fund. Two or more localities that collaborate and adopt a collaborative economic development plan will be eligible for grants from the Fund over a period of six years if the collaboration results in the location or expansion of a company in the Commonwealth that (i) creates at least 200 new jobs with average salaries at least 25 percent higher than the average wage and (ii) makes a capital investment of at least \$25 million. The company must maintain the job creation and investment for a period of three years before being eligible for the first grant payment. The total amount of the grant applied for shall not exceed the total investment of the localities in executing the collaborative economic development plan, and each annual installment of the grant may not exceed 50 percent of the total annual amount of personal income tax withheld by the certified company from the newly created jobs. Upon making a written finding of significant fiscal distress in or extraordinary economic opportunity for the participating localities, the Go Virginia Board (or the Partnership if the Board does not exist) may lower the job and capital investment requirements to no fewer than 25 new jobs and no less than \$1 million in capital investment and may award up to 100 percent of the total investment of the localities. The Governor's substitute allows the Governor to make the final determination as to the award of a grant from the Fund, at the recommendation of the Go Virginia Board, and allows the Governor to make the finding of significant fiscal distress of extraordinary economic opportunity to lower the job and capital investment requirements or to award grants up to 100 percent of the local investment. The Governor's substitute would not become effective unless 2016 legislation creating the Go Virginia Board becomes law. Accordingly, the Governor's substitute does not contain provisions that in the enrolled bill require certain actions by the Partnership if the Go Virginia Board does not exist. HB 846, which is identical as enrolled, has the same Governor's Amendment in the Nature of a Substitute.

**SB 515. Mobile food vending in commuter lots in Planning District 8; fees; security.** The enrolled bill allows mobile food vending units to sell food in commuter lots in Planning District 8. The Governor's amendment removes any ambiguity suggesting that mobile food vending units are permitted to park in commuter lots in violation of applicable parking requirements; such units may only use a commuter lot to operate as a mobile food vending unit.

**SB 543. Inverse condemnation proceeding; reimbursement of owner's costs.** The enrolled bill directs the court to reimburse a plaintiff for the costs of an inverse condemnation proceeding for "damaging" property if a judgment is entered for the plaintiff. Under current law, the court is directed to award costs only for the "taking" of property. The Governor's amendment provides that in no case shall costs, disbursements, or expenses be awarded or reimbursed when the plaintiff claims a damaging of property and the awarded or settled compensation amount is less than 50 percent of the costs actually incurred because of an inverse condemnation proceeding.

**SB 574. Officers of election; required training.** The enrolled bill requires each officer of election to receive training at least once during the term for which he is appointed. The Governor's amendment requires each officer of election to receive training prior to the first election in which he will be serving as an officer of election. Such requirement will apply to each term for which the officer of election is appointed. HB 1030, which is identical as enrolled, has the same Governor's amendment.

**SB 589. Education improvement scholarships tax credit; reporting and other requirements.** The enrolled bill makes changes related to the administration of the education improvement scholarships tax credit, including technical and clarifying changes. One change in the enrolled bill lowers the penalty for failure of a scholarship foundation to disburse 90 percent of tax-credit-derived donations within the applicable 12-month period from 200 percent to 100 percent of the difference between 90 percent of the donations and the actual amount disbursed. The Governor's amendment restores the penalty for failure to disburse the donations at 200 percent, the penalty set forth in current law. HB 1017, which is identical as enrolled, has the same Governor's amendment.

**SB 611. Notice of tort claim against the Commonwealth, transportation district, or locality; statute of limitations.** The Governor's amendment provides that the bill shall not become effective unless reenacted by the 2017 Session.

**SB 690. Local tax officials; electronic dissemination of tax bills and tax documents.**  
Technical amendment.

**SB 692. Lobbyist reporting, the State and Local Government Conflict of Interests Act, and the General Assembly Conflicts of Interests Act; annual filing of required disclosures; definition of gift; separate reports of gifts; definition of procurement transaction; technical amendments.** The enrolled bill requires the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts to be filed annually; lobbyists are required to file by July 1 for the preceding 12-month period complete through the last day of April, and persons subject to the conflict of interests acts are required to file on or before January 15. The enrolled bill also requires the Governor, Lieutenant Governor, and Attorney General, members of the Governor's Cabinet, and members of the General Assembly to file on or before May 1 a separate report of gifts received during the period beginning January 1 through adjournment sine die of the regular session of the General Assembly. The Governor's amendments change the filing deadline for persons subject to the conflict of interests acts from January 15 to July 31 and eliminate the separate report of gifts received by certain individuals during a regular session of the General Assembly.

The enrolled bill also exempts from the definition of a gift any gift with a value of less than \$20. The Governor's amendments raise to \$25 this exemption from the definition of a gift and also provide that this exemption does not apply to gifts of food or beverages.

The enrolled bill authorizes travel provided to facilitate attendance by a legislator at certain meetings where attendance is approved by the Chairman of the House or Senate Committee on Rules in addition to approval by either committee. The Governor's amendments require that such approvals be transmitted to the Virginia Conflict of Interest and Ethics Advisory Council within two weeks from the date of approval and that the Council publish such approvals on its website.

The Governor's amendments prohibit a lobbyist from allocating the total value of any single expenditure among more than one lobbyist's principal and provide that each principal shall be deemed to be responsible for the total value of the expenditure, which shall be reported by the lobbyist on the disclosure form filed by the lobbyist for each principal.

The Governor's amendments also include several technical amendments. HB 1362, which is identical as enrolled, has the same Governor's amendments.

