

**2021 General Assembly Summary
Education Related Legislation
Fairfax County Public Schools, Office of Government Relations**

COMPREHENSIVE LEGISLATION REPORT

This report describes all education-related legislation as considered during the 2021 General Assembly Session. Legislation is reported as Passed or Failed.

Adopted legislation goes into effect as of July 1, 2021, unless otherwise noted in the legislation itself.

Bills are subdivided into thirteen subject categories. If a bill of interest is not found in one category, please check another as legislation often can fit under multiple labels. Legislation is linked to the Division of Legislative Services' web pages for text, up to date summary information, and fiscal impact statements.

BUSES, BUILDINGS AND SAFETY - PASSED

Apprenticeship Training Programs, Report [HB 1849](#) (Simonds) directs the Virginia Board of Workforce Development (the Board), the Department of Labor and Industry (DOLI), and the Department of General Services (DGS) to review the availability of registered apprenticeship programs in the Commonwealth and evaluate the capacity to build a program that will require contractors engaged in construction contracts with public bodies to participate in apprenticeship training programs for each trade or classification of employees engaged in the construction contract. The bill also requires the Board, DOLI, and DGS to evaluate whether a requirement to limit public procurements to bidders with registered apprenticeship programs would assist the construction industry in meeting its workforce needs. The bill permits the Board, DOLI, and DGS to convene a stakeholder advisory group as part of its review. The bill requires the Board, DOLI, and DGS to complete its review and complete any advisory group meetings by September 1, 2021, and to submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations no later than December 1, 2021.

Building Standards for Certain State and Local Buildings [HB 2001](#) (Helmer) requires that any executive branch agency or institution or locality entering the design phase for the construction of a new building greater than 5,000 gross square feet in size or the renovation of a building where the cost of the renovation exceeds 50 percent of the value of the building ensure that such building has sufficient electric vehicle charging infrastructure, defined in the bill, and has features that permit the agency or institution to track the building's energy efficiency and carbon emissions. The bill authorizes the Director of the Department of General Services to grant exemptions to such standards, in writing and with certain terms. The bill requires agencies to annually report to the Governor the energy efficiency and carbon emissions metrics for each such building built or renovated.

The bill requires localities to design such building projects according to the same or similar standards, or more stringent standards if adopted by ordinance. The bill also requires that localities incorporate appropriate resilience and distributed energy features. The bill requires that any exemption from the standards granted by resolution of the governing body of a locality be made in writing and explain the basis for granting the exemption. *The provisions regarding building projects in localities with a population of less than 100,000 become effective on July 1, 2023.*

Carbon Monoxide Detectors Required [HB 1823](#) (Askew) requires each building that was built before 2015 and that houses any public school classroom for students, licensed child day program, or other program that serves preschool-age children to be equipped with at least one carbon monoxide detector.

Crosswalk Design Working Group [HB 1841](#) (Keam) directs the Commissioner of Highways to convene a working group to determine whether there should be model policies for crosswalk design and installation and, if so, establish recommendations for such model policies. The bill directs the working group to monitor and provide input to the U.S. Department of Transportation and the Federal Highway Administration as

updates to crosswalk designs in the Manual on Uniform Traffic Control Devices for Streets and Highways are considered. The working group is required to submit to the Governor and the General Assembly a report on its findings and recommendations by November 1, 2021.

Electric Vehicle Grant Fund and Program; Creation; Workgroup Report [HB 2118](#) (Keam) establishes the Electric Vehicle Grant Fund and Program for the purpose of (i) awarding grants on a competitive basis to public school divisions for (a) assisting with costs of replacing diesel school buses with electric school buses; (b) the implementation of recharging infrastructure or other infrastructure needed to charge or maintain such electric school buses; and (c) workforce development and training to support the maintenance, charging, and operation of such electric school buses and (ii) projects by public, private, and non-profit Virginia entities to assist with replacing diesel-fueled vehicles and machinery with electric vehicles. No allocation of funds will be made to the Fund or the Program unless federal or nonstate funds are available to cover the entire cost of such allocation. The bill contains provisions that relate to grant applications, priority, awards, and uses. The Department of Environmental Quality will convene a stakeholder workgroup to develop recommendations for establishing and administering the Fund and Program and will report the workgroup findings to the General Assembly.

Emergency Services and Disaster Law; Local and Interjurisdictional Emergency Operations Plans [HB 2085](#) (Askew) requires local and interjurisdictional agencies to include provisions in their emergency operations plans to ensure that such plans are applied equitably and that the needs of minority and vulnerable communities are met during emergencies.

Gun-Free Zone, School Board Establishment Permitted [HB 1909](#) (Subramanyam) permits any school board to deem any non-school zone building or property that it owns or leases where employees of such school board are regularly present for the purpose of performing their official duties as a gun-free zone and prohibit any individual from knowingly possessing, purchasing, transferring, carrying, storing, or transporting firearms, ammunition, or components or combination thereof while such individual is upon such property, except certain individuals such as law-enforcement officers and qualified retired law-enforcement officers.

Lock-Down Drills; Annual Requirement [HB 1998](#) (Murphy) reduces from three to two the minimum number of mandatory annual lock-down drills in each public elementary and secondary school in the Commonwealth.

Virginia Public Procurement Act; Construction Contracts; Requirement to Submit List of Subcontractors [HB 2288](#) (Graves) requires bidders or offerors on contracts for construction of \$250,000 or more to submit along with their bid or proposal a list of all subcontractors, regardless of tier, that the bidder or offeror intends at the time of submitting the bid or proposal to use on the contract to perform work valued at \$50,000 or more, including labor and materials. The bill requires such a list to include certain information about each contractor. The bill also requires the bidder or offeror to submit a statement declaring that the bidder or offeror has reviewed the qualifications and performance history of each subcontractor and found such qualifications and performance history to be sufficient to qualify the subcontractor to perform the subcontract work and a statement indicating that the bidder or offeror has received a written statement from each subcontractor verifying that such subcontractor has not defaulted on any projects within the last three years is not currently suspended or disbarred by any public body, and is not currently in bankruptcy. The bill allows the public body to disqualify any listed subcontractors but requires the public body to notify the bidder or offeror of such disqualification and allow the bidder or offeror reasonable time to find a qualified replacement. The bill provides that any bidder or offeror that does not submit the required list and statements may have its bid or proposal disqualified, and any bidder or offeror that is found to have knowingly provided false information pursuant to this section shall be debarred from contracting with any public body for a period of up to one year. The bill requires compliance with its provisions for bids or offers on contracts for construction of \$250,000 or more with localities with a population in excess of 50,000, but provides that compliance is optional for bids or offers on contracts for construction of \$250,000 or more with any other locality. *The provisions of this bill will not become effective unless reenacted by the 2022 Session of the General Assembly.*

Virginia Public Procurement Act; Preference for Energy-Efficient and Water-Efficient Goods [HB 1811](#) (Helmer) provides that in the course of procuring goods, if a public body receives two or more bids

for products that are Energy Star certified, meet Federal Energy Management Program (FEMP) designated efficiency requirements, appear on FEMP's Low Standby Power Product List, or are WaterSense certified, such public body may only select among those bids.

BUSES, BUILDINGS AND SAFETY -FAILED

Electric School Bus Projects, Electric Utilities [SB 1380](#) (Lucas) would have authorized electric utilities to partner with school divisions to implement projects designed to encourage the proliferation of school buses that are fueled in whole or in part by electricity, along with associated charging and other infrastructure, for the purpose of transporting students and that may also serve as electric grid stabilization or peak-shaving resources. The bill would have provided that if an electric school bus project meets the requirements in the bill, then it is in the public interest and may constitute an energy storage resource. The bill would have required an electric school bus project and its corresponding agreement to include a provision to compensate a participating school division for the use of the school bus battery by the electric utility as a grid stabilizing or peak-shaving resource and a provision that the electric school buses shall be titled under the participating school division, but the utility would have owned the associated batteries and charging stations. The bill also would have provided a tax exemption for electric school buses and associated charging and other infrastructure that is related or incidental to an authorized electric school bus project.

Firearm-Free Zones Designated by the Commonwealth or a Locality; Waiver of Sovereign Immunity [HB 1757](#) (McGuire) would have provided that if the Commonwealth designated any property owned by it as a firearm-free zone or any locality designates such locality or any part of such locality as a firearm-free zone, the Commonwealth or such locality waived its sovereign immunity as it relates to any injuries sustained by persons lawfully present in such firearm-free zone.

