

# 2018 SESSION HIGHLIGHTS

The *2018 Session Highlights* summarizes significant legislation considered by the 2018 Session of the General Assembly as selected by the staff of the Virginia Division of Legislative Services. The brief overview of the 2018 Session covers legislative actions through sine die on Saturday, March 10, 2018. Bills are differentiated as Passed, Failed, or Carried Over. Passed bills are subject to review and veto by the Governor; thus, some of the bills listed as passed in this volume may be amended and some may not become law.

## Agriculture/Natural Resources

### Passed

**HB 345/SB 265 Special Assistant to the Governor for Coastal Adaptation and Protection.** Creates the executive branch position of Special Assistant to the Governor for Coastal Adaptation and Protection (the Assistant). The bill provides that the Assistant shall be the lead in developing and in providing direction and ensuring accountability for a statewide coastal flooding adaptation strategy. The bill directs the Assistant to initiate and assist with economic development opportunities associated with adaptation, to advance academic expertise at the Commonwealth Center for Recurrent Flooding and Resiliency, and to pursue federal, state, and local funding opportunities for adaptation initiatives.

**HB 532/SB 247 Industrial hemp research programs.** Authorizes the Commissioner of Agriculture and Consumer Services to undertake research through the establishment of (i) a higher education industrial hemp research program, to be managed by institutions of higher education, and (ii) a Virginia industrial hemp research program. The bill classifies all participants in any research program as either growers or processors and replaces the current licensing requirement, which requires a police background check, with a registration requirement.

**SB 698 Erosion and sediment control; inspections; natural gas pipelines; stop work instructions.** Authorizes the Department of Environmental Quality (the Department) to conduct inspections of the land-disturbing activities of interstate and intrastate natural gas pipeline companies that have approved annual standards and specifications as such land-disturbing activities relate to construction of any natural gas transmission pipeline greater than 36 inches inside diameter to determine (i) compliance with such annual standards and specifications, (ii) compliance with any site-specific plans, and (iii) if there have been or are likely to be adverse impacts to water quality as a result of such land-disturbing activities. The bill authorizes the Department to issue a stop work instruction on the relevant part of the site when the Department determines that there has been a substantial adverse impact to water quality or that a substantial and imminent adverse impact to water quality is likely to occur as a result of such land-disturbing activities. The bill requires that upon written documentation of completion by the company and approval by the Department in writing of the corrective measures specified in the stop work instruction, the instruction shall be immediately lifted. Such stop work instruction may be appealed to the circuit court of the jurisdiction where the violation was alleged to have occurred or other appropriate court.

**SB 950 Pipeline construction; Water Protection Permit; additional certification for upland impacts.** Provides that, for the construction of certain natural gas transmission pipelines greater

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than 36 inches inside diameter (Pipelines), the issuance of a Virginia Water Protection Permit (VWPP) and an additional water quality certification for upland conditions shall together constitute the certification required under § 401 of the federal Clean Water Act. The bill requires the builder of a Pipeline to submit an application to the Department of Environmental Quality (the Department) describing all activities that will occur in upland areas and authorizes the Department to request certain additional information from the applicant. The bill directs the Department to determine whether any activities not addressed by the VWPP are likely to result in a discharge to state waters with the potential to adversely impact water quality and then to develop an additional certification containing any additional conditions for activities in upland areas. The bill directs the Department to prepare a public notice of such draft certification conditions and to allow for public comment. The bill requires an individual VWPP for impacts to state waters for the construction of any Pipeline and requires that each wetland and stream crossing be considered as a single project, with an individual review of each proposed water body crossing with an upstream drainage area of five square miles or greater; however, the bill requires only one individual VWPP addressing all water body crossings for each Pipeline. The bill requires that any Pipeline be constructed in a manner that minimizes impacts to state waters and protects water quality to the maximum extent practicable, including by using certain best management practices. The bill directs the State Water Control Board to exempt the construction of Pipelines from its general permits for the activities of certain utilities and public service companies and to complete its review of any individual permit application related to the construction of any Pipeline within one year. The bill also prohibits an applicant from commencing a land-disturbing activity prior to approval by the Department of an erosion and sediment control plan and stormwater management plan. Finally, the bill authorizes the Department to assess certain administrative charges in order to cover its costs.

**Failed**

**HB 1610 Menhaden; total landings.** Adjusts the annual total allowable landings for menhaden upward from 168,937.75 metric tons to 170,797.17 metric tons and provides that any portion of the coast-wide total allowable catch that is relinquished by a state that is a member of the Atlantic States Marine Fisheries Commission shall be redistributed to Virginia and other states according to the Commission's allocation guidelines. The bill adjusts the annual harvest cap for the purse seine fishery for Atlantic menhaden in the Chesapeake Bay downward from 87,216 metric tons to 51,000 metric tons. The bill also removes a provision that applied the amount by which certain actual Chesapeake Bay harvests fall below the harvest cap as a credit to the following year.

**SB 872 Tethering animals; adequate shelter and space.** Provides that outdoor tethering of a companion animal shall not meet the requirement that an animal be given adequate shelter, unless the animal is actively engaged in an agricultural or hunting activity, when it is conducted (i) when the temperature is 32 degrees Fahrenheit or lower or 85 degrees Fahrenheit or higher; (ii) during a heat advisory; or (iii) during a severe weather warning. The bill provides that a tether shall meet the requirement that an animal be given adequate space if it is four times the length of the animal or 15 feet in length, whichever is greater, and does not cause injury or

pain or weigh more than one-tenth of the animal's body weight. The bill exempts agricultural animals from existing provisions related to tethering. The bill also authorizes any locality to adopt ordinances that parallel and make more stringent the state law regarding the care of companion animals.

Alcoholic Beverage Control

**Passed**

**HB 852/SB 120 Alcoholic beverage control; substance abuse prevention; Virginia Institutions of Higher Education Substance Use Advisory Committee established.** Directs the Board of Directors of the Virginia Alcoholic Beverage Control Authority (Board) to establish and appoint members to the Virginia Institutions of Higher Education Substance Use Advisory Committee (Advisory Committee). The bill provides that the goal of the Advisory Committee shall be to develop and update a statewide strategic plan for substance use education, prevention, and intervention at Virginia's public and private institutions of higher education. The bill provides that the Advisory Committee shall consist of representatives from Virginia's public and private institutions of higher education, including students and directors of student health, and such other members as the Board may deem appropriate.

**HB 1602/SB 61 Alcoholic beverage control; confectionery license.** Creates a confectionery license, which authorizes the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. The bill provides that any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold and requires the Board of Directors of the Alcoholic Beverage Control Authority to promulgate regulations to implement the provisions of the bill, which shall include a definition of the term "confectionery" and labeling requirements for such confectionery.

