

2022 SESSION HIGHLIGHTS

The *2022 Session Highlights* summarizes significant legislation considered by the 2022 Regular Session of the General Assembly as selected by the staff of the Virginia Division of Legislative Services. The brief overview covers legislative actions through sine die on Saturday, March 12, 2022. 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. Some Carried Over bills were continued in 2022 Special Session I.

Agriculture/Natural Resources

Passed

HB 206 Small renewable energy projects; impact on natural resources. Requires, as a condition for a permit by rule for a small energy project, that if the Department of Environmental Quality determines that there will be a significant adverse impact on wildlife, historic resources, prime agricultural soils, or forest lands, the applicant must also submit a mitigation plan with a 45-day public comment period. The bill specifies that a disturbance of (i) more than 10 acres of prime agricultural soils, (ii) more than 50 acres of contiguous forest lands, or (iii) forest lands enrolled in a forestry preservation program is deemed to be a significant adverse impact on natural resources. The bill directs the Department to convene an advisory panel to assist in developing regulations to implement these requirements, and the main provisions of the bill do not become effective until such regulations are adopted. Any application for a small renewable energy project received for which an interconnection request is applied for and received by December 31, 2024, is not subject to the provisions of the bill.

HB 558/SB 565 Natural gas, biogas, and other gas sources of energy; definitions; energy conservation and efficiency; Steps to Advance Virginia's Energy Plan; biogas supply infrastructure projects; work group. Permits natural gas utilities to include in their fuel portfolios, submitted to the State Corporation Commission to monitor fuel prices and purchases, supplemental or substitute forms of gas sources, defined in the bill, that meet certain standards and that reduce emissions intensity. The bill amends provisions of the Code related to conservation and energy efficiency programs, removes certain cost-effectiveness requirements for conservation and energy efficiency programs, and adds appliance rebates to the types of programs the Commission may consider. The bill expands conservation and ratemaking efficiency provisions of the Code that currently apply to natural gas consumption specifically to instead apply generally to energy consumption. The bill introduces enhanced leak detection and repair programs, defined in the bill, as a type of eligible infrastructure replacement for a natural gas utility facility. The bill provides that the costs of detecting and repairing leaks may be added to a natural gas utility's plan to identify proposed eligible infrastructure replacement projects and related cost recovery mechanisms, known as the utility's Steps to Advance Virginia's Energy (SAVE) Plan. The bill adds provisions to the Code related to biogas supply infrastructure projects, defined in the bill, and specifies that eligible infrastructure costs for such projects include

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(i) the investment in such projects, (ii) the return on the investment in such projects, (iii) a revenue conversion factor, (iv) operating and maintenance expenses, (v) depreciation, (vi) property tax and other taxes or government fees, and (vii) carrying costs on the over-recovery or under-recovery of the eligible biogas supply infrastructure costs. Under the bill, natural gas utilities can recover these eligible infrastructure costs on an ongoing basis through the gas component of the utility's rate structure or other recovery mechanism approved by the Commission. The bill provides that the biogas supply investment plan submitted by a natural gas utility may include an option to receive the biogas or sell the biogas at market prices and establishes a timeline for the Commission to approve such plan. The bill requires a natural gas utility with an approved biogas supply investment plan to annually file a report of the investments made, the eligible infrastructure costs incurred and the amount of such costs recovered, the volume of biogas delivered to customers or sold to third parties during the 12-month reporting period, and an analysis of the price of biogas delivered to customers and the market cost of biogas during the reporting period. Additionally, the bill directs the Department of Environmental Quality to convene a stakeholder work group to determine the feasibility of setting a statewide methane reduction goal and plan. The recommendations of the work group shall be reported to the General Assembly by July 1, 2023.

HB 1350/SB 87 Dealers; sale of dogs or cats for experimental purposes. Prohibits a dealer, commercial dog breeder, or cat breeder, including an entity that breeds dogs or cats regulated under federal law as research animals, from importing for sale, selling, or offering for sale a dog or cat bred by a person who has received certain citations after July 1, 2023, pursuant to the federal Animal Welfare Act.

SB 8 Hunting on Sundays. Permits hunting on Sunday on public or private land, so long as it takes place more than 200 yards from a place of worship.

SB 657 State Air Pollution Control Board and State Water Control Board; transfer of authority to Department of Environmental Quality. Limits the authority of the State Air Pollution Control Board and the State Water Control Board to issuance of regulations and transfers the Boards' existing authority to issue permits and orders to the Department of Environmental Quality. The bill provides procedures for public comment on pending controversial permits, defined in the bill, and on regulatory changes necessary to implement the provisions of the bill.

Failed

HB 250 Mining and processing of certain minerals and elements; study; permitting. Directs the Secretaries of Natural and Historic Resources, Health and Human Resources, and Commerce and Trade to convene a work group to study the mining and processing of copper, zinc, and lead in the Commonwealth and to

report its findings to the General Assembly by December 1, 2023. The bill also places a moratorium until July 1, 2024, on the issuance of new permits to operate a mine for gold, copper, zinc, or lead of an area larger than 10 acres.

HB 1301/SB 532 Clean Energy and Community Flood Preparedness Act. Repeals the Clean Energy and Community Flood Preparedness Act and directs the Director of the Department of Environmental Quality to suspend the Commonwealth's participation in the Regional Greenhouse Gas Initiative market-based trading program.

SB 354 James River watershed; timeline for compliance with regulations of certain combined sewer overflow outfalls. Advances the timeline from 2035 to 2030 for work on construction related to any consent special order issued by the State Water Control Board (the Board) for certain combined sewer overflow (CSO) systems east of Charlottesville that discharge into the James River. The bill requires annual reporting about the impact of CSO system funding on ratepayers, particularly economically disadvantaged ratepayers. The bill also requires the Board to extend the compliance deadline if it determines that the CSO system operator has not secured grant funding in an amount sufficient to meet the deadline without an adverse impact on ratepayers, particularly economically disadvantaged ratepayers.

Constitutional Amendments

Failed

HJ 28/SJ 1 Constitutional amendment (second reference); qualifications of voters and the right to vote; persons not entitled to vote. Provides that every person who meets the qualifications of voters set forth in the Constitution shall have the fundamental right to vote in the Commonwealth and that such right shall not be abridged by law, except for persons who have been convicted of a felony and persons who have been adjudicated to lack the capacity to understand the act of voting. A person who has been convicted of a felony shall not be entitled to vote during any period of incarceration for such felony conviction, but upon release from incarceration for that felony conviction and without further action required of him such person shall be invested with all political rights, including the right to vote. Currently, in order to be qualified to vote a person convicted of a felony must have his civil rights restored by the Governor or other appropriate authority. The amendment also provides that a person adjudicated by a court of competent jurisdiction as lacking the capacity to understand the act of voting shall not be entitled to vote during this period of incapacity until his capacity has been reestablished as prescribed by law. Currently, the Constitution provides that a person who has been adjudicated to be mentally incompetent is not qualified to vote until his competency is reestablished.

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HJ 57/SJ 5 Constitutional amendment (second reference); marriage; repeal of same-sex marriage prohibition; affirmative right to marry. Repeals the constitutional provision defining marriage as only a union between one man and one woman as well as the related provisions that are no longer valid as a result of the United States Supreme Court decision in *Obergefell v. Hodges*, 576 U.S. 644 (2015). The amendment provides that the right to marry is a fundamental right inherent in the liberty of persons and requires the Commonwealth and its political subdivisions and agents to issue marriage licenses, recognize marriages, and treat all marriages equally under the law, regardless of the sex or gender of the parties to the marriage. Religious organizations and clergy acting in their religious capacity have the right to refuse to perform any marriage.

Corrections

Passed

HB 1332/SB 700 Covering a security camera in a correctional facility; penalty. Provides that any person who intentionally covers, removes, damages, renders inoperable, or otherwise obscures a security camera, as defined in the bill, without the permission of the sheriff, jail superintendent, warden, or Director of the Department of Corrections or Department of Juvenile Justice is guilty of a Class 1 misdemeanor. The bill also provides that any person who intentionally covers, removes, damages, renders inoperable, or otherwise obscures a security camera with the intent of inhibiting or preventing a security camera from recording or transmitting a photograph, motion picture, or other digital image of the commission of a felony is guilty of a Class 6 felony.