Green New Deal Act [HB 1937](#) (Rasoul) would have established a moratorium, effective January 1, 2022, on approval by any state agency or political subdivision of any approval required for electric generating facilities that generate fossil fuel energy through the combustion of a fossil fuel resource; import or export terminals for fossil fuel resources; certain maintenance activities relating to an import or export terminal for a fossil fuel resource; gathering lines or pipelines for the transport of any fossil fuel resource that- require the use of eminent domain on private property; certain maintenance activities relating to such gathering lines or pipelines; refineries of a fossil fuel resource; and exploration for any type of fossil fuel, unless preempted by applicable federal law. The measure would have also required that at least 80 percent of the electricity sold by a retail electric supplier in calendar years 2028 through 2035 be generated from clean energy resources. In calendar year 2036 and every calendar year thereafter, 100 percent of the electricity sold by a retail electric supplier is required to be generated from clean energy resources. The clean energy mandates would have applied to a public utility or other person that sells not less than 1,000 megawatt hours of electric energy to retail customers or generates not less than 1,000 megawatt hours of electric energy for use by the person.

Local Control of Firearms; Concealed Handgun Permit [HB 1793](#) (Davis) would have provided that any local ordinance that prohibits the possession, carrying, or transportation of any firearms, ammunition, or components or combination thereof on specified public property would not apply to a person who had a valid concealed handgun permit.

Public School Assistance Fund and Program Created [SB 1106](#) (Stanley) would have created the Public School Assistance Fund and Program, to be administered by the Department of Education, for the purpose of providing grants to school boards to be used for the purposes of repairing or replacing the heating, ventilation, air conditioning, electrical, or plumbing systems or the roofs of public elementary and secondary school buildings in the local school division, including financing costs for such repairs and replacements. The bill would have permitted any school board in the Commonwealth to apply for Program grants but would have required the Department of Education to give priority in the award of grants to school boards that demonstrated the greatest need based on the condition of existing school building roofs and the ability to pay for the repair or replacement of such roofs.

Required Local Effort for Basic Aid; Debt Service on Projects in Certain School Divisions [HB 1924](#) (Kilgore) would have permitted any local school board that governed a school division in which the locality was designated as fiscally at-risk or fiscally distressed by the Appalachian Regional Commission in the most recent fiscal year or is determined to have above-average fiscal stress or high fiscal stress by the Virginia Commission on Local Government in its most recent "Report on Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia Counties and Cities" and for which the composite index of local ability to pay is less than or equal to 0.2000 to expend up to 25 percent of the required local effort for basic aid for debt service on school building capital renovation or construction projects.

School Construction Fund and Program [HB 2093](#) (O'Quinn) would have established the School Construction Fund as a special nonreverting fund in the state treasury and requires the Department of Education to establish the School Construction Program for the purpose of providing grants from the Fund, subject to certain conditions, to school boards that leverage federal, state, and local programs and resources to finance the design and construction of new school buildings and facilities or the modernization and maintenance of existing school buildings and facilities.

School Facility Modernization [SB 1109](#) (Stanley) would have provided for a statewide referendum on the question of whether the General Assembly would issue state general obligation bonds in the amount of \$3 billion for the purpose of K-12 school building construction, repair, or other capital projects related to the modernization of school facilities. The results would have been advisory only and intended only to demonstrate the preference of the citizens of the Commonwealth on the issuance of such bonds. The bill would have provided that the referendum be held at the November 2022 general election.

Virginia Public Procurement Act; Construction Contracts; Subcontractor Workforce Requirements [SB 1305](#) (McPike) would have required all public bodies in a locality with a population in excess of 25,000 and covered institutions, defined in the bill, to include in every construction contract of more than \$500,000 certain provisions related to the outsourcing of subcontracted work, which a contractor would agree to during the performance of such contract. Such provisions would have mandated that a contractor would only utilize subcontractors that certify in writing to the contract that they would outsource no more than 10 percent of the cost of the work subcontracted for, excluding the provision of materials, with specified exceptions.

Virginia Public Procurement Act; Contract Clause Requiring Subcontractor Reporting of Payments to Employees and Independent Contractors [HB 1741](#) (Campbell) would have required any contract awarded by a state agency or an agency of local government to require the contractor to include in each of its subcontracts a provision requiring the subcontractor to report to the contractor on a monthly basis payroll records for all of the subcontractor's employees; records of all payments made by the subcontractor to individuals classified as independent contractors; and the total number of individuals on the jobsite, including the number classified as employees and the number classified as independent contractors. The bill would have required the contractor to compile such information and submit it in a monthly report to the Department of Labor and Industry.

Virginia Public Procurement Act; Determination of Responsibility; Local Option to Include Criteria in Invitation to Bid [HB 1996](#) (Murphy) would have allowed localities to include in the Invitation to Bid criteria that may be used in determining whether any bidder, not just any bidder who is not prequalified by the Virginia Department of Transportation as under current law, is a responsible bidder.

Virginia Public Procurement Act; Local Arbitration Agreements [SB 1384](#) (Surovell) would have allowed a participating locality, for any procurement solicitation or contract exceeding \$10,000 for goods and nonprofessional services, to require the bidder or offeror to disclose certain information regarding pre-dispute arbitration clause, defined in the bill, in employment and civil rights disputes, and provide that a locality may consider the policies and practices related to arbitration of each bidder and offeror. The bill also would have provided that a participating locality shall require the bidder or offeror to provide written or electronic submissions to allow the locality to ascertain (i) whether the bidder or offeror requires persons with whom it is in a work relationship or prospective work relationship to sign or otherwise enter into a contract containing a pre-dispute arbitration clause that could require arbitration for an employment or civil rights dispute and (ii) whether the bidder or offeror requires end users, in carrying out the contract, to sign or otherwise enter into a contract containing a pre-dispute arbitration clause as a condition of downloading

a mobile application or using a website, if the subject of the contract is to allow such end user to use such mobile application or website to pay a school district for goods or services related to education. If the bidder or offeror does require such clauses, the bidder or offeror would have been required to provide additional information including a copy of its pre-dispute arbitration clauses and information arising out of employment or civil rights disputes for the past five years. The bill would not have applied to arbitration provisions in certain contracts, as identified in the bill. The bill would authorize a participating locality to cancel, terminate, or suspend, in whole or in part, the contract of any contractor that has violated a provision of the bill and to declare the contractor ineligible for further contracts with such locality for up to five years, if the contractor does not cure any such violation within 30 days of being notified.

Virginia Public Procurement Act; Purchase of Personal Protective Equipment [SB 1222](#) (DeSteph) would have required a state agency, whenever purchasing personal protective equipment (PPE) for public use, to purchase such PPE from a Virginia-based company or manufacturer or a manufacturer that uses materials made in the United States. The bill would have provided that if a state agency is unable to purchase PPE from such company or manufacturer, it may purchase from another company or manufacturer, pending the results of independent laboratory testing of the PPE.

Virginia Retirement System; Retired Law-Enforcement Officers Employed as School Security Officers [HB 2195](#) (Leftwich) and **[SB 1137](#)** (Cosgrove) would have provided that if a retired law-enforcement officer was employed by a local school division as a school security officer on January 1, 2020, and had a bona fide break in service of at least one month between retirement and employment as a school security officer, such person would not be required to establish a 12-month break in service that would otherwise be required by law.

CONDUCT AND DISCIPLINE - PASSED

Drug Control Act; Schedule I [SB 1464](#) (Newman) adds certain chemicals to Schedule I of the Drug Control Act. The Board of Pharmacy has added these substances to Schedule I in an expedited regulatory process. A substance added via this process is removed from the schedule after 18 months unless a general law is enacted adding the substance to the schedule.