**Failed**

**HB 536/SB 803 Alcoholic beverage control; sales conducted at government stores established by the Alcoholic Beverage Control Board on a distiller's licensed premises; disposition of markup profits.** Provides that any reasonable markup imposed by the Alcoholic Beverage Control Board pursuant to subdivision A 2 of § 4.1-235 on spirits sold at a government store established on a distiller's licensed premises shall be retained by such distiller. The provisions of the bill are contingent on funding in a general appropriation act.

**HB 1541/SB 467 Alcoholic beverage control; limited mixed beverage license for retail cigar shops.** Creates a new limited mixed beverage license for retail cigar shops. The bill sets out the privileges of this new license, including a requirement that at least 60 percent of the licensee's annual gross revenue be from the sale of premium tobacco products. The bill also defines "cigar shop" and sets out the state and local license taxes for this license.

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### Business

#### Passed

**HB 1258/SB 405 Zoning for wireless communications infrastructure.** Establishes parameters regarding applications for zoning approvals for certain wireless support structures. Applications for certain new wireless support structures that are 50 feet or less above ground level and for the co-location on an existing structure of a wireless facility that is not a small cell facility are exempt from requirements that they obtain a special exception, special use permit, or variance, though a locality may require administrative review for the issuance of any zoning permits or an acknowledgement that zoning approval is not required for such projects. Aspects of the zoning approval process addressed in this measure include periods for approval or disapproval of applications; a requirement that applications are deemed approved if not approved or disapproved within the applicable period; application fees; a prohibition against unreasonably discriminating between applicants and other wireless services providers, providers of telecommunications services, and nonpublic providers of cable television and electric services; and limits on the number of new wireless support structures that can be installed in a specific location. The measure prohibits a locality, in its receiving, consideration, and processing of an application for zoning approval, from engaging in certain activities. The measure states that it does not prohibit a locality from disapproving an application submitted under a standard process project on the basis of the availability of existing wireless support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant. The measure also requires that any publicly owned or privately owned wireless service provider operating within the Commonwealth or serving residents of the Commonwealth shall, by January 1, 2019, and annually thereafter until January 1, 2025, provide to the Department of Housing and Community Development a report detailing, by county, city, or town, enhanced service capacity in previously served areas and expansion of service in previously unserved geographic areas that are provided access to wireless service.

**SB 807 Electric utilities; coal combustion residuals units; beneficial use projects.** Directs the Director of the Department of Environmental Quality to suspend, delay, or defer the issuance of any permit to provide for the closure of any coal combustion residuals (CCRs) surface impoundment or other CCRs unit that no longer receives CCRs, located within the Chesapeake Bay watershed, until July 1, 2019. These limits do not apply to a permit required for an impoundment where CCRs have already been removed and placed in another impoundment on site, are being removed from an impoundment, or are being processed in connection with a recycling or beneficial use project. The measure also requires the owner or operator of such a CCRs surface impoundment or unit to issue a request for proposals (RFP) for entities to conduct recycling or beneficial use projects for the CCRs at such impoundment or unit. The RFP shall require responding entities to provide information from which the owner or operator is able to determine, among other things, the cost of the recycling or beneficial use of the CCRs. The owner or operator is required by November 15, 2018, to transmit to the Governor and certain

committees and agencies a business plan that compiles the information collected through the RFP process.

**SB 966 Electric utility regulation.** Provides that, in lieu of the biennial review proceedings previously required, Dominion Energy Virginia (DEV) and Appalachian Power (APCo) will be subject to triennial reviews of their rates, terms, and conditions for generation, distribution, and transmission services. The measure advances the termination of the Transitional Rate Period for DEV by three years, to December 31, 2016. The termination of the Transitional Rate Period for APCo remains December 31, 2017. DEV's first review after its Transitional Rate Period will be held in 2021, which is one year earlier than currently scheduled, and will utilize the four 12-month test periods beginning January 1, 2017, and ending December 31, 2020. APCo's first review after its Transitional Rate Period will be held in 2020, which is unchanged, and will utilize the three 12-month test periods beginning January 1, 2017, and ending December 31, 2019. The measure also (i) requires the State Corporation Commission (SCC) to enter its final order on petitions for approval of a voluntary rate or rate design test or experiment by the earlier of not more than six months after the filing of the petition or three months after the hearing on the petition; (ii) excludes from the definition of "public utility" for purposes of the Utility Facility Act a company that provides storage of electric energy that is not for sale to the public, if the company is not organized as a public utility; (iii) authorizes an investor-owned electric utility, if a cable operator does not elect to relocate facilities underground when the electric utility relocates its facilities underground, to either convey poles to the cable operator or retain ownership of the poles; (iv) provides that an energy efficiency program proposed by an electric or natural gas utility is in the public interest if the net present value of the benefits exceeds the net present value of the costs as determined by any three of four benefit cost tests; (v) exempts large general service customers from being charged any costs of new energy efficiency programs; (vi) establishes a new rate adjustment clause category for expenses of electric distribution grid transformation projects, which include advanced metering infrastructure, intelligent grid devices, automated control systems for electric distribution circuits and substations, communications networks for service meters, certain distribution system hardening projects, physical security measures at key distribution substations, cyber security measures, certain energy storage systems and microgrids, electrical facilities and infrastructure for electric vehicle charging systems, LED street light conversions, and new customer information platforms; (vii) declares that electric distribution grid transformation projects are in the public interest; (viii) provides that the costs of such projects may be recovered either through a rate adjustment clause or through a customer credit reinvestment offset; (ix) directs the SCC to approve, without consideration of their reasonableness or prudence, the costs of the conversion of an investor-owned electric utility's existing overhead distribution tap lines with new underground facilities if the average cost per customer does not exceed \$20,000 and the costs per mile do not exceed \$750,000, provided that as of December 31, 2028, any costs recovered by a utility for such purpose is limited to the remaining costs for conversions previously approved or for which approval is pending; (x) requires the SCC to enter an order on a petition for approval of an electric distribution grid transformation project within six months after the petition's filing; (xi) increases the