**SB 731. Bond; certain capital projects.** The enrolled bill authorizes the Virginia Public Building Authority and the Virginia College Building Authority to issue bonds in a total aggregate amount not to exceed \$2,067,651,677 plus costs to fund certain capital projects. The Governor's amendments increase the total amount of bond issuance to \$2,235,432,677 and authorize the following modified or additional capital projects: expansion of the sexually violent predator facility by the Department of Behavioral Health and Developmental Services, construction of an admissions office at Longwood University, moving the construction of a new juvenile correctional center in Chesapeake from planning stages to full funding for all stages through construction, and adding a new project for planning stages for the construction or renovation of a juvenile correctional center. Funding for construction of the new juvenile correctional center in Chesapeake shall not be released until 30 days after the submission of the interim report by the task force evaluating the future capital and operational requirements for Virginia's juvenile correctional centers required by Item 415 of the 2016-2018 Appropriation Act, and funding for the planning stages for construction or renovation of a juvenile correctional center shall not be released until 30 days after the final report. The enrolled bill also prohibits the release of funds for most of the construction and planning projects in the bill until certain projects in the Capitol Square area previously authorized for construction have had funding released and all phases of the projects are under contract for construction. The Governor's amendments condition the release of funds for the new projects upon his approval of a decision brief that directs the Department of General Services to proceed with all due speed with all phases of the demolition of the General Assembly Building and construction of a new one. Additional Governor's amendments are technical. HB 1344, which is identical as enrolled, has the same Governor's amendments.

**SB 734. Public charter schools.** Technical amendments.

**SB 748. Economic Development Infrastructure Act of 2016.** The Governor's amendment provides that the bill shall not become effective unless reenacted by the 2017 Session.

## Governor's Vetoes

### House Bills

**HB 2. Clean Power Plan; state implementation plan; General Assembly approval.** The enrolled bill requires the Department of Environmental Quality to receive approval from the General Assembly for a state implementation plan to regulate carbon dioxide emissions from existing power plants prior to submitting the plan to the U.S. Environmental Protection Agency for approval. SB 21, which is identical as enrolled, has the same Governor's veto explanation. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 2, which would prohibit the Virginia Department of Environmental Quality from submitting a Virginia-specific plan to comply with the federal Clean Power Plan until a majority of legislators in both the Senate and the House of Delegates adopt resolutions approving the state plan.

The interjection of required legislative approval into the Clean Power Plan process is an impermissible breach of Virginia's constitutional separation of powers. Federal law provides that it falls to the Governor to submit required plans and submissions under the Clean Air Act, including plans to comply with the Clean Power Plan. The Governor is authorized to delegate that authority to the appropriate state environmental agencies. In Virginia, that authority has been delegated to the Director of the Department of Environmental Quality. This process rests squarely in the executive branch of state government.

Under Article III of the Constitution of Virginia the legislative, executive, and judicial branches of government must remain separate and distinct, such that none may exercise the powers properly belonging to the others. Requiring DEQ to obtain the approval of each chamber of the legislature before submitting a plan to comply with the Clean Power Plan constitutes legislative participation in a purely executive process. As such, House Bill 2 violates Virginia's constitutional separation of powers under Article III.

I cannot, in good conscience, sign a bill that would violate the Constitution of Virginia."

**HB 8. Virginia Virtual School established.** The enrolled bill establishes the Board of the Virginia Virtual School (the Board) as a policy agency in the executive branch of state government for the purpose of governing the full-time virtual school programs offered to students enrolled in the Virginia Virtual School (the School). The Secretary of Education is responsible for such agency. The 14-member Board is given operational control of the School and assigned powers and duties. Beginning with the 2018-2019 school year, the bill requires the School to be open to any school-age person in the Commonwealth and provide an educational program meeting the Standards of Quality for grades kindergarten through 12, with a maximum enrollment of 5,000 students statewide. The bill requires the average state share of Standards of Quality per pupil funding for each enrolled student to be transferred to the School. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 8, which would create a new executive branch agency known as the Board of the Virginia Virtual School, to govern and facilitate the provision of full-time, online education programs.

This legislation raises significant concerns regarding proper management and oversight by allowing the Board of the Virginia Virtual School to operate outside the jurisdiction of the Board

of Education, local divisions, and local school boards. This would disrupt the established constitutional framework and the roles these entities play in ensuring the appropriate governance of schools, regulatory compliance, and positive student outcomes.

The corresponding resources allocated in the budget also would be insufficient to run a new state agency effectively. Inadequate funding and staffing will put all participating students, specifically English Language Learners, students with disabilities, and other at-risk youth, in danger of not receiving their constitutionally-guaranteed education.

Finally, Board of the Virginia Virtual School is also unnecessary given the current availability of high quality, online virtual learning opportunities. Delegate Richard P. Bell, the bill's patron, has a long standing commitment to advancing virtual learning, which has facilitated Virginia's ability to expand virtual learning opportunities to students throughout the Commonwealth. This includes the Virtual Virginia program, overseen by the Virginia Department of Education, which makes full and part time programming available to students while ensuring high quality instruction, providing extracurricular opportunities, and maintaining ongoing support from their local school division.

HB 8 would create a new state agency outside the constitutional framework governing school divisions and boards. There is no reason to sign into law legislation that would risk the educational well-being of our students."

**HB 9. Voter registration; application; form and required information.** The enrolled bill specifies in greater detail the information that applicants for voter registration are required to provide on the voter registration application form. The bill also requires the general registrars to deny the application of any applicant who fails to provide his first and last name or his date of birth; fails to provide his social security number or indicate that he does not have a social security number; fails to provide his citizenship status or provides that he is not a U.S. citizen; fails to provide his residence address or indicate rural residence location or homelessness; fails to provide previous voter registration information or indicate lack thereof; or fails to indicate that he will be, or indicates that he will not be, at least 18 years of age on or before the date of the next general election. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 9, which requires general registrars to deny voter registration applications submitted by eligible Virginians.