SB 108 Correctional facilities; use of restorative housing; report. Directs the Department of Corrections to convene a work group to study the use of restorative housing within state correctional facilities and juvenile correctional centers. The bill directs the Department to facilitate confidential interviews between work group members and at least 25 persons currently incarcerated in a state correctional facility who are currently or who have within the past 12 months been placed in restorative housing and confidential interviews with existing staff and facility officials as requested by the work group. The bill requires the work group to submit its findings and recommendations, including how to safely reduce or end the use of restorative housing that lasts longer than 14 days, to the General Assembly by December 1, 2022.

SB 547 Virginia Parole Board; monthly reports. Requires the Virginia Parole Board (the Board) to publish a statement regarding any action taken by the Board on the parole of a prisoner within 30 days of such action and to include in such statement information regarding the length of sentence and the date such sentence was imposed for each prisoner considered for parole.

Failed

HB 908 Use of canines in correctional facilities; prohibited acts. Makes it unlawful for any correctional officer, jail officer, or other employee of a state, local, or juvenile correctional facility to use a canine, except where there is an imminent threat of death or serious bodily injury to any prisoner or detained juvenile or any officer or employee of the facility, to extract a prisoner or detained juvenile from his cell or to intervene in an altercation, fight, or other incident between prisoners or detained juveniles. The bill requires that all incidents involving the use of a canine be reported to a database established by the Department of Corrections or the Department of Juvenile Justice, as applicable, and that such reports be made available to the public and include the name of the facility, the name of the canine, and the name of the canine's handler. The bill also requires that the Department of Corrections or the Department of Juvenile Justice, as applicable, make public any policies relating to the use of canines, training requirements for both canines and handlers, and the supervision of the officers or employees who are permitted to handle such canines.

Courts/Civil Law

Passed

HB 573 Statute of limitations; contracts for health care services. Provides that the statute of limitations for an action on any contract, written or unwritten, for health care services, including actions brought by the Commonwealth, is three years. The bill further provides that the accrual date for actions on such a contract is 30 days after the later of (i) issuance of the initial invoice or the due date stated in such invoice to the patient or person legally responsible for payment or (ii) if the patient voluntarily enters into a payment plan with the provider, 30 days after the default date contained in such payment plan.

HB 614/SB 474 Requirement for appeals bond; indigent parties; appeal of unlawful detainer. Removes the requirement for an indigent defendant, as defined in the bill, to post an appeal bond in an unlawful detainer action appealed from the general district court.

SB 514 Guardianship and conservatorship of incapacitated persons. Makes several changes to the provisions of adult guardianships and conservatorships, including (i) requiring a guardian ad litem appointed to represent a respondent to a guardianship proceeding to notify the court as soon as practicable if the respondent requests counsel, regardless of whether the guardian ad litem recommends counsel; (ii) requiring the notice of hearing on a guardianship or conservatorship petition to include notice that any adult individual or entity required to receive a copy of such notice may become a party to the proceeding by filing a pleading with the circuit court in which the case is pending; and (iii) requiring an appointed guardian to include in his annual report to the local department of social services certain additional information.

SB 715 Injunctions; review by the Supreme Court of Virginia. Restores the Supreme Court of Virginia's jurisdiction over appeals of injunctions and orders granting or denying pleas of immunity. Under current law, injunctions must first be appealed to the Court of Appeals.

Failed

HB 505 Civil actions filed on behalf of multiple persons. Provides that a circuit court may enter an order joining, coordinating, consolidating, or transferring civil actions upon finding that separate civil actions brought by a plaintiff on behalf of multiple similarly situated persons involve common questions of law or fact and arise out of the same transaction, occurrence, or series of transactions or occurrences. The bill requires the Supreme Court to promulgate rules no later than November 1, 2022, governing such actions. The bill has a delayed effective date of July 1, 2023.

SB 555 Liability for sale of alcohol to an underage person. Creates a cause of action against an alcoholic beverage control retail licensee who sells alcohol to an underage person who was visibly intoxicated if the consumption of the alcohol caused or contributed to an injury to person or property while the underage person operated a motor vehicle. The plaintiff must prove such negligence by a clear and convincing evidence standard.

SB 599 Limitation on recovery in certain medical malpractice actions. Provides that the limits on recovery in medical malpractice cases shall not apply when the plaintiff has sustained certain, catastrophic injuries.

Courts/Criminal Justice

Passed

HB 496/SB 687 Abuse and neglect; financial exploitation; incapacitated adults; penalties. Changes the term "incapacitated adult" to "vulnerable adult" for the purposes of the crime of abuse and neglect of such adults and defines "vulnerable adult" as any person 18 years of age or older who is impaired by reason of mental illness, intellectual or developmental disability, physical illness or disability, or other causes, including age, to the extent the adult lacks sufficient understanding or capacity to make, communicate, or carry out reasonable decisions concerning his well-being or has one or more limitations that substantially impair the adult's ability to independently provide for his daily needs or safeguard his person, property, or legal interests. The bill also changes the term "person with mental incapacity" to the same meaning of "vulnerable adult" for the purposes of the crime of financial exploitation. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference.

HB 497/SB 124 Misuse of power of attorney; financial exploitation; incapacitated adults; penalty. Makes it a Class 1 misdemeanor for an agent under a power of attorney who knowingly or intentionally engages in financial exploitation of an incapacitated adult who is the principal of that agent. The bill also provides that the agent's authority terminates upon such conviction. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference.

HB 740/SB 729 Catalytic converters; penalties. Makes it a Class 6 felony for a person to willfully break, injure, tamper with, or remove any part or parts of any vehicle, aircraft, boat, or vessel for the purpose of injuring, defacing, or destroying said vehicle, aircraft, boat, or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner, or to in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat, or vessel, when such violation involves the breaking, injuring, tampering with, or removal of a catalytic converter or the parts thereof. The bill also provides that prosecution for such felony is a bar to a prosecution or proceeding under the Code section prohibiting the injuring, etc., of any property, monument, etc., for the same act. Current law makes such violation a Class 1 misdemeanor. Additionally, the bill requires that the copies of the documentation that scrap metal purchasers are required to maintain for purchases of catalytic converters or the parts thereof (i) establish that the person from whom they purchased the catalytic converter or the parts thereof had lawful possession of it at the time of sale or delivery and (ii) detail the scrap metal purchaser's diligent inquiry into whether the person selling had a legal right to do so. The bill also requires that such documentation be maintained for at least two years after the purchase and that copies be made available upon request to any law-enforcement officer, conservator of the peace, or special conservator of the peace in the performance of his duties who presents his credentials at the scrap metal purchaser's normal business location during normal business hours.

Failed

HB 735 Department of Corrections; earned sentence credits. Repeals the four-level classification system for the awarding and calculation of earned sentence credits set to go into effect on July 1, 2022. Under current law, a maximum of 4.5 sentence credits may be earned for each 30 days served.

HB 744 Killing the fetus of another; manslaughter; penalties. Provides that any person who kills the fetus of another by an intentional act committed while in the sudden heat of passion upon reasonable provocation is guilty of voluntary manslaughter, which is punishable as a Class 5 felony. The bill also provides that any person who kills the fetus of another accidentally, contrary to the intention of the parties and while engaged in conduct so gross, wanton, and culpable as to show a reckless disregard for human life,

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is guilty of involuntary manslaughter, which is also punishable as a Class 5 felony.

HB 758 Probation, revocation, and suspension of sentence; penalty. Makes changes to the definition of a technical violation as it pertains to the revocation of suspension of sentence and probation. The bill also provides that upon a first technical violation, if the court originally suspended the imposition of sentence, the court shall revoke such suspension and again suspend all of this sentence and upon a second or subsequent violation, the court may pronounce whatever sentence might have been originally imposed. The bill also specifies that a violation of a term or condition included in the definition of technical violation shall not be considered a special or specific term or condition for sentencing purposes. The bill also provides that the court may fix the period of probation and the period of suspension for up to the statutory maximum period for which the defendant might originally have been sentenced to be imposed for any felony offense and up to two years for an offense punishable as a Class 1 or Class 2 misdemeanor. Currently, the limitation on periods of probation and periods of suspension is up to the statutory maximum period of imprisonment for any offense. The bill also adds the offense of crimes against nature committed on or after July 1, 2022, to the list of offenses for which if some period of the sentence for such offense is suspended, the judge is required to order that period of suspension be for the length of time equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned.