amount of capacity of solar and wind generation facilities constructed by a utility that are in the public interest from 50 megawatts to 5,000 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts; (xii) declares that offshore wind generation facilities with a capacity of not more than 16 megawatts, and all onshore wind generation facilities, are in the public interest and that the costs thereof may be recovered either through a rate adjustment clause or through a customer credit reinvestment offset; (xiii) provides that if DEV has not commenced construction of an offshore wind generation facility by July 1, 2023, the SCC may cease its rate adjustment clause and roll the costs into its rate base without increasing base rates; (xiv) requires certain costs related to generation plant facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters and costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause to be deemed to have been recovered through customer rates during the test period under review unless doing so would place the utility in an under-earning position, in which event the SCC is required to authorize deferred recovery of such costs and allow the utility to amortize and recover the deferred costs over future periods; (xv) bars the SCC, in the first triennial review proceeding conducted after January 1, 2021, from ordering a rate increase for DEV and from ordering a rate decrease of more than \$50 million; (xvi) allows utilities, upon request, to reduce or eliminate amounts of overearnings that otherwise would be required to be credited to customers by applying a customer credit reinvestment offset for expenses on new solar and wind generation facilities and electric distribution grid transformation projects, if the utility has invested in such projects an amount not less than 100 percent of the amount of its overearnings; (xvii) provides that the portion of the costs associated with new utility-owned solar or wind generation facilities or with electric distribution grid transformation projects that are the subject of a customer credit reinvestment offset shall not be thereafter recoverable through the utility's base rates or a rate adjustment clause; (xviii) requires APCo to continue funding its pilot program for energy assistance and weatherization for low-income, elderly, and disabled individuals at no less than the existing levels, and requires DEV to fund its similar pilot program at no less than \$13 million annually; (xix) directs the SCC to find that prior to January 1, 2024, the construction or purchase by a public utility of certain solar or wind generation facilities, or the purchase by a public utility of energy, capacity, and environmental attributes from such solar facilities, is in the public interest, and requires 25 percent of the generation capacity from such facilities to be from the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities owned by persons other than a public utility; (xx) requires all of such solar generation capacity located in the Commonwealth to be subject to competitive procurement but allows a public utility to select solar generation capacity without regard to whether such selection satisfies price criteria if the selection of the solar generating capacity materially advances non-price criteria if such non-price solar generating capacity selected does not exceed 25 percent of the utility's solar generating capacity; (xxi) authorizes a utility to petition the SCC for a prudency determination for a solar or wind project; (xxii) requires electric utilities to file updates to its integrated resource plan (IRP) in each

year immediately preceding the year the utility is subject to a triennial review filing rather than annually; and (xxiii) requires each electric utility's IRP to evaluate long-term electric distribution grid planning and proposed electric distribution grid transformation projects and developing a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, reduction in emissions, and reduction in carbon intensity. The provision creating the customer credit reinvestment offset expires on July 1, 2028. The measure also includes enactment clauses that (a) establish a pilot program consisting of the approval of the underground construction of two electrical transmission lines and direct the SCC to approve as a qualifying project a transmission line that appears to track the I-66 Hybrid Route that has been considered in the application of DEV for the Haymarket transmission line project in Prince William County and approve a rate adjustment clause to allow the utility to recover from the utility's Virginia jurisdictional customers the costs of the project; (b) bar APCo from recovering \$10 million of incurred fuel costs; (c) require DEV to provide current customers voluntary bill credits of \$133 million in 2018 and \$67 million in 2019; (d) require reductions in the rates for incumbent electric utilities to reflect reductions in federal tax liability resulting from the enactment of federal tax legislation, including reductions in 2018 of \$50 million by APCo and \$125 million by DEV; (e) direct the SCC to conduct pilot programs for the deployment of electric power storage batteries with capacity limits of up to 10 MW for APCo and 30 MW for DEV; (f) allow certain large nonresidential customers that enter into a three-year minimum exclusive supply agreement to receive a Manufacturing and Commercial Competitiveness Retention Credit that reduces their base generation charges by two percent; (g) require DEV to consider in its next IRP whether the construction or purchase of one or more generation facilities with at least one MW of generating capacity that use combined heat and power or waste heat to power are in the customer interest; (h) require APCo and DEV to investigate the feasibility of providing broadband Internet services to unserved areas of the Commonwealth using utility distribution and transmission infrastructure; (i) require the SCC to submit annual reports that assess, among other things, new construction and development of new utility-owned and utility-operated generating facilities utilizing energy derived from sunlight; (j) require APCo and DEV to develop programs of energy conservation measures, with APCo's program costing not less than \$140 million and DEV's program costing not less than \$870 million; (k) require APCo and DEV to each investigate and report upon its economic development activities and assistance provided to Virginia localities in the area of economic development in each utility's respective service area; (l) require APCo and DEV to investigate potential improvements to net energy metering programs; (m) require DEV's IRPs to incorporate policy goals of reduction in customer bills, reduction in emissions, and reduction in the utility's carbon intensity; (n) require the SCC to submit annual reports assessing the reliability of electrical transmission or distribution systems, the integration of utility-owned or customer-owned renewable electric generation resources with the utility's electric distribution grid, the level of investment in generation, transmission, or distribution of electricity, and related matters; (o) provide that the provisions of this measure apply retroactively to applications regarding new underground facilities or offshore wind facilities pending with the SCC on or after January 1, 2018; (p)

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require APCo, subject to SCC approval, by July 1, 2018, to construct or acquire solar generation facilities in Virginia with an aggregate capacity of not less than 200 MW; (q) provide that no more than one half of the combined capital investment amount attributable to investments in new utility-owned solar or wind generation facilities, electric distribution grid transformation projects, undergrounding distribution facilities, undergrounding two transmission lines, and energy efficiency programs shall be investments in undergrounding distribution facilities, undergrounding two transmission lines, and electric grid distribution transformation projects solely designed for physical security at distribution substations; and (r) require the SCC to submit reports after each triennial review proceeding that describe and quantify investments in solar and wind projects and in electric distribution grid transformation projects.

### Failed

**SB 362 Qualified education loan servicers.** Prohibits any person from acting as a qualified education loan servicer without first obtaining a license from the State Corporation Commission (SCC) and establishes procedures pertaining to such licenses. Banks, credit unions, certain wholly owned subsidiaries of banks and credit unions, and nonprofit institutions of higher education are exempt from the licensing provisions. The servicing of a qualified education loan encompasses (i) receiving any scheduled periodic payments from a qualified education loan borrower pursuant to the terms of a qualified education loan; (ii) applying the payments of principal and interest and such other payments, with respect to the amounts received from a qualified education loan borrower, as may be required pursuant to the terms of a qualified education loan; and (iii) performing other administrative services with respect to a qualified education loan. Qualified education loan servicers are prohibited from, among other things, (a) misrepresenting the amount, nature, or terms of any fee or payment due or claimed to be due on a qualified education loan, the terms and conditions of the loan agreement, or the borrower's obligations under the loan; (b) knowingly misapplying or recklessly applying loan payments to the outstanding balance of a qualified education loan; and (c) failing to report both the favorable and unfavorable payment history of the borrower to a nationally recognized consumer credit bureau at least annually if the loan servicer regularly reports information to such a credit bureau. Violations are subject to a civil penalty not exceeding \$2,500. The bill has a delayed effective date of January 1, 2019, but provides that applications shall be accepted, and investigations commenced, by the SCC beginning October 1, 2018.

**SB 625 Consumer finance companies.** Requires the State Corporation Commission, as a condition of licensing a consumer finance company, to find that the applicant will not make consumer finance loans at the same location at which the applicant makes payday loans or motor vehicle title loans. The measure also (i) sets the minimum and maximum amounts of a consumer finance loan at \$500 and \$35,000, respectively; (ii) requires that such loans be installment loans with a term that is not less than six months nor more than 120 months; (iii) sets the maximum annual interest rate on such loans at 36 percent; (iv) authorizes late payment fees of \$20, provided they are set forth in a contract (v) authorizes loan processing fees of the greater of \$75 or five percent of the principal

amount of the loan but not to exceed \$150; and (vi) increases the amount of a bad check fee from \$15 to \$25.