The Voting Rights Act expressly prohibits denying applications for omissions that are not material to determining voter eligibility. Under 52 U.S.C. § 10101(a)(2)(B), "[n]o person acting under color of law shall deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material to determining whether such individual is qualified under State law to vote in such election."

House Bill 9 would require the automatic denial of certain eligible Virginians and all applicants who fail to check a box indicating that she or he will be at least 18 years of age on or before the next general election. The checkbox is not material to determining whether the applicant meets the age requirements to register to vote because the applicant is already required to provide his or her date of birth.

Government works best when as many citizens have a voice in our democracy as possible. We should be seeking ways to make it easier for qualified Virginians to participate in elections, not disenfranchising them over technicalities.”

**HB 18. Employees; franchisees excluded.** The enrolled bill clarifies that neither a franchisee nor any employee of the franchisee shall be deemed to be an employee of the franchisee’s franchisor for any purpose to which the amended section of the Code of Virginia applies, notwithstanding any voluntary agreement between the U.S. Department of Labor and the franchisee. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 18, which would categorically prohibit franchisees and their employees from being considered the employees of a franchisor.

As proponents of this legislation have acknowledged, franchisees and their employees are not considered employees of the franchisor in typical franchisor/franchisee relationships. However, the nature of that relationship is subject to a particularized fact-based inquiry, and in situations of dominant franchisors, the franchisees and their employees are *de facto* employees of the franchisors.

House Bill 18 would relieve these dominant franchisor/employers of the obligations and responsibilities an employer owes to its employees. As a result, it would fall to the dominated franchisees—usually small, Virginia-based businesses—to shoulder the burdens more appropriately placed on the dominant franchisor.

Healthy franchisee/franchisor relationships are an integral part of the business environment and play an important role as we continue to build the new Virginia economy. House Bill 18 would undermine that effort by exempting dominant franchisors from their obligations to Virginia businesses and workers.”

**HB 70. Issuance of warrants by magistrates.** The enrolled bill provides that a magistrate may not issue an arrest warrant for a misdemeanor offense where the accused is a law-enforcement officer and the alleged offense arises out of the performance of his public duties upon the basis of a complaint by a person other than a law-enforcement officer or an animal control officer without prior authorization by the attorney for the Commonwealth or by a law-enforcement agency. The bill provides for the appointment of an attorney for the Commonwealth from outside the jurisdiction if a conflict of interest exists for the attorney for the Commonwealth having jurisdiction. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 70, which prohibits magistrates from issuing misdemeanor arrest warrants against law enforcement officers if the alleged offense was related to that officer’s duties, even in the face of overwhelming evidence of a crime.

Virginia enjoys outstanding law enforcement officers at all levels. They are not, however, perfect. We have seen all too often in recent years abuses perpetrated by poorly performing law enforcement officers throughout the United States. These abuses took place while these officers were purportedly carrying out their duties.

House Bill 70 would preclude Virginia’s magistrates from issuing misdemeanor arrest warrants in such circumstances, unless the complainant was a law enforcement officer, without the prior approval of the relevant law enforcement agency having jurisdiction over the offense. Neutral

magistrates, the judicial officers with primary responsibility for misdemeanor warrants, would be unable to act on valid citizen complaints of police abuse. Further, this legislation would only serve to place a larger workload on our judges and court clerks, the other individuals authorized to issue such warrants.

I trust Virginia's magistrates to determine whether probable cause exists to issue a misdemeanor warrant, even in those circumstances which involve law enforcement officers. Shifting their workload to judges and court clerks serves neither our citizens nor our judicial system."

**HB 145. Virginia Public Procurement Act; public works contracts; prevailing wage provisions.** The enrolled bill prohibits state agencies from requiring bidders, offerors, contractors, or subcontractors to pay, or require the payment of, wages, salaries, benefits, or other remuneration to persons employed to perform services in connection with a public works project at a rate that is based on the wages and benefits prevailing for the corresponding classes of labors and mechanics employed. A corresponding prohibition is made applicable to state agencies providing grants or other financial assistance for public works projects, unless otherwise required under federal law. The measure further states that it is the policy of the Commonwealth not to implement, adopt, enforce, or require any program, policy, or provision that requires a public works contract that requires the payment of wages or other remuneration at a rate based on the prevailing wage, whether modeled on the federal Davis-Bacon Act or similar state law. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 145, which prohibits a state agency from requiring a bidder, contractor, or subcontractor from performing services at rates based on prevailing wages and benefits.

Virginia does not have a statewide prevailing wage law. Accordingly, this bill would have no impact on state funded procurement projects. Additionally, any project funded in whole or in part by federal dollars must adhere to the Davis-Bacon Act, including its federal prevailing wage provisions.

Projects and employers who adhere to prevailing wage standards improve the lives of working families, local economies, and their communities. This legislation attempts to lower wages and impedes future labor agreements. Virginia's efforts should be focused on increasing wages, which will improve the lives of our families and aid our efforts to build a new Virginia economy, rather than placing artificial restrictions on their future growth."

**HB 264. Prohibiting certain local government practices that would require contractors to provide certain compensation or benefits.** The enrolled bill prohibits local governing bodies from establishing provisions related to procurement of goods, professional services, or construction that would require a wage floor or any other employee benefit or compensation above what is otherwise required by state or federal law to be provided by a contractor to one or more of the contractor's employees as part of a contract with the locality. The prohibition shall not affect contracts between a locality and another party that were executed prior to January 1, 2017, or the renewal or future rebids of services thereof. Also, localities shall not be prohibited from entering into contracts for economic development incentives in which the company receiving the incentives is required to maintain a certain stated wage level for its employees. The Governor's veto explanation states:



“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 264, which would prohibit a local government from requiring that its contractors have a wage floor or other benefit above what is required by state law.