Education

Passed

HB 4/SB 36 School principals; incident reports. Requires that school principals report to law enforcement certain enumerated acts that may constitute a misdemeanor offense and report to the parents of any minor student who is the specific object of such act that the incident has been reported to law enforcement. Under current law, principals are required to make such reports only for such acts that may constitute a felony offense. The bill provides, as an exception to the requirement to report any written threats against school personnel while on a school bus, on school property, or at a school-sponsored activity, that a principal is not required but may report to the local law-enforcement agency any such incident committed by a student who has an individualized education plan.

HB 319/SB 616 Virginia Literacy Act; early student literacy; evidence-based literacy instruction; science-based reading research. Makes several changes relating to early student literacy, including requiring (i) each education preparation program offered by a public institution of higher education or private institution of higher education or alternative certification program that provides training for any individual seeking initial licensure with an endorsement in a certain area, including as a reading specialist, to

demonstrate mastery of science-based reading research and evidence-based literacy instruction, as such terms are defined in the bill; (ii) the literacy assessment required of individuals seeking initial teacher licensure with endorsements in certain areas to include a rigorous test of science-based reading research and evidence-based literacy instruction; (iii) each local school board to establish a divisionwide literacy plan; (iv) each local school board to employ one reading specialist for each 550 students in kindergarten through grade three; and (v) each local school board to provide a program of literacy instruction whereby, among other things, (a) the program provides reading intervention services to students in kindergarten through grade three who demonstrate deficiencies based on their individual performance on the Standards of Learning reading assessment or an early literacy screener provided or approved by the Department of Education; (b) a reading specialist, in collaboration with the teacher of any student who receives such reading intervention services, develops, oversees implementation of, and monitors student progress on a student reading plan; and (c) each student who receives such reading intervention services is assessed utilizing either the early literacy screener provided or approved by the Department or the grade-level reading Standards of Learning assessment again at the end of that school year. The provisions of the bill become effective beginning with the 2024–2025 school year.

HB 525/SB 439 Institutions of higher education; hazing; policies. Establishes mandates at nonprofit private institutions of higher education and public institutions of higher education relating to hazing and defines different types of organizations at such institutions to which the mandates apply. The bill requires each such institution to provide to each current member, new member, and potential new member of each student organization with new members hazing prevention training that includes extensive, current, and in-person education about hazing, the dangers of hazing, including alcohol intoxication, and hazing laws and institution policies and information explaining that the institution's disciplinary process is not to be considered a substitute for the criminal legal process and provides that if a student organization with new members has an advisor, such advisor shall receive such hazing prevention training. The bill requires the governing board of each institution to include as part of its policy, code, rules, or set of standards governing sexual violence a provision for immunity from disciplinary action based on hazing or personal consumption of drugs or alcohol where such disclosure is made in conjunction with a good faith report of an act of hazing in advance of or during an incident of hazing that causes injury to a person. Beginning with the 2022–2023 academic year, the bill requires each institution to maintain and publicly report actual findings of violations of the institution's code of conduct or of federal or state laws pertaining to hazing that are reported to campus authorities or local law enforcement. This bill shall be known as Adam's Law.

SB 739 Public elementary and secondary schools and public school-based early childhood care and education programs; student instruction; masks; emergency. Requires, except in the case of the 10 unscheduled remote learning days otherwise permitted by law or in certain cases of student discipline, each school board to offer in-person instruction, as defined in the bill, to each student enrolled in the local school division in a public elementary or secondary school for at least the minimum number of required annual instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program. The bill permits, notwithstanding any other provision of law or any regulation, rule, or policy implemented by a school board, school division, school official, or other state or local authority, the parent of any child enrolled in a public elementary or secondary school, or in any school-based early childhood care and education program, to elect for such child to not wear a mask while on school property. The bill provides that no parent making such an election shall be required to provide a reason or any certification of the child's health or education status and no student shall suffer any adverse disciplinary or academic consequences as a result of this parental election. The bill requires each local school division to comply with the foregoing provisions relating to masks no later than March 1, 2022. The bill clarifies that none of the foregoing provisions shall be construed to affect the authority granted to the Governor to achieve the purposes of relevant emergency services and disaster law with regard to a communicable disease of public health threat. The bill contains an emergency clause. HB 1272 is similar but not identical.

Failed

HB 787 Teaching or promotion of certain concepts in public elementary and secondary education; declaration as unlawful and discriminatory practice. Declares it an unlawful and discriminatory practice for any local school board or employee or contractor thereof to teach any public elementary or secondary school student to believe or promote to any such student as valid the belief that (i) one race or sex is inherently superior to another race or sex; (ii) an individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (iii) an individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race or sex; (iv) an individual's moral character is necessarily determined by the individual's race or sex; or (v) an individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex, but permits any local school board or employee or contractor thereof to teach to any public elementary or secondary school student content that includes the past or present belief, by any individual or group, in any such concept.

SB 766 Schools; athletics; participation in female sports; civil cause of action. Requires each elementary or secondary school or a

private school that competes in sponsored athletic events against such public schools to designate athletic teams, whether a school athletic team or an intramural team sponsored by such school, based on biological sex as follows: (i) "males," "men," or "boys"; (ii) "females," "women," or "girls"; or (iii) "coed" or "mixed." Under the bill, male students are not permitted to participate on any school athletic team or squad designated for "females," "women," or "girls"; however, this provision does not apply to physical education classes at schools. The bill provides civil penalties for students and schools that suffer harm as a result of a violation of the bill. Such civil actions are required to be initiated within two years after the harm occurred.

Elections

Passed

HB 125 Elections; political campaign advertisements; illegal negative ads; civil penalties. Provides that sponsors violating political campaign advertisement disclosure laws with advertisements or campaign telephone calls are subject to a civil penalty not to exceed \$25,000.

HB 492 Campaign finance; record retention requirements and reviews of campaign finance disclosure reports. Requires campaign committee treasurers to retain certain records that may be used in reviews of campaign committee accounts. The bill gives the Department of Elections the authority and duty to conduct reviews of a percentage of campaign committees and to report the results of such reviews annually to the State Board of Elections, the Governor, and the General Assembly and make such report available on the Department's website. The bill has a delayed effective date of January 1, 2024, and provides that campaign finance reports filed prior to January 1, 2024, are not subject to the provisions of the bill.

HB 895/SB 370 Elections; conduct of election; election results; risk-limiting audits. Requires local electoral boards and general registrars to perform certain risk-limiting audits, defined in the bill, under the supervision of the Department of Elections and in accordance with the procedures prescribed by the State Board of Elections with a risk limit of at least 10 percent. The bill provides that localities are required to participate in such audits at least once every five years. The bill also provides that the Department shall submit a report on the results of such audits to the State Board. The provisions of the bill requiring that such audits be conducted (i) for at least one randomly selected contested race for the General Assembly in the year of a general election for members of the General Assembly and (ii) for any other contested race that is necessary to ensure that each locality participates in a risk-limiting audit of an office within its jurisdiction at least once every five years or that the State Board finds appropriate have a delayed effective date of July 1, 2023. The provision of the bill requiring that such audits be conducted for at least one randomly selected

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contested race for an office that requires certification by the State Board in the year of general election for any local office has a delayed effective date of July 1, 2024. The bill also requires the Department to convene a work group to consider and propose a process and timeline for implementing risk-limiting audits of statewide contests.

Firearms/Weapons

Passed

SB 758 Selling or possessing switchblade. Eliminates the prohibition for selling, bartering, giving, furnishing, or possessing with the intent of selling, bartering, giving, or furnishing a switchblade.

Failed

HB 509 Firearms; removal from persons posing substantial risk; penalties. Repeals the procedure by which any attorney for the Commonwealth or law-enforcement officer may apply to a general district court, circuit court, or juvenile and domestic relations district court judge or magistrate for an emergency substantial risk order to prohibit a person who poses a substantial risk of injury to himself or others from purchasing, possessing, or transporting a firearm. The bill also removes the substantial risk order registry for the entry of orders issued.