### Constitutional Amendments

#### Passed

**HB 71/SB 900 Constitutional amendment (voter referendum); real property tax exemption for surviving spouses of certain disabled veterans.** Provides for a referendum at the November 6, 2018, election to approve or reject an amendment to the real property tax exemption for a primary residence that is currently provided to the surviving spouses of veterans who had a one hundred percent service-connected, permanent, and total disability to allow the surviving spouse to move to a different principal place of residence. Similar real property tax exemptions provided in the Constitution of Virginia to (i) the surviving spouses of members of the armed forces killed in action and (ii) the surviving spouses of certain emergency services providers killed in the line of duty allow the surviving spouse to move to a different principal place of residence and still claim the tax exemption.

**SB 219 Constitutional amendment (voter referendum); real property tax exemption for flooding remediation, abatement, and resiliency.** Provides for a referendum at the November 6, 2018, election to approve or reject an amendment to allow the General Assembly to authorize the governing bodies of counties, cities, and towns to provide for a partial exemption from local real property taxation, within such restrictions and upon such conditions as may be prescribed, of improved real estate subject to recurrent flooding upon which flooding abatement, mitigation, or resiliency efforts have been undertaken.

#### Failed

**HJ 2 United States Constitution; Equal Rights Amendment.** Ratifies the Equal Rights Amendment to the United States Constitution that was proposed by Congress in 1972. The joint resolution advocates the position that the 1972 Equal Rights Amendment remains viable and may be ratified notwithstanding the expiration of the 10-year ratification period set out in the resolving clause, as amended, in the proposal adopted by Congress.

### Corrections

#### Passed

**HB 35/SB 52 Places of confinement for juveniles.** Provides that when juveniles who are determined by the court to be a threat to the security or safety of other juveniles detained in a juvenile secure facility are transferred to or confined to a jail or other facility for the detention of adults, such adult-detention facility must be approved by the State Board of Corrections for the detention of juveniles. The bill removes an existing provision that such juveniles need not be separated and removed from the adult detainees when confined with adults.

Courts/Civil Law**Passed****HB 780/SB 564 Public access to nonconfidential court records.**

Provides that a clerk of court or the Executive Secretary of the Supreme Court shall make nonconfidential court records or reports of aggregated, nonconfidential case data available to the public upon request. The bill specifies that such records or reports shall be provided no later than 30 days after the request. The bill further provides that the clerk may charge a fee for responding to such request that shall not exceed the actual cost incurred in accessing, duplicating, reviewing, supplying, or searching for the requested records. Finally, the bill requires the Executive Secretary of the Supreme Court to make available to the public an online case information system of nonconfidential information for criminal cases by July 1, 2019.

**HB 1361/SB 981 Calculation of child support obligation; multiple custody arrangements.** Establishes methods by which child support obligations can be calculated when multiple custody arrangements exist between parents of children subject to child support orders.

**SB 540 Modification of spousal support; retirement age.**

Provides that for the purposes of petitioning the court for a modification of spousal support, the payor spouse's reaching full retirement age pursuant to the federal Social Security Act shall be considered a material change in circumstances. The bill provides a list of factors that shall be considered by the court in considering modification based on the payor spouse's reaching full retirement age. A request for modification based on the payor spouse's retirement age is available to any person subject to a spousal support order regardless of the date of the suit for initial setting of support or the date of entry of any such order or decree. The bill provides that in the court's consideration of a petition for modification for any reason, it shall consider the assets or property interest of each of the parties from the date of the support order and up to the time of the hearing on modification or termination and any income generated from the asset or property interest.

**SB 545 Court reporters; prohibited actions; civil penalties.**

Establishes ethical standards and requirements for the provision of court reporting services, including prohibiting providers of court reporting services from (i) entering into contracts for more than one case, action, or legal proceeding with a party to an action, insurance company, third-party administrator, or any other person or entity that has a financial interest in the case, action, or legal proceeding; (ii) giving an economic advantage to one side that is not offered to the other; (iii) having a financial interest in the action; (iv) entering into an agreement for court reporting services that restricts an attorney from using the court reporter or court reporting services provider of the attorney's choosing; (v) allowing the format, content, or body of a certified transcript as submitted by the court reporter to be manipulated in a manner that increases the cost of the transcript; and (vi) providing additional advocacy or litigation support services. The bill provides that a person harmed by a violation of these standards may file a complaint with the administrative body, court, or administrative tribunal in which the action upon which the legal proceeding is based is pending or scheduled to be heard. The bill provides that the court reporter or court reporting services

provider alleged to have violated such standards shall be given notice and a right to be heard on any such complaint, with the right of appeal or review. The bill further provides that a person who violates these standards is subject to a civil penalty of \$500 for a first offense, \$750 for a second offense, and \$1,000 for a third and any subsequent offense, which shall be paid to the state treasury and credited to the Legal Aid Services Fund within the Virginia State Bar fund.

**Failed**

**HB 745/SB 610 Adultery; civil penalty.** Reduces the penalty for adultery from a Class 4 misdemeanor to a civil penalty of not more than \$250.

**HB 1305 Recovery of punitive damages.** Eliminates the limitation of the total amount of punitive damages that can be awarded in an action. Current law provides that the total amount awarded for punitive damages shall not exceed \$350,000.

**HB 1336 Spoliation of evidence; jury instruction.** Provides that if a party has possession, custody, or control of evidence, as specified in the bill, that such party knows or reasonably should know may be material to pending or probable litigation, and such evidence is disposed of, altered, concealed, destroyed, or not preserved by such party, a court may instruct that a jury may infer that, if such evidence had been introduced, such evidence would be detrimental to the case of such party. The bill further provides that the party seeking such instruction need not show that the disposal of, alteration of, concealing of, or failure to preserve such evidence was undertaken intentionally or in bad faith in order for such instruction to be given. The bill serves to overrule a portion of the Supreme Court of Virginia's decision in *Emerald Point, LLC v. Hawkins*, 2017 Va. Lexis 197.

Courts/Criminal Justice**Passed****HB 483/SB 562 Restitution; collection; Criminal Injuries Compensation Fund.**

Adds to the duties of the Workers' Compensation Commission (the Commission) in its role as administrator of the Criminal Injuries Compensation Fund (Fund) the obligation to (i) identify and locate victims for whom restitution owed to such victims has been deposited into the Fund and (ii) collect and disburse such unclaimed restitution to such victims. The bill directs the Commission to include in its annual report information on all unclaimed restitution that it disburses. The bill provides that clerks shall deposit into the Fund by November 1 of each year restitution collected for victims who can no longer be identified or located, or state that there is no such restitution to be deposited. The bill requires that clerks record the receipt of restitution payments in the automated information system operated by the Supreme Court or a system established and maintained by a circuit court. The bill also provides that the restitution form used by the court shall include the victim's contact information, including address, telephone number, and email address.