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

FINANCE - PASSED

Apprenticeship Training Programs, Report [HB 1849](#) (Simonds) directs the Virginia Board of Workforce Development (the Board), the Department of Labor and Industry (DOLI), and the Department of General Services (DGS) to review the availability of registered apprenticeship programs in the Commonwealth and evaluate the capacity to build a program that requires contractors engaged in construction contracts with public bodies to participate in apprenticeship training programs for each trade or classification of employees engaged in the construction contract. The bill also requires the Board, DOLI, and DGS to evaluate whether a requirement to limit public procurements to bidders with registered apprenticeship programs will assist the construction industry in meeting its workforce needs. The bill permits the Board, DOLI, and DGS to convene a stakeholder advisory group as part of its review. *The bill requires the Board, DOLI, and DGS to complete its review and complete any advisory group meetings by September 1, 2021, and to submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations no later than December 1, 2021.*

Budget Bill [HB 1800](#) (Torian) the following provides a policy-focused summary of key Pre-K through 12 education related items included in the final Conference report for HB 1800, the biennial budget bill. *Note that [SB 1100](#) (Howell) was incorporated into HB 1800.*

- **Compensation** – provides in FY 2022 the state share of an up to a 5% salary increase for SOQ-recognized instructional and support staff, subject to provision of required local matching funds. To access funds school divisions have to provide at least a 2.0% salary increase over the biennium, and funding is prorated for school divisions providing increases between 2.0% and 5.0%.
- **Cost of Competing Adjustment (COCA)** – provides funding in FY 2022 to increase COCA rate for support positions in Northern Virginia from 10.6% to 18.0%. Partial COCA for outlying Northern Virginia localities will increase from 2.65% to 4.5%.
- **Additional School Counselors** – retains Governor’s proposed funding in FY 2022 to provide one counselor per 325 students as provided in 2020 legislation.
- **Additional Specialized Student Support Positions** – provides funding in FY 2022 requiring school divisions to provide three specialized support positions per 1,000 students as required by [SB 1257](#). These positions include school nurses, school social workers, school psychologists, and behavioral analysts.
- **Student Growth Assessments** – provides funds in FY 2022 from federal ESSER II funds to begin implementing a growth assessment system in fall 2021 as directed by HB 2027. These assessments replace grade 3-8 End-of-Year Standards of Learning assessments.
- **School Nurse Workgroup** – directs the Superintendent of Public Instruction to convene a workgroup to make recommendations to the General Assembly on the required qualifications and training for school personnel providing health services in schools.
- **Extended Special Education Eligibility** – includes funding in FY 2022 from ESSER II funds to require school divisions to permit certain special education students to attend high school for an additional year to aid with post-secondary transition impacted by school closures.
- **Plan for Monitoring School Division Compliance with State Standards** – directs the Department of Education to develop and implement a pilot program to more comprehensively supervise school division compliance with a subset of key standards by requiring (i) the submission of more comprehensive compliance information, (ii) selective independent verification of compliance, (iii) monitoring of corrective action implementation, and (iv) analysis of compliance trends and issues.
- **Learning Loss Supplemental Payments** – supports local efforts in FY 2021 to address COVID-19 learning loss with no local match required. Funding will be available for extended school year, summer school, tutoring, remediation and recovery, counseling and student supports, certain facility modifications. School divisions will be permitted to carryover funds from FY 2021 to FY 2022.
- **Prioritize VPI Flexible Funding for Four-Year-Old Children** – requires the Department of Education to prioritize serving at-risk four-year-old children when reallocating funds among components of the Virginia Preschool Initiative, such as the community provider add-on, and the at-risk three-year-old pilot program.
- **Publish Academic Year Governor's Schools Diversity Planning and Progress Information Online** – requires each Academic Year Governor's School to post their diversity goals and implementation plans, and related annual progress reports to their websites. In 2020, language was added to the Appropriation Act requiring Academic Year Governor's Schools to: (i) establish diversity goals for its student body and faculty; (ii) to develop a plan to meet such goals; and (iii) provide an annual progress report to the Governor including information about admissions processes, outreach and demographics; however, no requirement is included to make such information easily accessible to the public.

- **Expanded Child Care Subsidy Eligibility** – provides funds from federal CCDF funds to implement [HB 2206](#), which will temporarily expand family eligibility for child care subsidy program.
- **CTE Resource Center Database Replacement** – provides funds to replace Virginia's Career and Technical Education (CTE) curriculum database and content management system managed by the Virginia CTE Resource Center.
- **Remediation and Recovery Grants** – includes funding in FY 2022 from federal ESSER II state set-aside to support competitive grants to support innovative COVID-19 learning loss programs aligned with best practices.
- **Infrastructure & Operations Per Pupil Payments** – includes funding to increase these payments to meet the House's goal to distribute 40% of lottery proceeds through these funds.
- **JLARC Special Education Recommendations** – will include funding to support training modules for IEP team members, training modules for teachers on special education matters, and special education teacher recruitment and retention efforts.
- **Fully Restore 2020 Session Early Childhood Initiatives** – provides in the second year funding to increase Virginia Preschool Initiative per pupil amount from \$6,326 in FY 2021 to \$7,655 in FY 2022. Funding is provided in the second year to restore Early Childhood Educator Recruitment/Retention Incentives. Additionally, funding is provided to expand Virginia Kindergarten Readiness Assessment to Pre-K.
- **VRS Benefits** – retains Governor's funding for the final phase of the repayment of deferred contributions to the public-school teacher's retirement plan, covering both the state and school divisions' shares.
- *Note that the General Assembly adopted a Governor's amendment which extended the authority of the Superintendent of Public Instruction's authority to grant temporary flexibility or issue waivers of deadlines and requirements through the 21-22 school year.*

Federal Afterschool Meal Program Participation [HB 2135](#) (Roem) requires each school board that governs a local school division that has a student population that qualifies for free and reduced-price meals at a minimum percentage of 50 percent in the prior school year and simultaneously offers educational or enrichment activities and is consequently eligible to participate in the Afterschool Meal Program administered by the U.S. Department of Agriculture Food and Nutrition Service (FNS) Child and Adult Care Food Program to apply to the Department of Education to participate in the Afterschool Meal Program for each such school to subsequently and simultaneously serve federally reimbursable meals and offer an afterschool education or enrichment program, pursuant to FNS guidelines and state health and safety standards. The bill will require the Department of Education to administer the Afterschool Meal Program on behalf of the U.S. Department of Agriculture. The bill provides that the Superintendent of Public Instruction shall issue a waiver to this requirement upon determination that participation is not financially viable for a school or group of schools. The bill requires the Department of Education to develop a process and criteria for evaluating such waivers. *The bill will have a delayed effective date of July 1, 2022.*

School Meal Debt; Enforcement [HB 2013](#) (Roem) will require each school board to adopt a policy that prohibits the board from filing a lawsuit against a student or the student's parent because the student cannot pay for a meal at school or owes a school meal debt.

Virginia Public Procurement Act; Construction Contracts; Requirement to Submit List of Subcontractors [HB 2288](#) (Graves) requires bidders or offerors on contracts for construction of \$250,000 or more to submit along with their bid or proposal a list of all subcontractors, regardless of tier, that the bidder or offeror intends at the time of submitting the bid or proposal to use on the contract to perform work valued at \$50,000 or more, including labor and materials. The bill requires such list to include certain information about each contractor. The bill also requires the bidder or offeror to submit a statement declaring that the bidder or offeror has reviewed the qualifications and performance history of each subcontractor and found such qualifications and performance history to be sufficient to qualify the subcontractor to perform the subcontract work and a statement indicating that the bidder or offeror has received a written statement from each subcontractor verifying that such subcontractor has not defaulted on any projects within the last three years is not currently suspended or disbarred by any public body, and is not currently in bankruptcy. The bill allows the public body to disqualify any listed subcontractors but requires the public body to notify the bidder or offeror of such disqualification and allow the bidder or offeror reasonable time to find a qualified replacement. The bill provides that any bidder or offeror that does not submit the required list and statements may have its bid or proposal disqualified, and any bidder or offeror that is found to have knowingly provided false information pursuant to this section shall be debarred from contracting with any

public body for a period of up to one year. The bill requires compliance with its provisions for bids or offers on contracts for construction of \$250,000 or more with localities with a population in excess of 50,000, but provides that compliance is optional for bids or offers on contracts for construction of \$250,000 or more with any other locality. *The provisions of this bill will not become effective unless reenacted by the 2022 Session of the General Assembly.*

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FINANCE - FAILED

Public School Assistance Fund and Program Created [SB 1106](#) (Stanley) would have created the Public School Assistance Fund and Program, to be administered by the Department of Education, for the purpose of providing grants to school boards to be used for the purposes of repairing or replacing the heating, ventilation, air conditioning, electrical, or plumbing systems or the roofs of public elementary and secondary school buildings in the local school division, including financing costs for such repairs and replacements. The bill would have permitted any school board in the Commonwealth to apply for Program grants but would have required the Department of Education to give priority in the award of grants to school boards that demonstrate the greatest need based on the condition of existing school building roofs and the ability to pay for the repair or replacement of such roofs.

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Virginia Public Procurement Act; Local Arbitration Agreements [SB 1384](#) (Surovell) would have allowed a participating locality, for any procurement solicitation or contract exceeding \$10,000 for goods and nonprofessional services, to require the bidder or offeror to disclose certain information regarding pre-dispute arbitration clauses, defined in the bill, in employment and civil rights disputes, and provide that a locality may consider the policies and practices related to arbitration of each bidder and offeror. The bill also would have provided that a participating locality shall require the bidder or offeror to provide written or electronic submissions to allow the locality to ascertain (i) whether the bidder or offeror requires persons with whom it is in a work relationship or prospective work relationship to sign or otherwise enter into a contract containing a pre-dispute arbitration clause that could require arbitration for an employment or civil rights dispute and (ii) whether the bidder or offeror requires end users, in carrying out the contract, to sign or otherwise enter into a contract containing a pre-dispute arbitration clause as a condition of downloading a mobile application or using a website, if the subject of the contract is to allow such end user to use such mobile application or website to pay a school district for goods or services related to education. If the bidder or offeror does require such clauses, the bidder or offeror would have been required to provide additional information including a copy of its pre-dispute arbitration clauses and information arising out of employment or civil rights disputes for the past five years. The bill would not have applied to arbitration provisions in certain contracts, as identified in the bill. The bill would authorize a participating locality to cancel, terminate, or suspend, in whole or in part, the contract of any contractor that has violated a provision of the bill and to declare the contractor ineligible for further contracts with such locality for up to five years, if the contractor does not cure any such violation within 30 days of being notified.