HB 827 Control of firearms by localities. Removes the authority for a locality by ordinance to prohibit the possession or carrying of firearms, ammunition, or components or any combination thereof in (i) any building, or part thereof, owned or used by such locality for governmental purposes; (ii) any public park owned or operated by the locality; (iii) any recreation or community center facility; or (iv) any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit. The bill provides that any firearm received by the locality pursuant to a buy-back program shall be offered for sale by public auction or sealed bids to a person licensed as a dealer. Current law provides that any such firearm shall be destroyed by the locality unless the person surrendering the firearm requests in writing that the firearm be offered for sale. The bill also limits the authority of localities and state governmental entities to bring lawsuits against certain firearms manufacturers and others.

Freedom of Information Act

Passed

HB 150 Virginia Freedom of Information Act; posting of minutes; local public bodies. Requires, with certain exceptions outlined in the bill, any local public body subject to the provisions of the Virginia Freedom of Information Act to post meeting minutes

on its official public government website, if any, within seven working days of final approval of the minutes. The bill provides that if a local public body does not own or maintain an official public government website, it shall make copies of all meeting minutes available no later than seven working days after the conclusion of a meeting at a prominent public location in which meeting notices are regularly posted, at the office of the clerk of the public body, or, in the case of a public body that has no clerk, at the office of the chief administrator.

HB 307 Virginia Freedom of Information Act; estimated charges. Provides that a public body subject to the Virginia Freedom of Information Act shall make all reasonable efforts to supply records requested by a citizen at the lowest possible cost. The bill also requires a public body, prior to conducting a search for records, to notify the requester in writing of the public body's right to make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records.

HB 444 Virginia Freedom of Information Act; meetings conducted through electronic communication means. Amends existing provisions concerning electronic meetings by keeping the provisions for electronic meetings held in response to declared states of emergency, repealing the provisions that are specific to regional and state public bodies, and allowing certain public bodies to conduct all-virtual public meetings where all of the members who participate do so remotely and that the public may access through electronic communications means. The bill excepts local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and any board with the authority to deny, revoke, or suspend a professional or occupational license from the provisions that allow public bodies to conduct all-virtual public meetings. Definitions, procedural requirements, and limitations for all-virtual public meetings are set forth in the bill, along with technical amendments. The bill has a delayed effective date of September 1, 2022.

HB 734 Virginia Freedom of Information Act; disclosure of certain criminal records. Provides that (i) criminal investigative files relating to a criminal investigation or proceeding that is not ongoing are excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act, though they may be disclosed by the custodian of such records to certain individuals except as otherwise provided in the bill, and (ii) with the exception of disclosure to an attorney representing a petitioner or inspection by an attorney or a person proceeding pro se in a petition for a writ of habeas corpus or writ of actual innocence or any other federal or state post-conviction proceeding or pardon, no criminal investigative file or portion thereof shall be disclosed to any requester except (a) the victim; (b) the victim's immediate family members, if the victim is deceased and the immediate family

member to which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation; or (c) the victim's parent or guardian, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding, unless the public body has made reasonable efforts to notify any such individual of the request for such information. Upon receipt of notice that a public body has received a request for criminal investigative files, such persons shall have 14 days to file in an appropriate court for an injunction to prevent disclosure of the records and the time period within which the public body has to respond to the underlying request shall be tolled pending the notification process and any subsequent disposition by the court. The bill requires the court to consider certain information in making its determination and provides that a public body shall be prohibited from responding to the request until at least 14 days has passed from the time notice was received by any such individual listed in clause (a), (b), or (c) and shall not disclose any criminal investigative files if the court awards an injunction.

General Laws

Passed

HB 455/SB 519 Casino gaming; sale and consumption of alcoholic beverages in casino gaming establishments; casino employees; wagers, accounting, and games. Authorizes the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board) to issue a mixed beverage casino license. The issuance of such license is limited to a mixed beverage casino licensee owned by a casino operator licensed under Virginia law. The bill provides for the sale and service of alcoholic beverages for on-premises consumption in areas designated by the Board during all hours of operation of the mixed beverage casino licensee and authorizes the licensee to provide gifts of alcoholic beverages to patrons and establish loyalty or reward credit programs under certain conditions. In addition, the bill provides that a mixed beverage restaurant licensee located on the premises of a casino gaming establishment may sell alcoholic beverages for on-premises consumption on the licensed premises of the restaurant during all hours of operation of the mixed beverage restaurant licensee and that any alcoholic beverages purchased from a restaurant on the premises of a casino gaming establishment may be taken onto the premises of the mixed beverage casino licensee and possessed and consumed in areas of the establishment as designated by the Board. Under the bill, a mixed beverage restaurant licensee that is located on the premises of and operated by a casino gaming establishment and holds a valid mixed beverage restaurant license issued by the Board prior to July 1, 2022, is authorized to operate with the privileges of a mixed beverage casino license as created by the bill until the casino gaming establishment at which the restaurant is located is issued a mixed beverage casino license or July 1, 2023, whichever occurs first. The Board may promulgate any regulations that it deems necessary for implementing the provisions of the bill no later than October 1, 2022. The initial adoption of regulations is exempt from

the Administrative Process Act, except that the Board shall provide an opportunity for public comment on the regulations prior to adoption. The bill also (i) revises the definition of "gross receipts" to include electronic credits and electronic cash and to exclude the cash value of promotions or credits under certain conditions and uncollectable counter checks; (ii) defines and authorizes the use of counter checks and prepaid access instruments; (iii) authorizes wagers to be conducted using electronic credits and electronic cash; and (iv) excludes conviction of misdemeanor possession of marijuana as a disqualifier for the issuance of a service permit by the Virginia Lottery.

HB 507/SB 223 Intercollegiate athletics; student-athletes; compensation and representation for name, image, or likeness. Establishes several parameters for the compensation and representation of a student-athlete related to the use of such student's name, image, or likeness. The bill prohibits any private institution of higher education, associate-degree-granting public institution of higher education, or baccalaureate public institution of higher education or any agent thereof; athletic association; athletic conference; or other organization with authority over intercollegiate athletics from (i) prohibiting or preventing a student-athlete from earning compensation for the use of his name, image, or likeness, except in certain circumstances enumerated in the bill; (ii) prohibiting or preventing a student-athlete from obtaining professional representation by a licensed athlete agent or legal representation by a licensed attorney in connection with issues related to name, image, or likeness; (iii) declaring a student-athlete ineligible for intercollegiate athletic competition because he earns such compensation or obtains such representation; or (iv) reducing, canceling, revoking, or not renewing an athletic scholarship because a student-athlete earns such compensation or obtains such representation. The bill establishes several other conditions and limitations relating to pre-agreement disclosures, the use of the institution's property, and the effect on employment status in connection with a student-athlete's use of his name, image, or likeness. The bill also amends the definition of "athlete agent" in relevant law to permit such agents to represent a student-athlete in connection with issues related to name, image, or likeness, including negotiating, securing, obtaining, arranging, and managing name, image, or likeness opportunities.

HB 763/SB 403 Charitable gaming; social organizations and social quarters; electronic gaming. Provides that the conduct of electronic gaming, defined in the bill, is restricted to qualified social organizations on their premises or other qualified organizations that lease the premises of a qualified social organization pursuant to the guidelines set out in the bill. The bill eliminates the exceptions related to the sale of instant bingo, pull tabs, or seal cards or the conduct of bingo games in current law for veterans and fraternal organizations. The bill provides that such qualified organizations shall be subject to two prohibitions that, under current law, apply to all other organizations, as defined in relevant law: (i) they are prohibited from selling instant bingo, pull tabs, or seal cards or

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conducting bingo games outside of their home locality and (ii) they are prohibited from offering such games at an establishment that has been granted a license by the Alcoholic Beverage Control Authority unless they hold such license. The bill provides that, with the exception of social organizations qualified under § 501(c)(7) of the Internal Revenue Code, all gross receipts attributable to electronic gaming shall be reported to the Department of Agriculture and Consumer Services (the Department) and shall be subject to application, audit, and administration fees. Under the provisions of the bill, social organizations that are exempt from taxation pursuant to § 501(c)(7) of the Internal Revenue Code are permitted to conduct electronic gaming until such organizations reach \$200,000 in electronic gaming adjusted gross receipts, defined in the bill, during any 12-month period. Such organizations are required to report their adjusted gross receipts to the Department and are subject to application, audit, and administration fees based on their adjusted gross receipts. The bill provides that application fees shall be paid to the Department by the qualified organization and that audit fees may be paid to the Department either by the qualified organization or the electronic gaming manufacturer that provides electronic gaming devices to such organization. The bill imposes on any person or organization conducting charitable gaming without a permit a civil penalty of not less than \$25,000 and not more than \$50,000 per incident. Finally, the bill sets out via a second enactment provisions that require qualified organizations permitted to conduct electronic gaming to report and pay all required fees to the Department based on such organization's electronic gaming adjusted gross receipts. The provisions of the first enactment of the bill requiring the use of a qualified organization's electronic gaming gross receipts for the purpose of reporting and payment of required fees has an expiration date of July 1, 2024. The provisions of the second enactment of the bill requiring the use of a qualified organization's electronic gaming adjusted gross receipts for the purpose of reporting and payment of the required fees has a delayed effective date of July 1, 2024.