**HB 638/SB 526 Trespass; unmanned aircraft system; penalty.**

Provides that any person who knowingly and intentionally causes an unmanned aircraft system to enter the property of another and come within 50 feet of a dwelling house (i) to coerce, intimidate, or

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harass another person or (ii) after having been given notice to desist, for any other reason, is guilty of a Class 1 misdemeanor. The bill also provides that any person who is required to register with the Sex Offender and Crimes Against Minors Registry who uses or operates an unmanned aircraft system to knowingly and intentionally (a) follow or contact another person without such person's permission or (b) capture images of another person without such person's permission when such images render the person recognizable is guilty of a Class 1 misdemeanor. Additionally, any respondent of a permanent protective order who uses or operates an unmanned aircraft system to knowingly and intentionally follow, contact, or capture images of any individual named in the protective order is guilty of a Class 1 misdemeanor. The bill also repeals the expiration of the prohibition on local regulation of privately owned, unmanned aircraft systems, clarifies the scope of such prohibition, and clarifies that such prohibition extends to all political subdivisions and not only to localities.

**HB 1550/SB 105 Grand larceny; threshold.** Increases from \$200 to \$500 the threshold amount of money taken or value of goods or chattel taken at which the crime rises from petit larceny to grand larceny. The bill increases the threshold by the same amount for the classification of certain property crimes.

**SB 47 Female genital mutilation; criminal penalty.** Increases from a Class 1 misdemeanor to a Class 2 felony the penalty for any person to knowingly circumcise, excise, or infibulate the labia majora, labia minora, or clitoris of a minor; for any parent or guardian charged with the care of a minor to consent to such circumcision, excision, or infibulation; or for any parent or guardian charged with the care of a minor to knowingly remove or cause or permit the removal of such minor from the Commonwealth for the purposes of performing such circumcision, excision, or infibulation.

**SB 669 Involuntary mental health treatment; minors; access to firearms.** Provides that a person who, while a minor 14 years of age or older, was ordered to involuntary inpatient or outpatient treatment or was subject to a temporary detention order and agreed to voluntary admission (i) is subject to the same restrictions on possessing, purchasing, or transporting a firearm as an adult who was similarly ordered to involuntary treatment or was subject to a temporary detention order and agreed to voluntary admission and (ii) may utilize the same procedure as such adult for petitioning for the restoration of such person's firearm rights. The bill also sets out procedures for the submission of any involuntary treatment order or certification of voluntary admission subsequent to a temporary detention order involving a minor 14 years of age or older to the Central Criminal Records Exchange for purposes of determining a person's eligibility to possess, purchase, or transport a firearm that mirror the current procedures for the submission of such orders or certifications for adults.

### Failed

**HB 181 Distracted driving; handheld communications device.** Provides that any person who drives a motor vehicle on any highway while using a handheld personal communications device where such use substantially diverts the driver's attention from the operation of the motor vehicle is guilty of distracted driving. Current law prohibits only the reading of an email or text message on the device and manually entering letters or text in the device as a

means of communication. The bill provides that distracted driving is punishable as a traffic infraction with a fine of not more than \$500 and a mandatory minimum fine of \$250 if the violation occurs in a highway work zone.

**SB 308 Driving under the influence.** Provides an exemption to the prohibition of driving or operating a motor vehicle while under the influence to any person driving or operating a motor vehicle on his own residential property or the curtilage thereof. Current law prohibits the driving or operating of a motor vehicle while under the influence, without such exemption.

**SB 954 Possession of marijuana; first offense; expungement; penalty.** Reduces the penalties for possession of marijuana to a fine of not more than \$500 and makes a first offense violation that has been deferred and dismissed under § 18.2-251 eligible for expungement. Under current law, possession of marijuana is punishable by confinement in jail for not more than 30 days and a fine of not more than \$500, either or both. The bill provides that any person seeking expungement of such first offense violation shall be assessed a \$300 fee, of which \$150 shall be paid into the Heroin and Prescription Opioid Epidemic Fund, created by the bill, and \$150 shall be paid into the state treasury and credited to the Department of State Police. The bill has a delayed effective date of January 1, 2019, except for the provisions related to the reduction of penalties for possession of marijuana, which shall become effective July 1, 2018. The provisions of the bill are contingent upon funding in a general appropriation act. The bill contains technical amendments.

### Education

#### Passed

**HB 919/SB 631 Public institutions of higher education; course credit.** Makes several changes relating to course credit at public institutions of higher education in the Commonwealth, including requiring (i) the Virginia Community College System to develop a 15-credit-hour Passport Program and a 30-credit-hour Uniform Certificate of General Studies Program to be offered at each comprehensive community college and for which courses are transferable, except in certain circumstances, to each baccalaureate public institution of higher education and (ii) each baccalaureate public institution of higher education to develop pathway maps that clearly set forth the courses that a student at a comprehensive community college is encouraged to complete prior to transferring to the baccalaureate institution.

**HB 1125/SB 349 Teacher licensure.** Makes several changes to the teacher licensure process, including (i) permitting teachers with a valid out-of-state license, with full credentials and without deficiencies, to receive licensure by reciprocity without passing additional licensing assessments and (ii) permitting a local school board or division superintendent to waive certain licensure requirements for any individual who holds a provisional license and is employed by the local school board.

**HB 1138/SB 394 Office of the Qualified Education Loan Ombudsman.** Establishes the Office of the Qualified Education Loan Ombudsman (the Office) within the State Council of Higher Education for Virginia. The Office's duties include (i) receiving, reviewing, and attempting to resolve complaints from qualified

education loan borrowers; (ii) compiling and analyzing data on such complaints; (iii) assisting qualified education loan borrowers to understand their rights and responsibilities under the terms of qualified education loans; (iv) providing information regarding the problems and concerns of qualified education loan borrowers; (v) analyzing and monitoring the development and implementation of applicable laws and policies; and (vi) disseminating information concerning the availability of the Office to assist qualified education loan borrowers and any other participant in qualified education loan lending with qualified education loan servicing concerns. The Office is further required to establish and maintain a qualified education loan borrower education course by December 1, 2019.

**HB 1265/SB 368 Education preparation programs; reading specialists; dyslexia.** Requires each education preparation program offered by a public institution of higher education or private institution of higher education that leads to a degree, concentration, or certificate for reading specialists to include a program of coursework or other training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder. The bill requires such programs to (i) include coursework in the constructs and pedagogy underlying remediation of reading, spelling, and writing and (ii) require reading specialists to demonstrate mastery of an evidence-based, structured literacy instructional approach that includes explicit, systematic, sequential, and cumulative instruction.