Virginia Public Procurement Act; Purchase of Personal Protective Equipment [SB 1222](#) (DeSteph) would have required a state agency, whenever purchasing personal protective equipment (PPE) for public use, to purchase such PPE from a Virginia-based company or manufacturer or a manufacturer that uses materials made in the United States. The bill would have provided that if a state agency is unable to purchase PPE from such company or manufacturer, it may purchase from another company or manufacturer, pending the results of independent laboratory testing of the PPE.

INSTRUCTION AND STANDARDS OF LEARNING - PASSED

Computer Science Standards, Courses, and Pathways in Public Schools Comprehensive Review; Report [HB 1885](#) (Simonds) requires the Department of Education to perform a comprehensive review of the ongoing implementation of mandatory computer science standards in elementary schools and middle schools and the alignment of middle school and high school computer science courses and course pathways. The bill s such review to include recommendations for implementation processes at the local level, profiles of implementation processes that have been successful for school divisions, a description of opportunities for enhanced collaboration with relevant computer science stakeholders to expand computer science education opportunities for all students in the Commonwealth and for relevant professional development for teachers, and examining methods of data collection annually from local school divisions pertaining to computer science implementation. The bill requires the Department of Education to prepare a report on its comprehensive review and provide such report to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health, the Secretary of Education, and the Superintendent of Public Instruction no later than November 1, 2021.

Early Childhood Education; Quality Rating and Improvement System Participation; School Readiness Committee [HB 2105](#) (Bulova) delays until the 2022 - 2023 school year the requirement for all publicly funded early childhood education providers to participate in a quality rating and improvement system to be established by the Board of Education by July 1, 2021. The bill also delays from the fall of 2023 to the fall of 2024 the publication of initial quality ratings for such providers. The bill also reinstates the School Readiness Committee and alter the composition and scope of the work of the School Readiness Committee.

Economic Education and Financial Literacy Required in Middle and High School Grades; Employment Arrangements [HB 1905](#) (Cole, J.G.) adds to objectives developed and approved by the Board of Education for economics education and financial literacy at the middle and high school levels the implications of various employment arrangements regarding benefits, protections, and long-term financial

sustainability. Employment arrangements are defined in the bill as full-time employment, part-time employment, independent contract work, gig work, piece work, contingent work, day labor work, freelance work, and 1099 work.

Health Standards of Learning; Advanced Directive Education [SB 1190](#) (Kiggans) directs the Board of Education to include advanced directive education in its curriculum framework for the Health Standards of Learning for high school students.

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

Learner's Permits; use of personal communications device [SB 1335](#) (Stuart) eliminates the stand alone provision prohibiting a holder of a learner's permit to operate a vehicle while using a wireless telecommunications device as the provision was specific only to the holder of a learner's permit. Under a different current law, all drivers, including those with a learner's permit, are prohibited from holding a personal communications device while operating a vehicle.

Student Driver Education Program; Parent Participation Exemption [HB 2119](#) (Keam) exempts students who are at least 18 years old, emancipated minors, or unaccompanied minors who are not in the physical custody of their parent or guardian from the requirement to participate in the parent/student component of a school's driver education program as required in Planning District 8 and authorized elsewhere in the Commonwealth.

Student Driver Safety [HB 1918](#) (Mugler) and **[SB 1169](#)** (Norment) require (i) driver education programs to include instruction on the dangers of distracted driving and speeding and (ii) a student to submit a standard application form developed by the Department of Education by which the student provides evidence that he possesses a valid driver's license or driver privilege card before being issued a pass to park a vehicle on high school property.

Virginia STEM Education Advisory Board; Established; Report [HB 2058](#) (Simonds) creates the Virginia Science, Technology, Engineering, and Mathematics (STEM) Advisory Board to create a unified vision regarding STEM education initiatives, language, and measures of success to promote a culture of collaboration for STEM programming in the Commonwealth. The Board will be tasked with developing the infrastructure for creating STEM Regional Hubs and naming STEM Champions in communities across the Commonwealth. Additionally, the Board will report annually to the Governor and the General Assembly on STEM challenges, goals, and successes across the Commonwealth.

Workforce Development Data Sharing [HB 1876](#) (Subramanyam) expands the type of workforce development data that state agencies may share with the Virginia Workforce System to support workforce program evaluation and policy analysis. The bill removes the requirement that all personal identifying information be removed before being shared among other state agencies and with the Workforce Development System and instead requires the identifying attribute information necessary to match entities across programs, support the coordination of services, and evaluate outcomes to be shared among agencies that enter into the memorandum of understanding supporting the Virginia Workforce Data Trust.

INSTRUCTION AND STANDARDS OF LEARNING - FAILED

Apprenticeship training programs; DOLI to study the future need for programs [HJ 529](#) (Simonds) would have requested the Department of Labor and Industry to study the need for apprenticeship training

programs in Virginia, including (i) the future workforce needs of the construction industry; (ii) the economic impacts of a lack of highly skilled, well-trained craft personnel; (iii) construction industry workforce needs in the Commonwealth in response to potential large-scale investments in infrastructure by the federal government; (iv) what role apprenticeship programs will play in the development and acceleration of new industries, such as renewable energy; (v) whether the expansion of apprenticeships would contribute to greater diversity in construction workforce participation from women and people of color; and (vi) how expanding apprenticeship training programs would affect job security and workplace safety in the Commonwealth. In addition, the Department would have been requested to undertake an in-depth study of best practices used by state governments and convene a stakeholder advisory group to discuss expansion of critically needed apprenticeship training programs in the Commonwealth's construction industry.

Family Life Education Curriculum Guidelines; Human Reproduction; Viewing of Ultrasound Video Recording [HB 2244](#) (LaRock) would have required the instruction on human reproduction contained in the Board of Education's family life education curriculum guidelines to include the viewing of a video recording of an ultrasound of a live unborn human in the uterus.

Pandemic Remediation Task Force Established [HB 2184](#) (Wilt) would have established the 22-member Pandemic Remediation Task Force (the task force) as an advisory task force in the executive branch of state government, to be administered by the Department of Education, for the purpose of making recommendations on strategies for improving public education in the Commonwealth in response to the COVID-19 pandemic that can be implemented in each region and local school division in order to achieve a measure of uniformity in such improvements across the Commonwealth.

INSTRUCTIONAL TECHNOLOGY - PASSED

Broadband Capacity Pilot Program [HB 1923](#) (Ayala) and **[SB 1334](#)** (Edwards) expands an existing pilot program under which Dominion Energy and Appalachian Power are authorized to provide or make available broadband capacity to Internet service providers in areas of the Commonwealth that are unserved by broadband to include municipal Internet service providers. The current program is restricted to nongovernmental Internet service providers.

Broadband Capacity by Phase I or Phase II Electric Utilities [HB 2304](#) (Tyler) and **[SB 1413](#)** (Boysko) make permanent the pilot program under which a Phase I or Phase II electric utility is permitted to petition the State Corporation Commission to provide broadband capacity to unserved areas of the Commonwealth and consolidate the petition approval process into a single hearing. The bills expand the program to allow for the participation of municipalities and government-owned broadband authorities. The bills also provide that investor-owned electric utilities may recover costs of and revenue generated from providing broadband capacity that serves as an electric grid transformation project in areas unserved by broadband, as defined in the bills.

Broadband Services, Expansion of Services [SB 1225](#) (Boysko) authorizes school boards to appropriate funds for the purposes of promoting, facilitating, and encouraging the expansion and operation of broadband services for educational purposes. The bill authorizes school boards to partner with private broadband service providers to promote, implement, and subsidize broadband for educational purposes to the households of students who will qualify for a child nutrition program or any other program recognized or adopted by the local school board as a measuring standard to identify at-risk students.