HB 1136 Commission on Updating Virginia Law to Reflect Federal Recognition of Virginia Tribes; established; report. Establishes the Commission on Updating Virginia Law to Reflect Federal Recognition of Virginia Tribes in the legislative branch of state government for the purpose of performing a comprehensive review of Virginia law to assess ways in which it must be revised to include federally recognized Tribal Nations located in the Commonwealth as distinct governments with the right to exercise general sovereignty and powers of government. The Commission is required to submit an annual report on its interim activities and work by the first day of each regular session of the General Assembly. The bill has an expiration date of July 1, 2024.

SB 530 Illegal gaming devices; Virginia Fraud Against Taxpayers Act; civil penalty. Adds the manufacturing for sale, selling, or distributing of an illegal gaming device while knowing that it is or is intended to be operated in the Commonwealth in violation of the law to the list of violations for which a civil penalty

may be assessed against a person who is found to have committed such violation. The bill also adds a knowledge requirement to the existing violation of possessing or controlling an illegal gambling device. The bill also provides for a civil penalty of up to \$25,000 per gambling device for any person who sells a gambling device that is located in an unregulated location. The bill provides that it shall be sufficient ground for an action for pretrial levy or seizure or an attachment that a principal defendant has conducted, financed, managed, supervised, directed, sold, or owned a gambling device that is located in an unregulated location.

Health

Passed

HB 213/SB 375 Optometrists; laser surgery. Allows an optometrist who has received a certification to perform laser surgery from the Board of Optometry (the Board) to perform certain types of laser surgery of the eye and directs the Board to issue a certification to perform laser surgery to any optometrist who submits evidence satisfactory to the Board that he (i) is certified by the Board to prescribe for and treat diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents pursuant to Code requirements and (ii) has satisfactorily completed such didactic and clinical training programs provided by an accredited school or college of optometry that includes training in the use of lasers for the medically appropriate and recognized treatment of the human eye as the Board may require. The bill also requires the Board to adopt regulations (a) establishing criteria for certification of an optometrist to perform permitted laser surgeries and (b) requiring optometrists to register annually with the Board and to report information regarding any disciplinary action, malpractice judgment, or malpractice settlement against the provider and any evidence that indicates the provider may be unable to engage safely in the practice of his profession. The bill also requires optometrists certified to perform laser surgery to report certain information regarding the number and types of laser surgeries performed and the conditions treated, as well as any adverse treatment outcomes associated with the performance of such laser surgeries to the Board, and requires the Board to report such information to the Governor and the Secretary of Health and Human Resources annually.

HB 277/SB 622 Recovery residences. Requires that all recovery residences be certified by the Department of Behavioral Health and Developmental Services (the Department) and that recovery residences, as a condition of such certification, comply with any minimum square footage requirements related to beds and sleeping rooms established by the credentialing entity, which shall be no less than the square footage requirements set forth in the Uniform Statewide Building Code. The bill requires every person who operates a recovery residence to disclose to potential residents its credentialing entity. If the credentialing entity is the National Alliance for Recovery Residences, the bill requires the recovery

residence to disclose the level of support provided by the recovery residence and, if the credentialing entity is Oxford House, Inc., the bill requires the recovery residence to disclose that the recovery residence is self-governed and unstaffed. The bill also requires the Department to include such information on the list of all recovery residences maintained by the Department on its website. The bill exempts recovery residences from the provisions of the Virginia Landlord and Tenant Act.

HB 1187/SB 317 Out-of-state health care practitioners; temporary authorization to practice; licensure by reciprocity for physicians; emergency. Allows a health care practitioner licensed in another state or the District of Columbia who has submitted an application for licensure to the appropriate health regulatory board to temporarily practice for a period of 90 days pending licensure, provided that certain conditions are met. The bill directs the Board of Medicine to pursue reciprocity agreements with jurisdictions that surround the Commonwealth to streamline the application process in order to facilitate the practice of medicine. The bill requires the Department of Health Professions to annually report to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions the number of out-of-state health care practitioners who have utilized the temporary authorization to practice pending licensure and have not subsequently been issued full licensure. The bill contains an emergency clause.

HB 1191/SB 361 Marcus alert system; participation. Extends the date by which localities shall establish voluntary databases to be made available to the 9-1-1 alert system and the Marcus alert system to provide relevant mental health information and emergency contact information for appropriate response to an emergency or crisis from July 1, 2021, to July 1, 2023, and provides an exemption to the requirement that localities establish protocols for local law-enforcement agencies to enter into memorandums of agreement with mobile crisis response providers regarding requests for law-enforcement back-up during mobile crisis or community care team response and minimum standards, best practices, and a system for the review and approval of protocols for law-enforcement participation in the Marcus alert system for localities with a population that is less than or equal to 40,000, so that localities with a population that is less than or equal to 40,000 may but are not required to establish such protocols. The bill also requires the Department of Behavioral Health and Developmental Services to include in its annual report to the Governor and the Chairmen of the House Committees for Courts of Justice and on Health, Welfare and Institutions, the Senate Committees on the Judiciary and Education and Health, and the Behavioral Health Commission information regarding barriers to establishment of local Marcus alert programs and community care or mobile crisis teams to provide mobile crisis response in geographical areas served by community services boards or behavioral health agencies in which such programs and teams have not been established and a plan for addressing such barriers.

SB 268 Emergency custody and temporary detention; transportation; transfer of custody. Provides that when a magistrate orders alternative transportation for an individual under a temporary detention order, the primary law-enforcement agency that executes the order may transfer custody of the person to the alternative transportation provider immediately upon execution of the order. Such alternative transportation provider shall maintain custody of the person from the time custody is transferred to the alternative transportation provider by the primary law-enforcement agency until such time as custody of the person is transferred to the temporary detention facility, as is appropriate. The bill adds employees of and persons providing services pursuant to a contract with the Department of Behavioral Health and Developmental Services to the list of individuals who may serve as alternative transportation providers. The bill clarifies that if no alternative transportation provider is available, the magistrate shall order a person to be kept in law-enforcement custody. The bill also requires the Department of Behavioral Health and Developmental Services to amend an existing contract or enter into a new contract for alternative custody of persons who are subject to temporary detention orders, to the extent funding for such alternative custody is available.

Failed

HB 80 Healthcare Regulatory Sandbox Program; established. Requires the Department of Health to establish the Healthcare Regulatory Sandbox Program to enable a person to obtain limited access to the market in the Commonwealth to temporarily test an innovative health care product or service on a limited basis without otherwise being licensed or authorized to act under the laws of the Commonwealth. Under the Program, an applicant requests the waiver of certain laws, regulations, or other requirements for a 24-month testing period, with an option to request an additional six-month testing period. The bill provides application requirements, consumer protections, procedures for exiting the Program or requesting an extension, and recordkeeping and reporting requirements. The bill requires the Department to provide an annual report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health that provides information regarding each Program participant and recommendations regarding the effectiveness of the Program. The bill has an expiration date of July 1, 2027.