In recent years, several local governments have required contractors to pay certain wage levels in contracts with localities. These initiatives have provided access to qualified, high-skilled workers and contractors and successfully addressed significant cost of living and workforce disparities in these localities.

The ability of other local governments to make this choice should be supported, not limited. Decisions regarding municipal contracts should be made by local leaders who fully understand local needs, and the profile of the available workforce, not by members of the General Assembly.”

**HB 298. Coal tax credits.** The enrolled bill limits the aggregate amount of credits that may be allocated or claimed for the coal employment and production incentive tax credit to \$7.3 million in each fiscal year. An electricity generator must file an application with the Department of Taxation each year to determine the amount of credits that it may claim or allocate, including credits earned in prior taxable years. If the total amount of approved applications for tax credits for the fiscal year exceeds \$7.3 million, the Department of Taxation shall apportion the credits on a pro rata basis. The bill also extends the sunset date of the coalfield employment enhancement tax credit through taxable years beginning before January 1, 2022. SB 44, which is identical as enrolled, has the same Governor’s veto explanation. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 298, which would extend both the ability to claim and to allocate the coal employment and production incentive tax credits and the allowance of the coalfield employment enhancement tax credit without meaningful reform.

In January 2012, the Joint Legislative Audit and Review Commission (“JLARC”) published its final report, Review of the Effectiveness of Virginia Tax Preferences, Senate Document No. 4. That report evaluated the efficacy of the coal tax credits in question and found that, despite their having been created to slow the decline of coal production and employment, both declined at the same or even faster rates than were predicted before the credits were created. JLARC’s report concluded that the economic activity had not moved in the desired direction and that the credits had not achieved their goal.

Specifically, from 1988 until 2015, coal mine operators, electricity generators, and other coal-related companies have claimed over \$610 million in tax credits. However, during the same period, the number of coal miners in Virginia has declined from 11,106 to 2,946. It would be unwise to spend additional taxpayer dollars on a tax credit that has fallen so short of its intended effectiveness.

Each day, I work tirelessly to build a new Virginia economy and ensure that this commonwealth is the best place to live, work and run a business. Making the most effective use of every dollar taxpayers entrust to their government is an essential part of that effort. Given the findings of the JLARC study and the lack of meaningful reform in the face of these findings, I believe it would be unwise for me to sign this legislation.”

**HB 382. Control of firearms by state agencies; rights of employees.** The enrolled bill prohibits state agencies other than the Department of Corrections, Department of Juvenile Justice, and Virginia Port Authority and institutions of higher education from adopting any regulation or workplace rule preventing officers or employees of such agencies from storing a lawfully possessed firearm and ammunition in a locked private motor vehicle at their workplace unless the adoption of the regulation is expressly authorized by statute. The bill also provides that any such regulation or rule adopted prior to July 1, 2016, is invalid. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 382, which prohibits the vast majority of state agencies within the executive branch from adopting any regulation or workplace rule that prohibits employees from storing firearms in their automobiles.

As Governor, I am the Chief Personnel Officer of the state workforce. I believe there is a need to establish and enforce workplace violence prevention policies that focus on employee safety and an atmosphere of workplace safety. An essential component of workplace violence prevention is the regulation of the possession, brandishing, or use of weapons on-site and during work-related activities. Our current state policy is aligned with and reinforces this best practice.

Section 2.2-1201 of the Code of Virginia gives the Department of Human Resource Management the authority to set policies related to the personnel administration of state government agencies. The current Workplace Violence policy, applicable to state government employees, prohibits possession of a weapon not required by the individual's position while the employee is on state premises or engaged in state business. This policy was established to mitigate the potential for workplace violence or accidental injury. The policy's prohibitions are a responsible approach to ensuring the safety of all employees and protection from disgruntled or troubled employees who might inflict harm if given easy access to firearms, regardless of whether the employee is licensed to carry such weapons.

This bill that inhibits our ability to establish and enforce workplace violence prevention policies that focus on employee safety and an atmosphere of workplace safety."

**HB 389. Parental Choice Education Savings Accounts.** The enrolled bill permits the parents of certain students with disabilities to apply to their resident school division for a Parental Choice Education Savings Account, to consist of the student's Standards of Quality per pupil funds and to be used for certain expenses of the student, including (i) tuition, fees, or required textbooks at a private elementary or secondary school or preschool that is located in the Commonwealth and does not discriminate on the basis of race, color, or national origin; (ii) educational therapies or services for the student from a practitioner or provider, including paraprofessionals or educational aides; (iii) tutoring services; (iv) curriculum; (v) tuition or fees for a private online learning program; (vi) fees for a nationally standardized norm-referenced achievement test, an Advanced Placement examination, or any examination taken to gain admission to an institution of higher education; or (vii) tuition fees or required textbooks at a public two-year or four-year institution of higher education in the Commonwealth or at an accredited private institution of higher education in the Commonwealth. The bill also contains provisions for the audit and revocation of such accounts. The bill contains a reenactment clause. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 389, which would remove state funds from our public school systems and redirect those funds to Parental

Choice Education Savings Accounts to pay for educational services outside the public school system.

First and foremost, there are significant constitutional concerns with this legislation. The approved expenses as outlined in the bill include tuition at private sectarian institutions, bringing the legislation into direct conflict with Article VIII, Section 10, of the Virginia Constitution, which authorizes the use of public funds only for public and nonsectarian private schools.