Consumer Data Protection Act [HB 2307](#) (Hayes) and **[SB 1392](#)** (Marsden) establish a framework for controlling and processing personal data in the Commonwealth. The bills apply to all persons that conduct business in the Commonwealth and either (i) control or process personal data of at least 100,000 consumers or (ii) derive over 50 percent of gross revenue from the sale of personal data and control or process personal data of at least 25,000 consumers. The bills outline responsibilities and privacy protection standards for data controllers and processors. The bills do not apply to state or local governmental entities and contains exceptions for certain types of data and information governed by federal law. The bills grant consumer rights to access, correct, delete, obtain a copy of personal data, and to opt out of the processing of personal data for the purposes of targeted advertising. The bill provides that the Attorney General has

exclusive authority to enforce violations of the law, and the Consumer Privacy Fund is created to support this effort. The bills will direct the Joint Commission on Technology and Science to establish a work group to review the provisions of this act and issues related to its implementation, and to report on its findings by November 1, 2021. The bills will not be effective until January 1, 2023.

Data Governance; Office of Data Governance and Analytics; Chief Data Officer; Virginia Data Commission; Report [SB 1365](#) (Barker) creates the Office of Data Governance (the Office) in the Office of the Secretary of Administration, to be directed by the existing Chief Data Officer of the Commonwealth. The Office will be charged with overseeing general data governance in the Commonwealth, as well as developing and managing the Commonwealth Data Trust, a multi-stakeholder data exchange and analytics platform. A multi-level governance structure will be established to govern the Trust. The bill also establishes the advisory Virginia Data Commission to advise the Office on issues relating to data sharing.

Workforce Development Data Sharing [HB 1876](#) (Subramanyam) expands the type of workforce development data that state agencies may share with the Virginia Workforce System to support workforce program evaluation and policy analysis. The bill removes the requirement that all personal identifying information be removed before being shared among other state agencies and with the Workforce Development System and instead requires the identifying attribute information necessary to match entities across programs, support the coordination of services, and evaluate outcomes to be shared among agencies that enter into the memorandum of understanding supporting the Virginia Workforce Data Trust.

INSTRUCTIONAL TECHNOLOGY - FAILED

Public Schools; Mandatory Virtual Learning; Provision of Required Technology and Internet Service; Emergency [SB 1434](#) (Chase) would have provided that if a school board requires students to engage in virtual learning for any reason, whether full time or part time, and a computer and Internet service to connect to the curriculum is required, the school board must provide appropriate technology devices to every student enrolled in the school system so they may access the learning platform. The bill would have required school boards to provide adequate Internet service to a student's household at no cost if the student's household income is below 125 percent of the federal poverty guidelines. The bill would have contained an emergency clause.

Virginia Digital Equity Pilot Program and Fund [SB 1462](#) (Mason) would have required the Department of Social Services to establish a pilot program to provide a fixed reimbursement for the costs of broadband services to households currently participating in the Supplemental Nutrition Assistance Program. The bill would have had an expiration date of July 1, 2024.

PERSONNEL - PASSED

Abusive Work Environments; Definitions [HB 2176](#) (Torian) defines, for the purposes of mandatory school board policies relating to abusive work environments, the terms "abusive conduct," "abusive work environment," "physical harm," and "psychological harm." The bill clarify that the requirement to adopt such policies shall not be construed to limit a school board's authority to adopt policies to prohibit any other type of workplace conduct as the school board deems necessary.

Active Military or a Military Spouse; Prohibits Discrimination in Public Accommodations, etc. [HB 2161](#) (Tran) and **[SB 1410](#)** (Bell, J.J.) prohibits discrimination in public accommodations, employment, and housing on the basis of a person's military status, defined as a member of the uniformed services of the United States or a reserve component thereof or a spouse or other dependent of the same. The bills also prohibits terms in a rental agreement in which the tenant agrees to waive remedies or rights under the federal Servicemembers Civil Relief Act prior to the occurrence of a dispute between the landlord and the tenant.

Child Care Assistance Program; Emergency [HB 2206](#) (Filler-Corn) provides that regulations governing the Child Care Subsidy Program (the Program) be amended to provide that (i) a family will be eligible for assistance through the Program if the family's income does not exceed 85 percent of the state median income, the family includes at least one child who is five years of age or younger and has not yet started kindergarten, and the family meets all other income and eligibility requirements of the Program and (ii) job search activities shall be considered eligible activities for the purposes of the Program. The bill provides that a family determined to be eligible for assistance through the Program shall be eligible to receive assistance for a period of 12 months or until the family's household income exceeds 85 percent of the state median income, whichever occurs sooner. The Department of Social Services will administer the program, as amended by the bill, in cooperation with the Department of Education. *The bill contains an emergency clause and will provide that the provisions of the bill shall be applicable to applications for assistance through the Program received prior to August 1, 2021.*

Child Care Providers; Background Checks; Portability [HB 2086](#) (McGuire) and **[SB 1316](#)** (McClellan) exempt prospective employees and volunteers of certain child care providers from statutory background check requirements where the individual completed a background check within the previous five years, provided that (i) such background check was conducted after July 1, 2017; (ii) the results of such background check indicated that the individual had not been convicted of any barrier crime and was not the subject of a founded complaint of child abuse or neglect; and (iii) the individual is an employee or volunteer of a child care provider that is subject to background check requirements or has been separated from such employment or volunteer position for not more than 180 days. The bills require such child care providers, prior to hiring or allowing to volunteer any individual without the completion of a background check, to obtain written certification that such individual satisfies all such requirements and is eligible to serve as an employee or volunteer. The bills also direct the Department of Education (the Department) to establish a two-year pilot program for the purpose of stabilizing and improving the quality of services provided in the Commonwealth's childcare industry. The bills provide that under the pilot program a fixed sum of funds, based on the number of children served and certain other factors, will be disbursed to participating child care providers who agree to meet higher standards of quality and care, as determined by the Department. The bills require the Department to report to the Governor and the General Assembly no later than December 1 of each year of the pilot program certain information set forth in the bill. The bill also requires the Department, in collaboration with the School Readiness Committee, to (a) identify and analyze financing strategies that can be used to support the systemic costs of high-quality child care services, ensure equitable compensation for child care staff, and better prepare children for kindergarten and (b) analyze the effectiveness of using a cost-of-quality modeling system for the child care subsidy program. The bills require the Department to report its findings to the Governor and the General Assembly no later than December 1, 2021.

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

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

Garnishment of Wages; Protected Portion of Disposable Earnings [HB 1814](#) (Krizek) provides that the Virginia minimum hourly wage shall be used to calculate the amount of a person's aggregate disposable earnings protected from garnishment if it is greater than the federal minimum hourly wage.

Personal Protective Equipment, Employee Classification: Disaster; [HB 2134](#) (Batten) prohibits the consideration, in any determination regarding whether an individual is an employee or independent contractor, for the purposes of a civil action for employment misclassification, unemployment compensation, and workers' compensation, of the provision of personal protective equipment by a hiring party to the individual in response to a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared.

Personal Protective Equipment, Sales Tax Exemption [HB 2185](#) (Byron) and [SB 1403](#) (Pillon) establishes a retail sales and use tax exemption for personal protective equipment, defined in the bill. The exemption will be available to any business that has in place a COVID-19 safety protocol that complies with the Emergency Temporary Standard promulgated by the Virginia Department of Labor and Industry and that meets other criteria. The exemption will sunset one day after the first day following the expiration of the last executive order issued by the Governor related to the COVID-19 pandemic and the termination of the COVID-19 Emergency Temporary Standard and any permanent COVID-19 regulations adopted by the Virginia Safety and Health Codes Board. *The bills contain an emergency clause.*

Seizure Management and Action Plans; Biennial Training [SB 1322](#) (DeSteph) provides for the submission and utilization of seizure management and action plans for students with a diagnosed seizure disorder. The bill requires that school nurses and certain school division employees biennially complete Board of Education-approved training in the treatment of students with seizure disorders. The bill provides immunity from civil liability for acts or omissions related to providing for the care of a student under a seizure management and action plan. *The bill will have a delayed effective date of July 1, 2022.*

Temporary Extension of Certain Licenses [HB 1776](#) (Ward) requires the Board of Education to grant a two-year extension of the license of any individual licensed by the Board whose license expires on June 30, 2021, in order to provide the individual with sufficient additional time to complete the requirements for licensure.

Virginia Human Rights Acts; Discrimination on the Basis of Disability [HB 1848](#) (Sickles) adds discrimination on the basis of disability as an unlawful discriminatory practice under the Virginia Human Rights Act. The bill also requires employers, defined in the bill, to make reasonable accommodation to the known physical and mental impairments of an otherwise qualified person with a disability, if necessary, to assist such person in performing a particular job, unless the employer can demonstrate that the accommodation will impose an undue hardship on the employer. The bill also prohibits employers from taking any adverse action against an employee who requests or uses a reasonable accommodation, from denying employment or promotion opportunities to an otherwise qualified applicant or employee because such employer will be required to make reasonable accommodation to the applicant or employee, or from requiring an employee to take leave if another reasonable accommodation can be provided to the known limitations related to the disability.