**HB 1419/SB 273 Public schools; instructional time.** Requires local school boards to provide (i) a minimum of 680 hours of instructional time to students in elementary, except for students in half-day kindergarten, in the four academic disciplines of English, mathematics, science, and history and social science and (ii) a minimum of 375 hours of instructional time to students in half-day kindergarten in the four academic disciplines of English, mathematics, science, and history and social science. The bill authorizes local school boards to include and requires the Board of Education to accept, elementary school, unstructured recreational time that is intended to develop teamwork, social skills, and overall physical fitness in any calculation of total instructional time or teaching hours.

**HB 1600 Student discipline; long-term suspension.** Reduces the maximum length of a long-term suspension from 364 calendar days to 45 school days. The bill permits a long-term suspension to extend beyond a 45-school-day period, not to exceed 364 calendar days, if (i) the offense involves weapons, drugs, or serious bodily injury or (ii) the school board or division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department of Education. The bill requires the Department of Education's definition of aggravating circumstances to include consideration of a student's disciplinary history.

**SB 170 Public schools; student discipline.** Prohibits, except for drug offenses, firearm offenses, and certain criminal acts, students in preschool through grade three from being suspended for more than three school days or expelled from attendance at school unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department of Education.

### Failed

**HB 1473/SB 824 Public institutions of higher education; tuition and fee increases; public comment.** Prohibits the governing board of each public institution of higher education from approving an increase in undergraduate tuition or mandatory fees without providing students and the public an opportunity to provide public comment at a board meeting at least 30 days prior to any vote on such an increase.

**SB 169 Public schools; robotics team competition program.** Requires any nonprofit corporation founded in 1913 that currently organizes and governs interscholastic activities among the public high schools to establish, by July 1, 2021, a varsity level robotics team competition program that includes state championships.

### Elections

#### Passed

**HB 1598/SB 106 Standards and criteria for congressional and state legislative districts.** Provides criteria by which congressional and state legislative districts are to be drawn, including equal population, racial and ethnic fairness, respect for existing political boundaries, contiguity, compactness, and communities of interest. The criteria set out would apply to those districts drawn following the 2020 United States Census and thereafter.

#### Failed

**HB 1405/SB 825 State Board of Elections; membership; appointment of Commissioner of Elections.** Increases the membership of the State Board of Elections (Board) from three members to six members and increases the terms of Board members from four years to six years. Equal representation shall be given to each of the political parties having the highest and next highest number of votes in the Commonwealth at the last preceding gubernatorial election. Appointments are to be made with due consideration of geographical representation and no two Board members are to reside in the same congressional district. Terms are initially staggered. The bill also grants to the Board the authority to appoint and remove the Commissioner of Elections, subject to confirmation by the General Assembly, to head the Department of Elections and to act as the principal administrative officer. The appointment or removal of the Commissioner shall require an affirmative vote of five of the six Board members. The bill requires the Board to submit an annual report to the Governor and the General Assembly. The bill has a delayed effective date of January 1, 2019.

#### Carried Over

**HB 1424 Recounts; number permitted; tie votes.** Provides that if, after a recount of an election, the recount court finds that each party to the recount has received an equal number of votes, it shall direct a determination by lot, but that no right to a recount shall be permitted. A candidate who loses a determination by lot following a recount may contest the election. The bill prohibits more than one recount of any election.



## 2018 Session Highlights

### General Laws

#### Passed

##### **HB 1 Scholastic records; disclosure of directory information.**

Clarifies that student directory information may be publicly disclosed by a school if the school has given notice to the parent or eligible student of (i) the types of information that the school has designated as directory information; (ii) the right of the parent or eligible student to refuse the designation of any or all of the types of information about the student as directory information; and (iii) the period of time within which a parent or eligible student must notify the school in writing that he does not want any or all of the types of information about the student designated as directory information. The bill also provides, however, that no school shall disclose the address, phone number, or email address of a student pursuant to 34 C.F.R. § 99.31(a)(11) or the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) unless the parent or eligible student has affirmatively consented in writing to such disclosure.

##### **HB 371/SB 796 Sexual harassment training; legislative branch.**

Requires General Assembly members, full-time legislative staff of General Assembly members compensated with state appropriations, and full-time employees of each legislative branch agency to complete sexual harassment training once every two calendar years. Training offered by the Office of the Clerk of the House of Delegates and the Office of the Clerk of the Senate must be substantially similar and provided to their respective members and their staff. All other legislative branch employees shall complete the sexual harassment training course offered by either Clerk. The training must be available online 24 hours per day, seven days per week and be substantially similar to any sexual harassment training course offered through the Commonwealth of Virginia Learning Center administered by the Department of Human Resource Management. Persons elected to the General Assembly or commencing or recommencing full-time employment in the legislative branch will have 90 days from the election or their dates of hire to complete the training unless the person previously completed such training earlier in the same calendar year.

**SB 580 Data collection and dissemination; governance.** Amends the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) to facilitate the sharing of data among agencies of the Commonwealth and between the Commonwealth and political subdivisions. The bill creates the position of Chief Data Officer of the Commonwealth (CDO), housed in the office of the Secretary of Administration, to (i) develop guidelines regarding data usage, storage, and privacy and (ii) coordinate and oversee data sharing in the Commonwealth to promote the usage of data in improving the delivery of services. The bill also creates a temporary Data Sharing and Analytics Advisory Committee (Advisory Committee) to advise the CDO in the initial establishment of guidelines and best practices and to make recommendations to the Governor and General Assembly regarding a permanent data governance structure. The bill directs the CDO and the Advisory Committee to focus their initial efforts on developing a project for the sharing, analysis, and dissemination at a state, regional, and local level of data related to substance abuse, with a focus on opioid addiction, abuse, and overdose.

##### **HB 883/SB 20 Department of Planning and Budget; regulatory reduction pilot program; report.**

Directs the Department of Planning and Budget (the Department), under the supervision of the Secretary of Finance (the Secretary), to administer a three-year regulatory reduction pilot program aimed at reducing by 25 percent the regulations and regulatory requirements, as defined in the bill, of the Department of Professional and Occupational Regulation and the Department of Criminal Justice Services by July 1, 2021. The bill requires the Secretary to report annually to the Speaker of the House and the Chairman of the Senate Rules Committee no later than October 1, 2019, and October 1, 2020, on the progress of the regulatory reduction pilot program. The bill also requires the Secretary to report by August 15, 2021, to the Speaker of the House and the Chairman of the Senate Rules Committee (i) the progress toward identifying the 25 percent reduction goal, (ii) recommendations for expanding the program to other agencies, and (iii) any additional information the Secretary determines may be helpful to support the General Assembly's regulatory reduction and reform efforts. The bill provides that if, by October 1, 2021, the program has achieved less than a 25 percent total reduction in regulations and regulatory requirements across both pilot agencies, the Secretary shall report on the feasibility and effectiveness of implementing a 2-for-1 regulatory budget providing that for every one new regulatory requirement, two existing regulatory requirements of equivalent or greater burden must be streamlined, repealed, or replaced for a period not to exceed three years. Lastly, the bill directs all executive branch agencies subject to the Administrative Process Act (§ 2.2-4000 et seq.) to develop a baseline regulatory catalog and report such catalog data to the Department, which shall then track and report on the extent to which agencies comply with existing requirements to periodically review all regulations every four years.