While the bill would divert much-needed resources away from public schools, operating costs would not be significantly lowered due to the continued need for teachers, buses, and other administrative supports upon which public school students rely. Additionally, the funds withdrawn from the public system bear no relationship to the needs of the particular student or the cost of the additional support services he or she would require, because the amount received will vary based on the local composite index of the home division.

This bill raises constitutional questions, diverts funds from public schools, and creates an unfair system. Our goal is to support and improve public education across the Commonwealth for all students, not to codify inequality.”

**HB 481. Compliance with detainers; U.S. Immigration and Customs Enforcement.** The enrolled bill prohibits the Director of the Department of Corrections, sheriff, or other official in charge of a facility from releasing an incarcerated alien for whom a lawful detainer order has been received from U.S. Immigration and Customs Enforcement, except to transfer custody of such alien to another facility or to an appropriate federal authority. The bill provides that an alien must be held in excess of his scheduled release date if federal or state law requires that such alien be held until transferred to an appropriate federal authority. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 481, which attempts to prohibit the release of certain persons held by state or local officials who are suspected of violating U. S. immigration laws.

Virginia law already leaves it to the discretion of state and local law enforcement officials how to respond to lawful detainer orders received by U.S. Immigration and Customs Enforcement. This bill does nothing other than subject non-citizens in legal disputes with federal immigration officials to inequitable treatment. The debate surrounding this bill confirms that it is intended to communicate a sense that non-citizens are to be feared and should be treated as more dangerous than other persons.

Rather than stoking irrational fears of non-citizens present in the Commonwealth, the General Assembly should be focused on substantive policies to improve public safety in Virginia. House Bill 481 makes no one safer and inappropriately stigmatizes many of those who are caught up in a broken immigration system.”

**HB 516. Board of Education; policy on sexually explicit instructional material.** The enrolled bill requires the Board of Education to establish a policy to require each public elementary or secondary school to (i) notify the parent of any student whose teacher reasonably expects to provide instructional material that includes sexually explicit content, as defined by the Board; (ii) permit the parent of any student to review instructional material that includes sexually explicit content upon request; and (iii) provide, as an alternative to instructional material and related academic activities that include sexually explicit content, nonexplicit instructional material and

related academic activities to any student whose parent so requests. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 516, which would require schools to identify materials as "sexually explicit" and notify parents if teachers plan to provide instructional material containing such content. The legislation would also require teachers to provide alternative instructional materials if requested by a parent.

Open communication between parents and teachers is important, and school systems have an obligation to provide age-appropriate material for students. However, this legislation lacks flexibility and would require the label of "sexually explicit" to apply to an artistic work based on a single scene, without further context. Numerous educators, librarians, students, and others involved in the teaching process have expressed their concerns about the real-life consequences of this legislation's requirements.

We have long entrusted curriculum management to our local school boards. School boards are best positioned to ensure that our students are exposed to those appropriate literary and artistic works that will expand students' horizons and enrich their learning experiences. School boards are also most knowledgeable about those materials that will best position our students to succeed in Advanced Placement and other college preparatory programs.

The Virginia Board of Education has been examining this issue recently and has been engaged in lengthy and substantive conversations with school boards, teachers, parents, and students about existing local policies and potential state policies to address these concerns.

Because the Board of Education is already considering this issue in a broader and more complete context, I believe House Bill 516 is unnecessary."

**HB 518. Local School boards; public school choice.** The enrolled bill requires, notwithstanding any agreement, waiver from the federal government, or provision of law to the contrary, the Board of Education, effective starting with the 2017-2018 school year, to select 12 schools identified for comprehensive support and improvement and require such schools to provide all enrolled students with the option to transfer to another public school in the school division in accordance with relevant federal law and subject to certain conditions and limitations established by the relevant local school board. The bill will not become effective unless reenacted by the 2017 Session of the General Assembly, except that the Board of Education is directed to report on the costs of implementation of the bill to the relevant General Assembly committees. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 518, which would require the Board of Education to select 12 schools identified for comprehensive support and improvement and require those schools to provide all enrolled students with the option to transfer to another public school within the school division.

At its core, this legislation undercuts local school boards' constitutional authority to assign students to schools. The local school board has the preeminent role over local public education, and HB 518 would unconstitutionally infringe on that role.

Additionally, Virginia's previous experience with implementing school choice policies to students in failing divisions proved costly and difficult to implement, and yielded no evidence to suggest that it had a positive impact on student achievement."

**HB 560. Brandishing a firearm; intent; penalty.** The enrolled bill requires that a person pointing, holding, or brandishing a firearm or similar weapons must have the intent to induce fear in the mind of another or know or reasonably should know that his conduct would induce such fear in order to be convicted of the crime of brandishing. Currently, the perpetrator’s intent is not an element of the offense in the statute. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 560, which would amend the law related to brandishing a firearm and provide that, in order for a person to be convicted under the amended statute, the person must know or reasonably should know that his conduct induces fear in the mind of another person.

The Code of Virginia currently prohibits a person from pointing, holding, or brandishing a firearm in such a manner as to induce fear in the mind of another person. Virginia’s courts have interpreted this language to mean that it is not enough that someone inadvertently witnesses a person with a firearm—there must be additional evidence that the person with the weapon actually intended to induce fear in the mind of the witness.

Making the change requested in this bill would create unintended consequences for prosecutors and law enforcement officers attempting to secure convictions for violators of this law. This proposed modification would unnecessarily burden our public safety officials and potentially create a defense for individuals who recklessly handle firearms.