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

PERSONNEL - FAILED

Collective Bargaining; Prohibited Considerations During Negotiations [HB 1794](#) (Davis) would have prohibited any local ordinance or resolution granting or permitting collective bargaining from permitting consideration during collective bargaining negotiations of any action or discussion regarding the hiring, firing, or disciplining of a local employee. All such actions and discussions would have been exempt from all collective bargaining negotiations.

Employment Health and Safety Standards; Heat Illness Prevention [HB 1785](#) (Ward) and [SB 1358](#) (Hashmi) would have required the Safety and Health Codes Board to adopt regulations establishing standards designed to protect employees from heat illness, defined in the bill. The measures would have authorized an employee to bring an action based on a violation of such standards in which injunctive relief and monetary damages may be sought.

Employment; Retaliatory Discharge of Employee; Workers' Compensation [HB 1754](#) (Carter) would have prohibited an employer or other person from discharging or taking other retaliatory action against an employee if such action is motivated by the knowledge or belief that the employee has filed a claim or taken or intends to take certain actions under the Virginia Workers' Compensation Act. Currently, retaliatory discharges are prohibited only if the employer discharges an employee solely because the employee has taken or intends to take such an action.

Government Data Collection and Dissemination Practices Act; Exemptions; Email Addresses of Licensed Professionals [SB 1349](#) (Newman) would have modified current law to provide that electronic mail addresses of persons applying for or possessing a license to engage in the practice of any profession in the Commonwealth may also be disseminated, in addition to such person's name and address, by the agency maintaining such information.

Immunity From Civil Claims Related to the Transmission of or Exposure to the COVID-19 Virus and Uses of Personal Protective Equipment; Emergency [HB 2143](#) (Miyares) would have provided immunity to persons, as defined in the bill, from civil causes of action arising from any act or omission alleged to have resulted in the contraction of or exposure to the COVID-19 virus, provided such person has complied with applicable federal, state, and local policies, procedures, and guidance regarding COVID-19. The bill would have further provided immunity to persons who design, manufacture, label, or distribute any personal protective equipment in response to the COVID-19 virus from any civil cause of action arising out of the use of such equipment.

Minimum Wage; Effective Dates of Scheduled Increases; Emergency [HB 2270](#) (Marshall) would have postponed the effective date of scheduled increases to the Virginia minimum wage. The initial increase to \$9.50, currently set to take effect on May 1, 2021, will take effect on January 1, 2022, under the bill. The bill postpones the effective dates of all other scheduled increases by one year. The bill would have also postponed by one year a joint review of the feasibility and potential impact of instituting a regional minimum wage in the Commonwealth by the Virginia Department of Housing and Community Development, the Virginia Economic Development Partnership Authority, and the Virginia Employment Commission and the deadline by which the General Assembly is required to reenact the provisions increasing the minimum wage to \$13.50 and \$15.00 in order for those increases to take effect. The bill would have contained an emergency clause.

Paid Family and Medical Leave Program [HB 2016](#) (Ayala) and [SB 1330](#) (Boysko) would have required the Virginia Employment Commission to establish and administer a paid family and medical leave program with benefits beginning January 1, 2024. Under the program, benefits would have been paid to eligible employees for family and medical leave. The bill would have provided self-employed individuals the option of participating in the program.

Paid Sick Time [HB 2103](#) (Reid) would have required public and private employers with 35 or more full-time equivalent employees to provide eligible employees, defined in the bill, with earned paid sick time and paid sick time. The bill would have provided for an eligible employee to earn up to 40 hours of earned paid sick time depending on the amount of hours the eligible employee has averaged over the previous year or, for a new employee, is projected to work. An eligible employee would not have earned or used more than 40 hours of earned paid sick time in a year, unless the employer selects a higher limit. The bill would have provided that earned paid sick time may be used for an eligible employee's mental or physical illness, injury, or health condition; an eligible employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an eligible employee's need for preventive medical care; or to provide care to an eligible employee's family member, defined in the bill, under similar circumstances.

Public Employees; Prohibition on Striking; Exception [HB 1780](#) (Carter) would have exempted employees of a local school board from the prohibition on striking, and from termination of employment for striking, by public employees.

Right to Work [HB 1755](#) (Carter) would have repealed the provisions of the Code of Virginia that, among other things, prohibit any agreement or combination between an employer and a labor union or labor organization whereby nonmembers of the union or organization are denied the right to work for the employer, membership in the union or organization is made a condition of employment or continuation of employment by such employer, or the union or organization acquires an employment monopoly in any such enterprise.

Sick Leave for the Care of Immediate Family Members [SB 1159](#) (Favola) would have required employers with a sick leave program to allow an employee to use his sick leave for the care of an immediate family member. The measure would have applied only to employers that have 25 or more employees and that provide paid sick leave that allows an employee to be absent from work in the event of the employee's own incapacity, illness, or injury. The measure would have applied only to employees who work at least 30 hours per week, and it caps the amount of sick leave that may be used for the care of immediate family members at five days per calendar year.

Teacher Compensation at or Above National Average [HB 1915](#) (Mugler) would have required that public school teachers be compensated at a rate that is at or above the national average. The bill would have required state funding to be provided pursuant to the general appropriation act in a sum sufficient to fund a 4.5 percent annual increase for public school teacher salaries, effective from the 2022-23 school year through the 2026-27 school year. The bill would have had a delayed effective date of July 1, 2022.

Virginia Equal Pay Act; Civil Penalties [SB 1228](#) (Boysko) would have prohibited public and private employers from discriminating between employees on the basis of membership in a protected class in the payment of wages or other compensation, including benefits, by paying wages or other compensation to employees who are members of a protected class at a rate less than the rate at which it pays wages or other compensation to employees who are not members of the protected class for substantially similar work. The measure would have also prohibited an employer from discriminating between employees by providing less favorable employment opportunities on the basis of membership in a protected class, limiting an employee's right to discuss wages, relying on the wage history of a prospective employee in considering the prospective employee for employment or determining the wages that the prospective employee is to be paid by the employer upon hire, or taking certain retaliatory actions against an employee.

Virginia Human Rights Act; Nondiscrimination in Employment; Sexual Harassment and Workplace Harassment [HB 2155](#) (Watts) and **[SB 1360](#)** (McClellan) would have clarified, by defining sexual harassment and workplace harassment, what constitutes an unlawful employment practice if engaged in by an employer. The bill would have also provided a nonexhaustive list of factors to consider when determining whether certain conduct constitutes workplace harassment, that a person claiming to be aggrieved by an unlawful discriminatory practice may file a written complaint with the Division of Human Rights within two years after the occurrence of the alleged unlawful discriminatory practice, and that an aggrieved person who has been provided a notice of his right to file a civil action for such grievance may do so within one year of receiving such notice and may be awarded reasonable attorney fees, including costs and reasonable litigation expenses if the court or jury finds in his favor. The bill would have also amended the definition of "employer" to mean a person employing five or more employees, instead of 15 or more employees under current law, for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person.

Worker Classification; Independent Contractors [HB 2296](#) (Robinson) would have provided that in a proceeding involving allegations of worker misclassification an individual or business is not considered an employee with respect to a hiring party if the person qualifies as an independent contractor relative to the hiring party under the common law right-of-control test as established by the Internal Revenue Service Revenue Ruling 87-41, by an applicable determination of the Internal Revenue Service, or if the individual or business signs a written contract with the hiring party stating that the individual or business is self-employed or is being engaged as an independent contractor and containing certain acknowledgments, the individual or business has the right to control the manner and means by which the final result of the work is

to be accomplished, and four or more additional criteria provided for in the bill are satisfied. The bill would have also provided that a hiring party alleging that a worker misclassification claim is frivolous or improper may file a motion to dismiss such claim. The bill would have provided that a contract or written agreement expressly stating that a claimant is not considered an employee is considered as prima facie evidence of a violation of frivolous pleading provisions.

Workers' Compensation; Injuries Caused by Repetitive and Sustained Physical Stressors [HB 2228](#) (Guzman) would have provided that, for the purposes of the Virginia Workers' Compensation Act, "occupational disease" includes injuries from conditions resulting from repetitive and sustained physical stressors, including repetitive and sustained motions, exertions, posture stress, contact stresses, vibration, or noise. The bill would have provided that such injuries are covered under the Act. Such coverage would not have required that the injuries occurred over a particular period, provided that such a period can be reasonably identified and documented and further provided that the employment is shown to have primarily caused the injury, considering all causes.