SB 668 Death with Dignity Act; penalties. Allows an adult who has been determined by an attending physician and consulting physician to be suffering from a terminal condition to request medication for the purpose of ending his life in a humane and dignified manner. The bill requires that a patient's request for medication to end his life be given orally on two occasions, that such request be in writing, that such request be signed by the patient and two witnesses, and that the patient be given an express opportunity to rescind his request. The bill requires that before a patient is prescribed medication to end his life, the attending

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physician must (i) confirm that the patient is making an informed decision, (ii) refer the patient to a capacity reviewer if the physician is uncertain as to whether the patient is making an informed decision, (iii) refer the patient to a consulting physician for confirmation or rejection of the attending physician's diagnosis, and (iv) inform the patient that he may rescind the request at any time. The bill provides that neither a patient's request for medication to end his life in a humane and dignified manner nor his act of ingesting such medication shall have any effect upon a life, health, or accident insurance policy or an annuity contract. The bill makes it a Class 2 felony (a) to willfully and deliberately alter, forge, conceal, or destroy a patient's request, or rescission of request, for medication to end his life with the intent and effect of causing the patient's death or (b) to coerce, intimidate, or exert undue influence on a patient to request medication for the purpose of ending his life or to destroy the patient's rescission of such request with the intent and effect of causing the patient's death. Finally, the bill grants immunity from civil or criminal liability and professional disciplinary action to any person who complies with the provisions of the bill and allows health care providers to refuse to participate in the provision of medication to a patient for the purpose of ending the patient's life.

Insurance

Passed

HB 421/SB 271 Living organ donors; discrimination prohibited.

Prohibits any person from refusing to insure, refusing to continue to insure, or limiting the amount or extent of life insurance, disability insurance, or long-term care insurance coverage available to an individual or to charge an individual a different rate for the same coverage based solely and without any additional actuarial risks upon the status of such individual as a living organ donor. The provisions of the bill apply to such insurance plans that are entered into, amended, extended, or renewed on or after January 1, 2023.

HB 884/SB 195 Group health benefit plans; bona fide associations; formation of benefits consortium.

Provides that certain trusts constitute a benefits consortium and are authorized to sell health benefit plans to members of a sponsoring association that (i) has been formed and maintained in good faith for purposes other than obtaining or providing health benefits; (ii) does not condition membership in the sponsoring association on any factor relating to the health status of an individual, including an employee of a member of the sponsoring association or a dependent of such an employee; (iii) makes any health benefit plan available to all members regardless of any factor relating to the health status of such members or individuals eligible for coverage through a member; (iv) does not make any health benefit plan available to any person who is not a member of the association; (v) makes available health plans or health benefit plans that meet requirements provided for in the bill; (vi) operates as a nonprofit entity under § 501(c)(5) or 501(c)(6) of the Internal Revenue Code; and (vii) has been in active

existence for at least five years. The bill replaces references to "bona fide association," as used in provisions applicable to health care plans in the small employer market, with the term "sponsoring association." The bill requires any health benefit plan issued by a self-funded multiple employer welfare arrangement (MEWA) that covers one or more employees of one or more small employers to (a) provide essential health benefits and cost-sharing requirements; (b) offer a minimum level of coverage designed to provide benefits that are actuarially equivalent to 60 percent of the full actuarial value of the benefits provided under the plan; (c) not limit or exclude coverage for an individual by imposing a preexisting condition exclusion on that individual; (d) be prohibited from establishing discriminatory rules based on health status related to eligibility or premium or contribution requirements as imposed on health carriers; (e) meet the renewability standards set forth for health insurance issuers; (f) establish base rates formed on an actuarially sound, modified community rating methodology that considers the pooling of all participant claims; and (g) utilize each employer member's specific risk profile to determine premiums by actuarially adjusting above or below established base rates, and utilize either pooling or reinsurance of individual large claimants to reduce the adverse impact on any specific employer member's premiums. The bill prohibits a self-funded MEWA from issuing health benefit plans in the Commonwealth until it has obtained a license pursuant to regulations promulgated by the State Corporation Commission. The bill authorizes the Commission to adopt regulations applicable to self-funded MEWAs, including regulations addressing financial condition, solvency requirements, and the exclusion of self-funded MEWAs from the Virginia Life, Accident and Sickness Insurance Guaranty Association.

HB 1156/SB 15 Private family leave insurance. Establishes family leave insurance as a class of insurance. The bill defines "family leave insurance" as an insurance policy issued to an employer related to a benefit program provided to an employee to pay for the employee's income loss due to (i) the birth of a child or adoption of a child by the employee, (ii) placement of a child with the employee for foster care, (iii) care of a family member of the employee who has a serious health condition, or (iv) circumstances arising out of the fact that the employee's family member who is a service member is on active duty or has been notified of an impending call or order to active duty. Under the bill, family leave insurance may be written as an amendment or rider to a group disability income policy, included in a group disability income policy, or written as a separate group insurance policy purchased by an employer. The bill prohibits delivery or issue for delivery of a family leave insurance policy unless a copy of the form and the rate manual showing rates, rules, and classification of risks have been filed with the State Corporation Commission. The bill prohibits an individual certificate and enrollment form from being used in connection with a group family leave insurance policy unless the form for the certificate and enrollment form have been filed with the Commission. The bill provides that "life and annuities insurance agent" means an agent licensed in the Commonwealth to sell,

solicit, or negotiate, among other types of insurance, family leave insurance on behalf of insurers licensed in the Commonwealth.

SB 754 Motor vehicle insurance; underinsured motor vehicle. Requires any motor vehicle liability insurance policy issued, delivered, or renewed in the Commonwealth after July 1, 2023, to include a specific statement regarding the insurer requirements to provide underinsured motorist coverage that pays any damages due to an insured in addition to any bodily injury or property damage liability that is applicable to the insured's damages. The bill requires that the endorsement or provisions of a motor vehicle liability policy to provide uninsured motorist insurance coverage also provide underinsured motorist insurance coverage with limits that are equal to the uninsured motorist insurance coverage limits. Under the bill, underinsured motorist coverage shall be paid without any credit for the bodily injury and property damage coverage available for payment, unless any named insured elects to reduce any underinsured motorist coverage payments by notifying the insurer. If an injured person is entitled to underinsured motorist coverage under one or more policies wherein a named insured has elected to reduce the underinsured motorist limits by the available bodily injury liability insurance or property damage liability insurance coverage available for payment, any amount available for payment shall be credited against such policies in payment priority established in current law, and where there is more than one such policy entitled to such credit, the credit shall be apportioned pro-rata pursuant to the policies' respective available underinsured motorist coverages. The bill also provides that taxicab operators may fulfill their insurance filing requirement by showing evidence of a certificate of self-insurance. The bill requires, with regard to the self-insurance protection of a taxicab operator, the amount of bodily injury or property damage liability coverage available for payment from any source to be credited against and reduce the amount of protection otherwise available against an underinsured motorist.

Failed

SB 407 Disability insurance; disability arising out of childbirth. Requires each insurer proposing to issue individual or group accident and sickness insurance policies providing short-term disability income protection coverage whose policies provide coverage for short-term disability arising out of childbirth to, notwithstanding a disability determination or medical necessity requirement, provide for 12 weeks of income protection coverage for a payable benefit of at least 12 weeks immediately following childbirth.

Labor and Commerce

Passed

HB 263 Banks; virtual currency custody services. Permits banks in the Commonwealth to provide virtual currency custody services so long as the bank has adequate protocols in place to effectively

manage the associated risks. The bill defines "virtual currency" and provides that a bank may choose to offer such custody services in a nonfiduciary capacity or a fiduciary capacity. If it chooses to provide such custody services in a fiduciary capacity, it must possess trust powers and have a trust department approved by the State Corporation Commission.