Pointing, holding, or brandishing a firearm in a manner that induces fear in the mind of another person is irresponsible and dangerous behavior and should be appropriately addressed within our criminal justice system. Because current law provides clear guidelines for our law enforcement personnel without creating unintended consequences that could lead to unsuccessful prosecutions, House Bill 560 is unnecessary.”

**HB 587. Protection of monuments and memorials.** The enrolled bill provides that existing provisions related to the protection of certain monuments and memorials shall apply to all such monuments and memorials, regardless of when erected. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 587, which overrides the authority of local governments to remove or modify monuments or war memorials erected before 1998.

The rich history of our Commonwealth is one of our great assets. My administration strongly supports historic preservation efforts, including the preservation of war memorials and monuments. However, this legislation would have been a sweeping override of local authority over these monuments and memorials including potential ramifications for interpretive signage to tell the story of some of our darkest moments during the Civil War.

There is a legitimate discussion going on in localities across the Commonwealth regarding whether to retain, remove, or alter certain symbols of the Confederacy. These discussions are often difficult and complicated. They are unique to each community’s specific history and the specific monument or memorial being discussed. This bill effectively ends these important conversations.

I am committed to supporting a constructive dialogue regarding the preservation of war memorials and monuments, but I do not support this override of local authority.”

**HB 1090. Department of Health; restrictions on expenditure of funds related to abortions and family planning services.** The enrolled bill prohibits the Department of Health from spending any funds on an abortion that is not qualified for matching funds under the Medicaid program or providing any grants or other funds to any entity other than a licensed hospital that performs such abortions. The bill also prioritizes the types of entities that the Department of Health contract with or provide grants to for family planning services. The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 1090, which would prohibit the Virginia Department of Health from entering into contracts or providing funds to any entity that performs or maintains/operates a facility performing non-federally qualified abortions.

This bill, aimed at Planned Parenthood, would harm tens of thousands of Virginians who rely on the health care services and programs provided by Planned Parenthood health centers by denying them access to affordable care. The fact is that Virginians, and particularly low-income Virginians, need more access to health care, not less.

If Virginia takes federal dollars, then Virginia must abide by federal rules. As a stipulation of accepting federal family planning funding under Title X, Virginia must be fair in selecting which entities receive it.

Virginia cannot add this limitation set forth in House Bill 1090 without violating the Supremacy Clause. Similar laws enacted in North Carolina and Texas were struck down by federal courts for this exact reason.

If we are going to build a new, more vibrant Virginia economy, we need to be opening up doors to quality, affordable health care, not closing them. I have promised to stand in the way of any and all attempts to interfere with a woman's right to make her own health care decisions."

**HB 1096. Regulation of firearms by state entities.** The enrolled bill prohibits any state entity from adopting or enforcing any rule, regulation, policy, or administrative action governing the purchase, possession, transfer, ownership, carrying, storage, or transporting of firearms, ammunition, or components or combinations thereof unless expressly authorized by statute. The bill invalidates any such rule, regulation, policy, or administrative action adopted by a state entity prior to July 1, 2016. The bill does not prohibit a law-enforcement officer from acting within the scope of his duties, nor does it apply to the Department of Corrections, Department of Juvenile Justice, Department of State Police, Virginia National Guard, Department of Behavioral Health and Developmental Services, Department of Social Services, Virginia Port Authority, Office of the State Inspector General, Department of Forensic Science, Virginia Indigent Defense Commission, each office of an attorney for the Commonwealth, or any institution of higher education. The bill allows entities to adopt or enforce rules or regulations necessary for compliance with the Fire Prevention Code or necessary for the operation of Reserve Officer Training Corps programs. The bill expressly authorizes the Board of Game and Inland Fisheries to create certain regulations governing the possession, carrying, transportation, and storage of firearms, ammunition, or components or combinations thereof. This bill incorporates HB 593. The Governor's veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 1096, which would reverse the actions taken to safeguard our citizens and employees from gun violence in offices occupied by executive branch agencies.

All Virginians, including state employees, have the right to feel safe and secure going about their daily lives. Regulations have been authorized to promote safety in public buildings, and prevention requires us to address areas of concern before they are realized.

In addition, this legislation exempts rules, regulations, policies, and administrative actions imposed by certain agencies and institutions of higher education from the requirements of the bill. Such special exemptions, while other state agencies must comply, infers to the state workforce a perception of inequity for their wellbeing. Executive Order 50 is a consistent application of administrative requirements implemented across state agencies resulting in equitable state work force protections.

Our prior bipartisan agreement to make our Commonwealth safer was a step in the right direction, but we must continue the work.”

**HB 1234. School security officers; carrying a firearm.** The enrolled bill authorizes a school security officer to carry a firearm in the performance of his duties if he is a retired law-enforcement officer who meets the firearms training standards for active law-enforcement officers, the local school board grants him the authority to carry a firearm in the performance of his duties, and he is not otherwise prohibited by state or federal law from possessing a firearm. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 1234, which permits school security officers to carry firearms under certain conditions.

There are important distinctions between school security officers and school resource officers, specifically involving the type of training they receive that would prepare them to carry and use firearms. School resource officers are employees of a local law enforcement agency who are detailed to local schools and are permitted to carry firearms in the course of their duties. These officers receive significant and ongoing training. School security officers, on the other hand, are civilian employees of a school division who do not receive training regarding firearms or the appropriate use of force with juveniles. Allowing additional firearms in schools without appropriate training would create an environment that is less, rather than more, secure.

Additionally, the bill fails to distinguish between an individual who retired recently or 20 years ago, nor does it distinguish between an individual who retired from a Virginia law enforcement agency or from an out-of-state agency with vastly different training requirements. This raises questions about the uniformity of previous training these individuals received.