RETIREMENT AND INSURANCE - PASSED

Essential Health Benefits; Abortion Coverage [HB 1896](#) (Hudson) and **[SB 1276](#)** (McClellan) remove the prohibition on the provision of coverage for abortions in any qualified health insurance plan that is sold or offered for sale through a health benefits exchange established or operating in Virginia.

Health Insurance; Authorization of Drug Prescribed for the Treatment of a Mental Disorder [HB 2008](#) (Heretick) and **[SB 1269](#)** (McPike) requires that any provider contract between a carrier and a participating health care provider with prescriptive authority, or its contracting agent, contain provisions that require, when a carrier has previously approved prior authorization for any drug prescribed for the treatment of a mental disorder listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, no additional prior authorization can be required if (i) the drug is a covered benefit; (ii) the prescription does not exceed the U.S. Food and Drug Administration-labeled dosages; (iii) the prescription has been continuously issued for no fewer than three months; and (iv) the prescriber performs an annual review of the patient to evaluate the drug's continued efficacy, changes in the patient's health status, and potential contraindications. The bills provide that this requirement does not prohibit a carrier from requiring prior authorization for any drug that is not listed on its prescription drug formulary at the time the initial prescription is issued. The bills also requires that such provider contracts contain provisions requiring a carrier to honor a prior authorization issued by the carrier for a drug regardless if the drug is removed from the carrier's prescription drug formulary after the initial prescription for that drug is issued. Under the bills, provisions related to provider contracts and prior authorization will apply to the state insurance health plan.

Health Insurance; Provider Contracts [SB 1289](#) (Surovell) requires that each provider contract include a provision prohibiting a provider from discriminating against any enrollee solely due to the enrollee's status as a litigant in pending litigation or a potential litigant due to being involved in a motor vehicle accident. The bill provides that the State Corporation Commission, if it has cause to believe that a provider has engaged in a pattern of such discrimination, may submit information to the Board of Medicine or the Commissioner of Health for action.

Prescription Drug Price Transparency [HB 2007](#) (Sickles) directs the Department of Health to enter into a contract or an agreement with a nonprofit data services organization to collect, compile, and make available on its website information about prescription drug pricing and requires every health carrier, pharmacy benefits manager, and drug manufacturer to report information about prescription drug prices to the nonprofit data services organization with which the Department of Health has entered into a contract for such purpose. The bill provides that in any case in which the Department determines that the data reported by health carriers, pharmacy benefit managers, and drug manufacturers is insufficient, the Department may require wholesale distributors to report certain data about prescription drug costs. *The bill will not become effective until January 1, 2022.*

Unemployment Compensation; Failure to Respond; Continuation of Benefits; Repayment of Overpayments [HB 2040](#) (Hudson) provides that if a claimant has had a determination of initial eligibility for benefits under this chapter, as evidenced by the issuance of compensation or waiting-week credit, payments shall continue, subject to a presumption of continued eligibility and in accordance with the terms of this subsection, until a determination is made that provides the claimant notice and an opportunity to be heard. When a question concerning continued eligibility for benefits arises, a determination will be made as to whether it affects future weeks of benefits or only past weeks. With respect to future weeks, presumptive payment will not be made until but no later than the end of the week following the week in which such issue arises, regardless of the type of issue. With respect to past weeks, presumptive payment will be issued immediately, regardless of the type of issue. Notice will be given to individuals who receive payments under such presumption that pending eligibility may affect their entitlement to the payment and may result in an overpayment that requires repayment. *NOTE the General Assembly adopted Governor's amendments which eliminate the provision that would have limited the scope of the legislation to unpaid balances as of July 1.*

The Commission waives the requirement to repay the overpayment, after an individual case review, if (i) the overpayment was made without fault on the part of the individual and (ii) requiring repayment will be contrary to equity and good conscience. An overpayment made "without fault on the part of the individual" will include overpayments that (i) result from administrative error; (ii) are the result of inducement, solicitation, or coercion on the part of the employer; or (iii) result from the employer's failure to respond timely or adequately to the Commission's request for information, as required by § 60.2-528.1. An overpayment will not be considered "without fault on the part of the individual" if such overpayment was the result of (a) a reversal in the appeals process, unless the employer failed to respond timely or adequately to the Commission's request for information regarding the individual's separation from employment: (b) a programming, technological, or automated system error not directly associated with an individual claim that results in erroneous payments to a group of individuals: or (c) fraud. It will be contrary to equity and good conscience if requiring repayment of an overpayment will deprive the individual of the income required to provide for basic necessities, including shelter, food, medicine, childcare, or any other essential living expenses. Overpayments where the obligation to repay has not been waived will be collectible by civil action in the name of the Commission. No determination with respect to benefit overpayments will be issued until after a determination or decision that finds a claimant ineligible or disqualified for benefits previously paid has become final.

The Commission will notify each person with an unpaid overpayment of benefits established for claim weeks paid commencing March 15, 2020, under Chapter 6 (§ 60.2-600 et seq.) of Title 60.2 of the Code of Virginia, or under an unemployment benefit program of the United States or any other state, that such individual may be entitled to a waiver of obligation to repay such overpayment and shall provide 30 days from the date of such notification for the individual to request a waiver of repayment. For good cause shown, the Commission may extend the 30-day period for requesting a waiver. The Commission will conduct an individualized review and adjudicate any request received in accordance with the provisions of § 60.2-619 of the Code of Virginia, as amended by this act, and any individual who is denied a waiver shall have the right to appeal as provided in subsection D of § 60.2-619 of the Code of Virginia, as amended by the bill. In ruling on any waiver request, the Commission will apply the provisions of Title 60.2 or, if applicable, the overpayment waiver provisions of any unemployment compensation program of the United States.

The provisions of the bill that allow the waiver of any obligation to repay overpayments established for the week commencing March 15, 2020, through the week commencing June 26, 2021, will apply only to overpayment balances that remain outstanding as of July 1, 2021. Amounts already paid or collected against such overpayments shall not be reimbursed to the claimant, except for benefits paid under the Pandemic Unemployment Assistance program.

Notwithstanding any provision to the contrary, the Commission will be able to suspend or forgo referring any overpayment established since March 15, 2020, to the collections process established under § 2.2-4806 of the Code of Virginia. However, the authority to suspend or forgo such referrals would expire on July 1, 2022.

The fifth enactment clause of the bill would provide, "That all costs to the Unemployment Compensation Fund (the Fund) resulting from the provisions of this act for overpayments of benefits under Chapter 6 (§ 60.2-600 et seq.) of Title 142 60.2 of the Code of Virginia would be reimbursed to the Fund from the general

fund in the general appropriation act. For an overpayment waived pursuant to this act, no employer would be responsible for (i) reimbursing benefits or (ii) benefits charges, except as provided in § 60.2-528.1 145 of the Code of Virginia.” *The provisions of the bill would expire on July 1, 2022.*

Virginia Retirement System; Technical Amendments [HB 2181](#) (Mundon-King) and **[SB 1251](#)** (Newman) make technical amendments to provisions of the Code of Virginia relating to the Virginia Retirement System to reflect recent changes to federal law and conform terminology to federal law, including changing the required minimum distribution provisions to reflect recent changes in federal law, and conforming terminology related to disability retirement benefits.

Workers' Compensation; Claims Not Barred [SB 1351](#) (Lewis) provides that an order issued by the Workers' Compensation Commission awarding or denying benefits shall not bar by res judicata any claim by an employee or cause a waiver, abandonment, or dismissal of any claim by an employee if the order does not expressly adjudicate such claim.

RETIREMENT AND INSURANCE – FAILED

Health Insurance; Cost-Sharing Payments for Prescription Asthma Inhalers [HB 1822](#) (Askew) would have prohibited health insurance companies and other carriers from setting an amount exceeding \$50 per 30-day supply of a tier one or tier two prescription asthma inhaler that a covered person is required to pay at the point of sale in order to receive a covered prescription asthma inhaler unless the carrier is prohibited from providing the additional benefits under state or federal law. The measure also would have prohibited a provider contract between a carrier or its pharmacy benefits manager and a pharmacy from containing a provision authorizing the carrier's pharmacy benefits manager or the pharmacy to charge, requiring the pharmacy to collect, or requiring a covered person to make a cost-sharing payment for a covered prescription asthma inhaler in an amount that exceeds such limitation. The provisions would have applied with respect to health plans and provider contracts entered into, amended, extended, or renewed on or after January 1, 2022.