### Health

#### Passed

**HB 793 Nurse practitioners; practice agreements.** Eliminates the requirement for a practice agreement with a patient care team physician for a licensed nurse practitioner who has completed the equivalent of at least five years of full-time clinical experience and submitted an attestation from his patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. The bill requires that a nurse practitioner authorized to practice without a practice agreement (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers. The bill requires (1) the Boards of

Medicine and Nursing to jointly promulgate regulations governing the practice of nurse practitioners without a practice agreement; (2) the Department of Health Professions, by November 1, 2020, to report to the General Assembly a process by which nurse practitioners who practice without a practice agreement may be included in the online Practitioner Profile maintained by the Department of Health Professions; and (3) the Boards of Medicine and Nursing to report information related to the practice of nurse practitioners without a practice agreement that includes certain data, complaints and disciplinary actions, and recommended modifications to the provisions of this bill to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health and the Chairman of the Joint Commission on Health Care by November 1, 2021.

**HB 1251/SB 726 CBD oil and THC-A oil; certification for use; dispensing.** Provides that a practitioner may issue a written certification for the use of cannabidiol (CBD) oil or THC-A oil for the treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. Under current law, a practitioner may only issue such certification for the treatment or to alleviate the symptoms of intractable epilepsy. The bill increases the supply of CBD oil or THC-A oil a pharmaceutical processor may dispense from a 30-day supply to a 90-day supply. The bill reduces the minimum amount of cannabidiol or tetrahydrocannabinol acid per milliliter for a dilution of the Cannabis plant to fall under the definition of CBD oil or THC-A oil, respectively. As introduced, this bill was a recommendation of the Joint Commission on Health Care. The bill contains an emergency clause.

**HB 1173/SB 632 Limits on prescription of controlled substances containing opioids.** Eliminates the surgical or invasive procedure treatment exception to the requirement that a prescriber request certain information from the Prescription Monitoring Program (PMP) when initiating a new course of treatment that includes prescribing opioids for a human patient to last more than seven days. Under current law, a prescriber is not required to request certain information from the PMP for opioid prescriptions of up to 14 days to a patient as part of treatment for a surgical or invasive procedure. The bill has an expiration date of July 1, 2022.

**SB 330 CBD and THC-A oil.** Adds cannabidiol oil (CBD oil) or THC-A oil to the list of covered substances the dispensing of which must be reported to the Prescription Monitoring Program. The bill requires a practitioner, prior to issuing a written certification for CBD oil or THC-A oil to a patient, to request information from the Director of the Department of Health Professions for the purpose of determining what other covered substances have been dispensed to the patient. The bill requires the Board of Pharmacy to (i) promulgate regulations that include a process for registering CBD oil and THC-A oil products and (ii) require an applicant for a pharmaceutical processor permit to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for a criminal history record search.

**Failed**

**HB 644 Required immunizations; meningococcal conjugate.** Requires the Board of Health to include in regulations governing

the immunization of school children a requirement for one dose of meningococcal conjugate (MCV4) vaccine administered before the child enters the sixth grade. The bill has a delayed effective date of July 1, 2019.

**Carried Over**

**HB 338 Medicaid; work requirement; report.** Directs the Department of Medical Assistance Services (the Department) to apply for a waiver to implement a work requirement for able-bodied adult recipients of medical assistance services. The bill requires the Department to administer the Training, Education, Employment, and Opportunity Program (the Program) to enable Medicaid enrollees to improve their health and well-being through training, education, employment and other community engagement opportunities leading to self-sufficiency. The bill requires Medicaid recipients to participate in the program but provides exceptions for children, individuals age 65 or older, individuals with certain disabilities, and individuals who are the primary caregiver for a dependent. The bill requires enrollees to meet gradually escalating participation requirements, culminating in 20 hours per week of required participation after 12 months of enrollment. The bill provides that the Program shall work with Virginia Workforce Centers or One-Stops to provide services to enrollees.

Social Services

**Passed**

**HB 150/SB 184 Child abuse and neglect; founded reports regarding former school employees.** Requires local departments of social services to notify the appropriate school board without delay if the subject of a founded complaint of child abuse or neglect was, at the time of the investigation or the conduct that led to the report, an employee of a school division located within the Commonwealth. Currently, such reporting is only required if the subject of the complaint is an employee of a school division at the time the complaint is determined to be founded.

**SB 539 Child day programs; exemptions from licensure.** Removes certain programs from the list of child day programs exempt from licensure and clarifies that such programs are not considered child day programs and therefore are not subject to licensure. The bill also modifies the terms of certain child day programs that remain listed as exempt from licensure and requires that such programs (i) file with the Commissioner of Social Services (the Commissioner), prior to beginning operation of a child day program and annually thereafter, a statement indicating the intent to operate a child day program, identifying the Code provision relied upon for exemption from licensure, and certifying that the child day program has disclosed to the parents of children in the program the fact that it is exempt from licensure; (ii) report to the Commissioner all incidents involving serious physical injury or death to children attending the child day program; (iii) have a person trained and certified in first aid and cardiopulmonary resuscitation (CPR) present at the child day program; (iv) maintain daily attendance records; (v) have an emergency preparedness plan in place; (vi) comply with all applicable laws and regulations governing transportation of children; (vii) comply with certain safe sleep practices for infants; and (viii) post in a visible location notice that the program is not licensed by the Department of Social

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Services and only certifies basic health and safety requirements. The bill exempts from licensure any program offered by a local school division, operated for no more than four hours per day, staffed by local school division employees, and attended by school-age children who are enrolled in public school within such school division. The bill also modifies staffing ratios for religious-exempt child day centers. The bill directs the Commissioner to (a) inspect child day programs that are exempt from licensure to determine compliance with the provisions of the bill only upon receipt of a complaint and (b) develop a process to gather and track aggregate data regarding child injuries and deaths that occur at such child day programs. The bill has a delayed effective date of July 1, 2019.

### Taxation

#### Passed

**HB 222/SB 883 Income tax; modification for certain companies; grants.** Establishes an income tax modification for companies that, from 2018 through 2024, either (i) invest at least \$5 million in new capital investment in a qualified locality and create at least 10 jobs paying at least 150 percent of the minimum wage in a qualified locality or (ii) create at least 50 jobs paying at least 150 percent of the minimum wage in a qualified locality. A company is eligible to claim the modification only if it had no property or payroll in Virginia on the effective date of the act. The bill defines "qualified locality" and requires a company to obtain annual certification from the Virginia Economic Development Partnership Authority (the Authority) that the company will have a positive fiscal impact on Virginia, based on consideration of certain factors. It directs the Authority to deny certification to any company that reorganizes for the purpose of taking advantage of the tax benefits provided by the bill. Generally, the amount of the modification is the value of the company's property, payroll, and sales in qualified localities. The bill provides similar modifications for industries that use different apportionment formulas, including motor carriers, financial companies, construction companies, railway companies, manufacturing companies, retailers, and businesses with enterprise data center operations. The bill permits qualified localities to provide grants and loans to companies that qualify for the modification provided by the bill. The bill also authorizes grants and loans of up to \$2,000 per job per year from the Commonwealth's Development Opportunity Fund to an eligible company.