We must do all we can to keep Virginia’s students and schools safe. In order to achieve that goal, it is essential that only trained, active law enforcement officials be authorized to carry firearms in schools. This bill would expose schools and students to unnecessary risk and potential harm by allowing individuals without adequate training to carry firearms on school grounds.”

**HB 1371. Prohibition on certain local government mandates upon employers.** The enrolled bill provides that a locality shall not enact any policy that requires an employer within the locality to provide an employee with a wage or employment benefit that exceeds the requirements of state or federal law. Any such local policy shall be unenforceable. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto House Bill 1371, which prohibits localities from enacting policies to improve employee wage and benefit conditions.

A number of localities have enacted wage policies designed to allow the employees of contractors performing services for those localities to generate enough income to allow them to live and raise a family in the area. Companies not inclined to participate at these wage levels need not contract with the localities. House Bill 1371 would undermine these laudable policies to no apparent advantage.

This legislation attempts to restrict wage growth and impedes future labor agreements. Virginia’s efforts should be focused on increasing wages, which will improve the lives of our families and aid our efforts to build a new Virginia economy, rather than placing artificial restrictions on their future growth.”



## Senate Bills

**SB 41. Religious freedom; solemnization of marriage.** The enrolled bill provides that no person shall be (i) required to participate in the solemnization of any marriage or (ii) subject to any penalty, any civil liability, or any other action by the Commonwealth, or its political subdivisions or representatives or agents, solely on account of such person's belief, speech, or action in accordance with a sincerely held religious belief or moral conviction that marriage is or should be recognized as the union of one man and one woman. The bill defines "person" as any (a) religious organization, (b) organization supervised or controlled by or operated in connection with a religious organization, (c) individual employed by a religious organization while acting in the scope of his paid or volunteer employment, (d) successor, representative, agent, agency, or instrumentality of any of the foregoing, or (e) clergy member or minister. The bill also defines "penalty." The Governor's veto explanation states:

"Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto Senate Bill 41, which would shield from civil liability those who actively discriminate against same-sex couples.

Although couched as a "religious freedom" bill, this legislation is nothing more than an attempt to stigmatize. Any legitimate protections afforded by Senate Bill 41 are duplicative of the First Amendment to the Constitution of the United States; Article I, Section 11 of the Constitution of Virginia; and the Virginia Religious Freedom Restoration Act. Any additional protections are styled in a manner that prefers one religious viewpoint—that marriage can only validly exist between a man and a woman—over all other viewpoints. Such a dynamic is not only unconstitutional, it equates to discrimination under the guise of religious freedom.

This legislation is also bad for business and creates roadblocks as we try to build the new Virginia economy. Businesses and job creators do not want to locate or do business in states that appear more concerned with demonizing people than with creating a strong business climate. Legislation that immunizes the discriminatory actions of certain people and institutions at the expense of same-sex couples would damage Virginia's reputation for commonsense, pro-business government. We need only look at the damage these types of laws are doing in other states to understand the harm this bill could bring to our Commonwealth and its economy.

We should be pursuing policies to make Virginia a more vibrant and welcoming place to live, work, and raise a family. Senate Bill 41 would accomplish the opposite by making Virginia unwelcome to same-sex couples, while artificially engendering a sense of fear and persecution among our religious communities."

**SB 44. Coal tax credits.** The enrolled bill limits the aggregate amount of credits that may be allocated or claimed for the coal employment and production incentive tax credit to \$7.3 million in each fiscal year. An electricity generator must file an application with the Department of Taxation each year to determine the amount of credits that it may claim or allocate, including credits earned in prior taxable years. If the total amount of approved applications for tax credits for the fiscal year exceeds \$7.3 million, the Department of Taxation shall apportion the credits on a pro rata basis. The bill also extends the sunset date of the coalfield employment enhancement tax credit through taxable years beginning before January 1, 2022. This bill incorporates SB 718. HB 298, which is identical as enrolled, has the same Governor's veto explanation. The Governor's veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto Senate Bill 44, which would extend both the ability to claim and to allocate the coal employment and production incentive tax credits and the allowance of the coalfield employment enhancement tax credit without meaningful reform.

In January 2012, the Joint Legislative Audit and Review Commission (“JLARC”) published its final report, *Review of the Effectiveness of Virginia Tax Preferences*, Senate Document No. 4. That report evaluated the efficacy of the coal tax credits in question and found that, despite their having been created to slow the decline of coal production and employment, both declined at the same or even faster rates than were predicted before the credits were created. JLARC’s report concluded that the economic activity had not moved in the desired direction and that the credits had not achieved their goal.

Specifically, from 1988 until 2015, coal mine operators, electricity generators and other coal-related companies have claimed over \$610 million in tax credits. However during the same period, the number of coal miners in Virginia has declined from 11,106 to 2,946. It would be unwise to spend additional taxpayer dollars on a tax credit that has fallen so short of its intended effectiveness.

Each day, I work tirelessly to build a new Virginia economy and ensure that this commonwealth is the best place to live, work and run a business. Making the most effective use of every dollar taxpayers entrust to their government is an essential part of that effort. Given the findings of the JLARC study and the lack of meaningful reform in the face of these findings, I believe it would be unwise for me to sign this legislation.”

**SB 270. Compliance with detainers; U.S. Immigration and Customs Enforcement.** The enrolled bill prohibits the Director of the Department of Corrections, sheriff, or other official in charge of a facility from releasing an incarcerated alien for whom a detainer has been received from U.S. Immigration and Customs Enforcement, except to transfer custody of such alien to another facility or to an appropriate federal authority. The bill provides that an alien must be held in excess of his scheduled release date if federal or state law requires that such alien be held until transferred to an appropriate federal authority. The Governor’s veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto Senate Bill 270, which attempts to prohibit the release of certain persons held by state or local officials who are suspected of violating U.S. immigration laws.