HB 270/SB 219 Virginia Employment Commission; administrative reforms; reporting requirements; electronic submissions; Unemployment Compensation Ombudsman established. Requires the Virginia Employment Commission to calculate and report the (i) average unemployment insurance benefit levels, (ii) average income replacement of unemployment insurance benefits, and (iii) reciprocity rate for unemployment insurance benefits in the Commonwealth as part of the Commission's annual balance sheet. The bill also requires the Commission, as part of its biennial strategic plan submitted to the Department of Planning and Budget, to develop and maintain an unemployment insurance Resiliency Plan that describes the specific actions the agency would take, depending on the level of increase in unemployment insurance (UI) claims, to address staffing, communications, and other relevant aspects of operations to ensure continued efficient and effective administration of the UI program. The bill creates within the Commission on Unemployment Compensation a subcommittee that shall be responsible for monitoring the Virginia Employment Commission's management of the unemployment insurance program. The subcommittee shall meet at least once each quarter and shall report annually, beginning on December 1, 2022, to the House Committee on Appropriations, the House Committee on Commerce and Energy, the Senate Committee on Commerce and Labor, and the Senate Committee on Finance and Appropriations. The bill also directs the Commission to convene an advisory committee composed of stakeholders and subject matter experts to review information related to UI claims. The bill requires employers to submit claim-related forms and separation information electronically, as well as other information and electronic tax payments upon the Commission's request, unless the employer has received a waiver by the Commission. The bill provides that a claim for unemployment benefits that has been determined invalid by the Virginia Employment Commission as a result of the claimant's monetary ineligibility shall first be reviewed upon a request for redetermination prior to filing an appeal. The bill also creates an Unemployment Compensation Ombudsman position for the purpose of providing information and assistance to persons seeking assistance in the unemployment compensation process and exempts confidential case files of the Unemployment Compensation Ombudsman from the mandatory disclosure provisions of the Virginia Freedom of Information Act. The bill directs the Virginia Department of Human Resource Management to lead a multiagency work group to discuss strategies for staffing assistance and support for agencies that might need staffing assistance during emergencies. Additionally, the Virginia Employment Commission is directed to task its internal audit division to review and revise documents and online resources related to unemployment compensation.

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Failed

HB 320/SB 173 Minimum wage. Repeals certain provisions of the Code of Virginia related to increasing the state minimum wage to more than \$11.00 per hour. The bill also repeals provisions related to increasing the state minimum wage based on an annual adjusted minimum wage determined by the Department of Labor and Industry.

HB 576 Stay of debt collection activities by health care providers; prohibited practice under Virginia Consumer Protection Act. Provides that any health care provider that undertakes any debt collection activities prior to either the issuance of an award from or the determination that a claim is noncompensable by the Criminal Injuries Compensation Fund has committed a prohibited practice under the Virginia Consumer Protection Act.

HB 883/SB 374 Project labor agreements; prevailing wage; collective bargaining for employees of local governments. Provides that state agencies, when engaged in procuring products or services or letting contracts for construction, manufacture, maintenance, or operation of public works, paid for in whole or in part by state funds, shall neither require nor prohibit bidders to enter into or adhere to agreements with one or more labor organizations on the public works projects. The bill removes requirements for the payment of prevailing wage for work performed on public works contracts for state agencies. In addition, the bill removes the authority for a locality, by a local ordinance or resolution, to recognize any labor union or other employee association as a bargaining agent of any public officers or employees or to collectively bargain or enter into any collective bargaining contract with any such union or association or its agents.

SB 341 Consumer protection; online marketplace; high-volume third-party sellers. Establishes requirements for high-volume third-party sellers, defined in the bill as participants in an online marketplace that have entered into at least 200 discrete sales or transactions for 12 continuous months during the past 24 months resulting in accumulation of an aggregate total of \$5,000 or more in gross revenues. The bill requires an online marketplace to (i) require high-volume third-party sellers to provide identifying and contact information to the online marketplace; (ii) verify the information provided by a high-volume third-party seller within 10 days of receipt; and (iii) require that high-volume third-party sellers make certain conspicuous disclosures to consumers on their product listing pages, with certain limited exceptions. The bill provides that the Attorney General has the exclusive authority to enforce its provisions and that any violation of its provisions is a prohibited practice under the Virginia Consumer Protection Act.

Local Government

Passed

SB 537 Powers of local government; trees during development process; replacement and conservation. Adds provisions to §§ 15.2-961 and 15.2-961.1 that prevent the use of the sections to prohibit or unreasonably limit silvicultural activities. The bill creates a new section of the Code related to the replacement of trees during the development process in localities, by which any locality may adopt an ordinance subject to the provisions of the new section. Further, the bill creates a new proposed section of the Code related to conservation of trees during the development process in localities, by which any locality may adopt an ordinance subject to the provisions of the proposed section; this proposed section does not become effective unless reenacted by the 2023 Session of the General Assembly. The bill directs specified stakeholders and parties to meet at least twice prior to the 2023 Session of the General Assembly to consider specified topics. The bill directs the participants to report their recommendations to the Chairmen of the House Committee on Counties, Cities and Towns and the Senate Committee on Agriculture, Conservation and Natural Resources by December 1, 2022.

Carried Over

HB 1362 Short-term rentals; localities' ability to restrict. Clarifies that short-term rentals may be operated in any locality in the absence of an ordinance pursuant to the locality's general land use and zoning authority restricting short-term rentals.

Marijuana

Passed

SB 591 Marijuana; shape prohibitions; definitions of marijuana and tetrahydrocannabinol. Modifies the definition of "marijuana" in several Code sections to (i) include any substance containing a total tetrahydrocannabinol concentration that exceeds 0.3 percent or more than 0.25 milligram of tetrahydrocannabinol per serving or more than one milligram per package and (ii) exclude industrial hemp that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture or his agent; an industrial hemp extract that contains a tetrahydrocannabinol concentration of no greater than 0.3 percent and no more than 0.25 milligram of tetrahydrocannabinol per serving or more than one milligram per package at the time such industrial hemp extract is offered for retail sale and is derived from industrial hemp grown, dealt, or processed in compliance with state or federal law; and any drug product containing tetrahydrocannabinol that is approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act by the Board of Pharmacy. The bill defines "tetrahydrocannabinol" to include any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, or salts of isomers. The bill removes references in the Code to delta-9

tetrahydrocannabinol and amends numerous sections to accommodate for the definitional changes described above. The bill requires the Board of Directors of the Virginia Cannabis Control Authority to promulgate regulations that prohibit the production and sale of retail marijuana and retail marijuana products that depict or are in the shape of a human, animal, vehicle, or fruit. The bill has staggered effective dates.

Failed

SB 313 Retail sale of cannabis products by certain pharmaceutical processors and industrial hemp processors; sunset. Allows certain pharmaceutical processors and industrial hemp processors to sell, under the oversight of the Board of Directors of the Virginia Cannabis Control Authority (the Board), cannabis products at retail to unregistered persons who are 21 years of age or older without the need for a written certification. The bill directs the Board to adopt and enforce regulations governing such sales that shall model certain Board of Pharmacy regulations and comply with other requirements set forth in the bill. The bill requires pharmaceutical processors and industrial hemp processors engaging in such sales to pay a \$1 million fee and collect a 21 percent excise tax, both of which shall ultimately be allocated to the Virginia Cannabis Control Authority to be used to assist independent cannabis retailers located in designated rural and urban opportunity zones. The bill also requires such pharmaceutical processors and industrial hemp processors to submit and comply with a plan describing how the processor will educate consumers about responsible consumption of cannabis products and incubate independent cannabis retailers or support and educate persons that wish to participate in the cannabis market. The bill has a delayed effective date of January 1, 2023, and shall expire when pharmaceutical processors and industrial hemp processors engaging in the sale of cannabis products pursuant to the provisions of the bill are authorized by the Virginia Cannabis Control Authority to apply for and be granted licenses to cultivate, manufacture, wholesale, and sell at retail to consumers 21 years of age or older retail marijuana and retail marijuana products.

Carried Over

SB 391 Cannabis control; retail market; transitional sales by pharmaceutical and industrial hemp processors; penalties. Establishes a framework for the creation of a retail marijuana market in the Commonwealth. The bill creates a regulatory and licensing structure for such retail market and for the cultivation, manufacture, and wholesale of marijuana and marijuana products to be administered by the Virginia Cannabis Control Authority. The bill allows certain pharmaceutical and industrial hemp processors, pending establishment of the retail market, to cultivate, manufacture, and sell to persons 21 years of age or older cannabis products. The bill also relocates and modifies numerous criminal provisions regarding marijuana offenses. The bill has staggered effective dates. The bill satisfies the reenactment requirement of

Chapters 550 and 551 of the Acts of Assembly of 2021, Special Session I, but makes numerous modifications to the provisions of the 2021 legislation related to licensure, criminal penalties, expungement, regulation of certain hemp products, local regulation, and diversity, equity, and inclusion.