**SB 942 State sales and use tax; Historic Triangle.** Creates a one percent state sales and use tax in the Historic Triangle. Fifty percent of the revenues will be used to market, promote, and advertise the Historic Triangle as an overnight tourism destination and the other 50 percent will be distributed to the localities in which the revenues were collected. The revenues for tourism will be deposited into a fund to be administered by the Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance (the Council), created by the bill. The Council will oversee an office of tourism and will report annually to the chief executive officer of each locality in the Historic Triangle and to the Chairmen of the House Committees on Finance and Appropriations and the Senate Committee on Finance. The bill defines the Historic Triangle as the City of Williamsburg and the Counties of James City and York, an area of historic significance that generates substantial employment and economic benefit for the Commonwealth. The bill removes the authority of

these localities to impose the current \$2 transient occupancy tax used to promote tourism in the area. The bill is contingent on the City of Williamsburg repealing recent ordinances raising the local transient occupancy, food and beverage, and admission taxes and will expire if any of the localities in the Historic Triangle raise or reinstate such taxes in the next seven years.

#### Failed

**HB 1165/SB 172 Education Improvement Scholarships tax credits; pre-kindergarten eligibility.** Expands the Education Improvement Scholarships tax credits program by including, as eligible scholarship recipients, children enrolled in, eligible to attend, or attending nonpublic pre-kindergarten programs. The maximum annual scholarship that a child will receive is the lesser of the child's actual educational expenses or the state's share of the grant per child under the Virginia Preschool Initiative for the locality in which the child resides. The bill defines an eligible pre-kindergarten child and a nonpublic pre-kindergarten program and includes several other curriculum and administrative requirements that must be met by a nonpublic pre-kindergarten program in order for children attending the program to be eligible to receive scholarships under the tax credit program. Under the bill, the Virginia Council for Private Education, the Virginia Early Childhood Foundation, or the Virginia Department of Social Services will certify nonpublic pre-kindergarten programs meeting such curriculum and administrative requirements.

**SB 200 Local government taxing authority.** Equalizes municipal taxing authority and county taxing authority by granting a county the same authority available to a municipality through the uniform charter powers. The bill has a delayed effective date of July 1, 2019, prior to which the Division of Legislative Services is directed to convene a working group to develop recommendations as to what additional legislative changes are needed to effectuate the provisions of the bill.

### Transportation/Motor Vehicles

#### Passed

**HB 214/SB 73 Overweight permits for hauling Virginia-grown farm produce; bridges and culverts.** Provides that no five-axle-combination vehicle shall be issued an overweight permit for hauling Virginia-grown farm produce unless such vehicle has no less than 42 feet of axle space between extreme axles. The bill provides that no vehicle issued an overweight permit for hauling Virginia-grown farm produce shall cross any bridge or culvert in the Commonwealth if the gross weight of such vehicle is greater than the amount posted for the bridge or culvert as its carrying capacity. Current law requires specific weight limitations based upon axle weights or axle spacing.

**HB 505 Traffic signs; people with disabilities.** Allows any person who is deaf, blind, or deaf-blind, any person with autism or an intellectual or developmental disability, or the agent of any such person to request that the Department of Transportation (Department) post and maintain signs informing drivers that a person with a disability may be present in or around the roadway and directs the Department to post and maintain such signs in accordance with regulations developed by the Department.

**HB 708 Rear-facing child restraint devices.** Prohibits child restraint devices from being forward-facing until, at least, the child reaches two years of age or until the child reaches the minimum weight limit for a forward-facing child restraint device as prescribed by the manufacturer of the device. The bill expands the reasons that a physician may determine that it is impractical for a child to use a child restraint system to include the child's height. The bill has a delayed effective date of July 1, 2019.

**HB 737 Department of Motor Vehicles documents; veteran indicator.** Requires the Department of Motor Vehicles to issue driver's licenses, permits, and identification cards displaying an indicator signifying that the holder is a veteran, provided that the applicant requests such indicator and provides proof of veteran status. The bill repeals the authority of the Department to issue veterans identification cards.

**HB 830/SB 128 TNC partner vehicles; interior trade dress.** Provides that transportation network company (TNC) partner vehicles may be equipped with certain removable illuminated interior trade dress devices that assist passengers in identifying and communicating with TNC partners. The bill limits the display and color of such illuminated interior trade dress devices and requires a TNC that issues such devices to file the specifications of the device with the Department of Motor Vehicles.

**HB 1539/SB 856 Mass transit in the Commonwealth.** Mass transit in the Commonwealth. Makes numerous changes to the administration of and revenues for mass transit in the Commonwealth, specifically as it relates to funding of the Washington Metropolitan Area Transit Authority (WMATA) and the disbursement of funds in the Commonwealth Mass Transit Fund. The bill sets a floor on the average price of fuel used to calculate the regional motor sales tax as the price of gas on February 20, 2013, the same floor that is used to calculate the state fuels tax. The bill uses a variety of existing revenue sources to allocate revenues for mass transit and authorizes the issuance of \$50 million in bonds only for a required federal match. The provisions of the bill are contingent upon Maryland, the District of Columbia, and the federal government adopting similar actions to raise revenues for WMATA.

**SB 410 Steady-burning blue or red lights on law-enforcement vehicles.** Permits law-enforcement vehicles to be equipped with steady-burning blue or red lights in addition to being equipped with flashing, blinking, or alternating blue, blue and red, blue and white, or red, white, and blue combination warning lights of types approved by the Superintendent of State Police.

**Failed**

**HB 207 Operating motor vehicle with accumulated snow or ice; penalty.** Provides that it is a traffic infraction punishable by a fine of \$100 for a person to operate a moving motor vehicle with any amount of accumulated snow or ice on its exposed surfaces where, were the snow or ice to become dislodged from such vehicle, such accumulated snow or ice could interfere with the operation of another motor vehicle or cause injury to persons or property. The bill exempts from the infraction a person operating an emergency vehicle, a vehicle engaged in snow or ice removal and control operations, or a vehicle operated during adverse weather conditions arising after operation of the vehicle began that result in the accumulation of snow or ice on such vehicle.

**DIVISION OF LEGISLATIVE SERVICES**

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Published in Richmond, Virginia, by the Division of Legislative Services,  
an agency of the General Assembly of Virginia.