Virginia law already leaves it to the discretion of state and local law enforcement officials how to respond to lawful detainer orders received by U.S. Immigration and Customs Enforcement. This bill does nothing other than subject non-citizens in legal disputes with federal immigration officials to inequitable treatment. The debate surrounding this bill confirms that it is intended to communicate a sense that non-citizens are to be feared and should be treated as more dangerous than other persons.

Rather than stoking irrational fears of non-citizens present in the Commonwealth, the General Assembly should be focused on substantive policies to improve public safety in Virginia. Senate Bill 270 makes no one safer and inappropriately stigmatizes many of those who are caught up in a broken immigration system.”

**SB 612. Students who receive home instruction; participation in interscholastic programs.**

The enrolled bill prohibits public schools from joining an organization governing interscholastic programs that does not deem eligible for participation a student who (i) receives home instruction; (ii) has demonstrated evidence of progress for two consecutive academic years; (iii) is in compliance with immunization requirements; (iv) is entitled to free tuition in a public school; (v) has not reached the age of 19 by August 1 of the current academic year; (vi) is an amateur who receives no compensation but participates solely for the educational, physical, mental, and social benefits of the activity; (vii) complies with all disciplinary rules and is subject to all codes of conduct applicable to all public high school athletes; and (viii) complies with all other rules governing awards, all-star games, maximum consecutive semesters of high school enrollment, parental consents, physical examinations, and transfers applicable to all high school athletes. The bill provides that no local school board is required to establish a policy to permit students who receive home instruction to participate in interscholastic programs. The bill permits reasonable fees to be charged to students who receive home instruction to cover the costs of participation in such interscholastic programs, including the costs of additional insurance, uniforms, and equipment. The bill has an expiration date of July 1, 2021. HB 131, which is identical as enrolled, has the same Governor's veto explanation. The Governor's veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto Senate Bill 612, which prohibits public schools from joining any organization governing interscholastic programs that does not allow home-schooled students to participate.

More than 300 public schools belong to the Virginia High School League (VHSL), an organization through which member schools have regulated interscholastic competition since 1913. Each year over 200,000 public school students, who satisfy the VHSL's 13 individual eligibility requirements, participate in one or more of the league's 27 sports and 11 academic activities.

Allowing home-schooled students to participate in interscholastic competitions would disrupt the level playing field Virginia's public schools have developed over the past century. For example, VHSL rules state that a student must pass five subjects or the equivalent in the previous semester, and be enrolled in five subjects or the equivalent offered for credit toward graduation, in order to participate in the league's events. While the bill provides that home-schooled students must demonstrate evidence of progress in order to participate in interscholastic activities, the unique nature of their educational situation precludes conformity to the same standards.

Virginia's public schools provide a complete package of scholastic offerings and access to extracurricular activities. Participation in athletic and academic competitions is a privilege for students who satisfy eligibility requirements. Opening participation in those competitions to individuals who are not required to satisfy the same criteria upends Virginia's extracurricular framework and codifies academic inequality in interscholastic competition.”

**SB 767. Form of ballot; party identification of candidates.** The enrolled bill provides that, except where the provisions of a local charter provide to the contrary, any candidate nominated by a political party or at a primary election shall be identified on the ballot by the name of his political party. Currently, only candidates for federal, statewide, and General Assembly offices are so identified. The Governor's veto explanation states:

“Pursuant to Article V, Section 6, of the Constitution of Virginia, I veto Senate Bill 767. In requiring party identification of candidates for local offices, the bill would unnecessarily inject an element of partisanship into historically nonpartisan municipal elections.

Since the adoption of the written ballot in 1870, the Commonwealth has not mandated the inclusion of party affiliation for candidates for local offices. In the recent case of *Marcellus v. Virginia State Board of Elections*, the United States District Court for the Eastern District of Virginia stated that “[t]he reduction of partisanship at the local level, the promotion of impartial execution of laws in local governance, and the expansion of eligible political candidates all present a legitimate and strong” reason to uphold this historic practice.

Senate Bill 767 would require that candidates for local offices be identified on the ballot by party. Party affiliation is not useful information when making decisions about purely local matters and would only serve to increase divisiveness in local government. We should be working to reduce partisan rancor, rather than creating new places for it to flourish.”

## Bills Returned by the Governor (1994-2016)

<b>Session</b>	<b>Governor</b>	<b>Amendments</b>	<b>Vetoed*</b>	<b>Total Sent to Governor</b>
1994	Allen	160	20	995
1995		153	11	867
1996		151	9	1,066
1997		155	11	933
1998	Gilmore	147	24	939
1999		118	13	1,062
2000		60	16	1,089
2001		91	7	882
2002	Warner	74	1	899
2003		87	4	1,046
2004		60	2	1,035
2005		45	1	949
2006	Kaine	123	7	958
2007		106	10	958
2008		36	1	889
2009		101	12	886
2010	McDonnell	102	0	871
2011		132	5	892
2012		113	7	855
2013		85	6	812
2014	McAuliffe	57	5	834
2015		68	17	800
2016**		57	29	811

\*This column represents the number of vetoes considered by the General Assembly during the Regular and Reconvened Sessions for each year. The final number of vetoed bills can be found in the Legislative Information System statistics for each session.

\*\*The 10 bills returned with Governor's amendments and five bills returned with vetoes and acted upon during the 2016 Regular Session are included in these totals but are not summarized in the Governor's Amendments and Vetoes sections of this publication. In addition, amendments to the Budget Bill are not summarized in this publication.