Pandemic

Passed

HB 158/SB 4 Emergency Services and Disaster Law; limitation on duration of executive orders. Limits the duration of any executive order issued by the Governor pursuant to his powers under the Emergency Services and Disaster Law to no more than 45 days from the date of issuance. The bill provides that if the General Assembly does not take any action on the rule, regulation, or order within the 45 days during which the rule, regulation, or order is effective, the Governor shall thereafter be prohibited from issuing the same or a similar rule, regulation, or order relating to the same emergency. Under current law, once issued, such executive orders are effective until June 30 following the next regular session of the General Assembly.

SJ 10 Study; joint subcommittee to study pandemic response and preparedness in the Commonwealth; report. Establishes a joint subcommittee to study pandemic response and preparedness in the Commonwealth. In conducting its study, the joint subcommittee is tasked with examining existing laws in the Commonwealth and developing recommendations regarding the pandemic response and future needs of the Governor, the General Assembly, local governments, public and private health care systems and other facilities and providers, health districts, the judicial system, K-12 and higher education systems, and the business regulatory system.

Taxation

Passed

HB 971/SB 94 Conformity of the Commonwealth's taxation system with the Internal Revenue Code; Rebuild Virginia grants and Paycheck Protection Program loans; emergency. Advances Virginia's date of conformity with the Internal Revenue Code from December 31, 2020, to December 31, 2021. The bill also deconforms from provisions of the (i) federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) related to the net operating loss limitation and carryback, a loss limitation applicable to taxpayers other than corporations, the limitation on business interest, and certain loan forgiveness and other business financial assistance and (ii) federal American Rescue Plan Act related to restaurant revitalization grants and emergency injury disaster loans received for taxable years beginning before January 1, 2021. The bill also retroactively allows up to \$100,000 of the individual and corporate income tax deduction or subtraction, as applicable, for Rebuild Virginia grants and certain amounts related to Paycheck

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Protection Program loans to certain fiscal filers. The bill also allows full deductibility of expenses paid or incurred with forgiven Paycheck Protection Program loan proceeds and expenses paid or incurred with Economic Injury Disaster Loan program funding for taxable year 2021 and thereafter. The bill contains an emergency clause.

HB 1121/SB 692 Income taxation; pass-through entities. Permits a qualifying pass-through entity, defined in the bill, to make an annual election in taxable years 2021 through 2025 to pay an elective income tax at a rate of 5.75 percent, created by the bill, at the entity level for the taxable period covered by the return. The bill also (i) creates a corresponding refundable income tax credit for taxable years 2021 through 2025 for any amount of income derived from a pass-through entity having Virginia taxable income if such pass-through entity makes such election and pays the elective income tax imposed at the entity level and (ii) allows an individual to claim a credit for similar taxes paid to other states for taxable years 2021 through 2025.

Failed

HB 531/SB 472 Additional local sales and use tax to support schools. Authorizes all counties and cities to impose an additional local sales and use tax at a rate not to exceed one percent, with the revenue used only for capital projects for the construction or renovation of schools. Under the bill, the tax can only be imposed if it is initiated by a resolution of the local governing body and approved by the voters in a referendum. The bill requires the governing body to specify in the enacting ordinance the time period, not to exceed 20 years, for which the tax would be imposed, and revenue from the tax is required to be used solely for capital projects for new construction or major renovation of schools in the locality enacting the tax. Under current law, only Charlotte, Gloucester, Halifax, Henry, Mecklenburg, Northampton, Patrick, and Pittsylvania Counties and the City of Danville are authorized to impose such a tax.

Carried Over

HB 90 Sales tax; exemption for food purchased for human consumption and essential personal hygiene products. Exempts food purchased for human consumption and essential personal hygiene products from all state, regional, and local sales taxes (the grocery tax). The bill dedicates an amount equal to a 0.182 percent sales and use tax to cities and counties as a supplemental school payment. Such payment shall, from July 1, 2022, until July 1, 2024, be distributed based on each city and county's estimated average share of monthly distributions attributable to the tax on such food and hygiene products between February 2020 and December 2021. Beginning July 1, 2024, such payment shall be based upon each city and county's pro rata share of total local sales and use taxes. The bill was carried over into 2022 Special Session I.

HB 935 Income tax refunds for individuals or married persons filing a joint return. Provides an income tax refund of up to \$300 for individuals and up to \$600 for married persons filing a joint

return for taxable year 2021 on or before November 1, 2022. The bill provides that the refund shall not exceed the taxpayer's tax liability. The bill was carried over into 2022 Special Session I.

SB 451 Sales tax; exemption for food purchased for human consumption and essential personal hygiene products. Provides a state sales and use tax exemption for food purchased for human consumption and essential personal hygiene products. The bill would also provide, beginning February 1, 2023, an allocation of state revenues to fund the distribution to localities for educational funding that would have been distributed to them absent the exemption created by the bill. Under current law, such products are taxed at a reduced state sales and use tax rate of 1.5 percent and the standard local rate of one percent. The bill has a delayed effective date of January 1, 2023. The bill was carried over into 2022 Special Session I.

SB 579 Income tax refunds for individuals or married persons filing a joint return. Provides an income tax refund for individuals and for married persons filing a joint return for taxable year 2021 in an amount specifically set forth in the general appropriation act passed during the 2022 Session of the General Assembly. The bill provides that the refund shall not exceed the taxpayer's tax liability. The bill was carried over into 2022 Special Session I.

Transportation/Motor Vehicles

Passed

HB 530 Driver training. Authorizes governmental entities, including comprehensive community colleges in the Virginia Community College System, certified as third party testers to test and train drivers employed by another governmental entity or enrolled in a commercial driver training course offered by a community college. The bill repeals the prohibition on applicants 18 years of age and older retaking skills tests within 15 days. Current law authorizes such reexamination upon payment of a \$2 fee. The bill makes immediate instead of contingent on federal regulations the repeal of certain provisions requiring an applicant to, after failing the behind the wheel examination for a third time, take a course prior to reexamination. The bill clarifies that no law or regulation safeguarding driver testing information shall be construed to prohibit (i) the possession, use, or provision of the Department of Motor Vehicles' driver license examination questions by or to any person for the purpose of administering a knowledge examination or (ii) the Department from making sample examination questions available to the public or the public from possessing sample examination questions.

HB 632 Exhaust systems; excessive noise. Makes certain secondary offenses related to loud exhaust systems that are not in good working order primary offenses and exempts local ordinances related to such exhaust systems from the prohibition on law-enforcement officers stopping a vehicle for a violation of a local ordinance unless it is a jailable offense.

SB 301 Commercial driver's license examinations. Authorizes governmental entities, including comprehensive community colleges in the Virginia Community College System, certified as third party testers to test and train drivers employed by another governmental entity or enrolled in a commercial driver training course offered by a community college. The bill repeals the prohibition on applicants 18 years of age and older retaking skills tests within 15 days. Current law authorizes such reexamination upon payment of a \$2 fee.

SB 777 Front and rear bumper height limits; emergency. Provides that no passenger car or pickup or panel truck shall be operated on a public highway if the suspension, frame, or chassis has been modified by any means so as to cause the height of the front bumper to be four or more inches greater than the height of the rear bumper. The bill contains an emergency clause.

Failed

HB 838 Lane filtering; motorcycles. Authorizes the operator of a two-wheeled motorcycle to pass another vehicle that is stopped or traveling at no more than 10 miles per hour in the same lane, provided that there are at least two lanes of travel in each direction, such motorcycle does not exceed a speed of 20 miles per hour, and the operator executes such passing safely.

Carried Over

HB 859 Commissioner of Highways; roadways operating under the Virginia Highway Corporation Act of 1988 to operate under the Public-Private Transportation Act of 1995. Directs the Commissioner of Highways to evaluate whether it is in the public interest for any roadway operated pursuant to the Virginia Highway Corporation Act of 1988 to operate instead under the authority and requirements provided by the Public-Private Transportation Act of 1995 (PPTA). The bill authorizes the Commissioner, if he determines it is in the public interest for any such roadway to operate under the PPTA and if the Secretary of Transportation and the Transportation Public-Private Partnership Steering Committee concur, to negotiate and execute a new comprehensive agreement with the operator of such roadway to operate under the authority and requirements provided by the PPTA. The bill has an expiration date of January 1, 2024.

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