Health Insurance; Provider Contracts [HB 2021](#) (Gooditis) would have prohibited a carrier from unilaterally amending any material provision of a provider contract or adding any new material provision to any provider contract within 12 months of execution of the provider contract or the date of last amendment to the provider contract. The measure would have required such an amendment to be agreed to by the provider in a signed written amendment to the provider contract. The measure would have also required that carriers supply fee schedules in writing, make fee schedules available in machine-readable electronic format, and provide the complete fee schedule applicable to the provider for each health plan in which the provider participates or is proposed to participate. The measure would have required that amendments to a provider contract be presented in a manner so as to allow the provider to easily identify the specific terms being proposed for amendment and that proposed amendments be formatted to clearly identify the changes to the language of the agreement. **[HB 2274](#)** (Webert) would have required that each provider contract include provisions requiring providers to provide health care services to enrollees in a manner similar to and within the same time availability in which the provider provides health care services to any other individual and prohibiting a provider from discriminating against any enrollee as a result of the enrollee's enrollment in a health plan or on the basis of the enrollee's race, color, creed, national origin, ancestry, religion, sex, marital status, age, disability, payment source, state of health, need for health care services, status as a litigant except in cases where the enrollee claims medical malpractice by the provider, status as a Medicare enrollee, status as a medical assistance recipient, sexual orientation, or gender identity, or on any other basis prohibited by law. The bill would have prohibited a provider contract from requiring a provider to provide any type or kind of health care service to enrollees that it does not customarily provide to others. The bill would have provided that a provider that violates the anti-discrimination provisions may be subject to fines and other discipline from the provider's licensing authority and an enrollee injured as result of any discrimination is entitled initiate a civil action against the provider.

Insurance Coverage for Infertility Treatment and Fertility Preservation; Study and Report [HJ 545](#) (Helmer) would have directed the Health Insurance Reform Commission to study mandating insurance coverage for infertility treatment including in vitro fertilization and standard fertility preservation procedures

that are medically necessary to preserve the fertility of a covered individual due to the covered individual receiving cancer treatment that may directly or indirectly cause iatrogenic infertility.

Pharmaceutical distribution payment system study [HJ 560](#) (Guzman) would have requested the Secretary of Health and Human Resources to convene a work group to examine the pharmaceutical distribution payment system in the Commonwealth and innovative solutions to address the cost of prescription drugs to Virginians at the point of sale.

Unemployment Compensation; Benefits; Suitable Work; Benefits Charges [HB 2037](#) (Tran) would have provided that, under specific conditions related to the COVID-19 virus, work will not be deemed suitable and benefits will not be denied to any otherwise eligible individual for refusing to accept new work if the individual presents satisfactory evidence that such individual has tested positive for COVID-19, has been otherwise directed by a physician to quarantine due to COVID-19, or is providing care for an immediate family member who has tested positive for COVID-19; or the individual has a reasonable belief, based on satisfactory evidence, that the workplace is unsafe because it does not meet governmental-mandated COVID-19 health and safety standards for the workplace, including standards issued by the U.S. Occupational Safety and Health Administration, the Department of Labor and Industry, or the Department of Health, or through an executive order or directive issued by the Governor. The bill would have provided, that for individuals who refuse to accept an offer of work based on such conditions, no benefits charges will be deemed to be the responsibility of the previous employer, unless the individual has refused an offer to return to work to his previous employer because the individual has a reasonable belief that the workplace is not in compliance with the Department of Labor and Industry's standards for the prevention of COVID-19. The provisions of the bill would have expired 30 days after the expiration or revocation of all states of emergency declared by the Governor related to the COVID-19 pandemic.

Unemployment Compensation; Overpayments Due to Administrative Error [HB 1977](#) (Askew) would have provided that if an individual received an overpayment of unemployment benefits under the state program that occurred due to an administrative error, the individual would not be required to repay the overpayments.

Universal Health Care, Joint Commission on Health Care study of options for financing [HB 2271](#) (Samirah) would have directed the Joint Commission on Health Care to enter into a contract with a qualified entity to study options for financing universal health care in the Commonwealth with a report the findings, conclusions, and recommendations of the qualified entity to the General Assembly due by October 1, 2022.

Virginia Retirement System; Retired Law-Enforcement Officers Employed as School Security Officers [HB 2195](#) (Leftwich) and [SB 1137](#) (Cosgrove) would have provided that if a retired law-enforcement officer was employed by a local school division as a school security officer on January 1, 2020, and had a bona fide break in service of at least one month between retirement and employment as a school security officer, such person would not be required to establish a 12-month break in service that would otherwise be required by law.

SCHOOL BOARD GOVERNANCE - PASSED

Board of Education Membership; Geographic Representation [HB 1827](#) (Austin) requires the nine-member Board of Education to include at least five members, appointed by the Governor, who each reside in different superintendent's regions in the Commonwealth.

Brunswick County School Board; Appointed School Board Salaries [HB 1798](#) (Tyler) and [SB 1175](#) (Ruff) removes the Brunswick County school board from the list of approved member salaries for appointed school boards.

City of Covington Consolidated School Division; Salaries [HB 2091](#) (Austin) amends the charter for the City of Covington to help facilitate the consolidation of the school divisions of the City of Covington and Alleghany County. The bill sets out the salary of a school board member of such consolidated school district

and shall become effective on July 1, 2022, provided that the consolidation of the City of Covington and Alleghany County school divisions is approved by the Board of Education prior to that date.

Continuity of Government [SB 1208](#) (Barker) extends from six to 12 months the period of time after an enemy attack or other disaster that a locality may, by ordinance, provide for a method to assure continuity in its government and requires the ordinance to provide a method for the locality to resume normal governmental authority by the end of that 12-month period.

June Primary Election [SB 1148](#) (Kiggans) changes the date of the primary election held in June from the second Tuesday in June to the third Tuesday in June. The bill also changes candidate filing deadlines to reflect the change of date. The bill satisfies the reenactment requirement of Chapter 1253 of the Acts of Assembly of 2020.

Voting and Elections Administration, Prohibited Discrimination and Required Process for Enacting Certain Covered Practices; Civil Causes of Action [HB 1890](#) (Price) and **[SB 1395](#)** (McClellan) prohibits any voting qualification or any standard, practice, or procedure related to voting from being imposed or applied in a manner that results in the denial or abridgment of the right of any United States citizen to vote based on his race or color or membership in a language minority group. The bill further prohibits at-large methods of election from being imposed or applied in a locality in a manner that impairs the ability of a protected class, defined in the bill, to elect candidates of its choice or to influence the outcome of an election, by diluting or abridging the rights of voters who are members of a protected class. Prior to enacting or administering a covered practice, defined in the bill, the governing body of a locality will be required to publish the proposed covered practice and accept public comment for a minimum of 30 days on the proposed covered practice; after the public comment period, a 30-day waiting period is required. During this period, any person who will be subject to or affected by the covered practice will be able to challenge the covered practice as (i) having the purpose or effect of denying or abridging the right to vote on the basis of race or color or membership in a language minority group or (ii) resulting in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise. The bill will permit the local governing body to instead submit the proposed covered practice to the Office of the Attorney General for issuance of a certification of no objection and, once such certification is issued, to enact or administer the covered practice. Certain unlawful actions, including knowingly communicating false information to voters, that are currently subject to criminal penalties will create civil causes of action under the bill. The bill will authorize the Attorney General to commence civil actions when there is reasonable cause to believe that a violation of an election law has occurred and the rights of any voter or group of voters have been affected by the violation. Civil penalties assessed because of such action will be payable to the Voter Education and Outreach Fund, established by the bill. Current provisions related to language minority accessibility will be moved to a newly created chapter relating to the rights of voters.

Virtual and In-Person Learning [SB 1303](#) (Dunnivant) requires each school board to offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school for at least the minimum number of required 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 contains certain exceptions to the abovementioned requirement. The bill will require each school board to provide such in-person instruction in a manner in which it adheres, to the maximum extent practicable, to any currently applicable mitigation strategies for early childhood care and education programs and elementary and secondary schools to reduce the transmission of COVID-19 that have been provided by the federal Centers for Disease Control and Prevention. The bill requires the Department of Education to establish benchmarks for successful virtual learning and guidelines for providing interventions to students who fail to meet such benchmarks and for transitioning such students back to in-person instruction. The bill requires all teachers and school staff to be offered access to receive an approved COVID-19 vaccination through their relevant local health district. *The bill will expire on August 1, 2022.*

Loudoun County School Board; Staggered Terms [HB 1838](#) (Reid) enables the Loudoun County school board to stagger the terms of its members at the November election immediately preceding the end of the board's term and upon the board's prior vote for staggered terms.

Severe Weather Conditions and Other Emergency Situations; Unscheduled Remote Learning Days [HB 1790](#) (McNamara) and [SB 1132](#) (Suetterlein) provides that when severe weather conditions or other emergency situations have resulted in the closing of any school in a school division for in-person instruction, the school division may declare an unscheduled remote learning day whereby the school provides instruction and student services, consistent with guidelines established by the Department of Education to ensure the equitable provision of such services, without a reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. The bill prohibits any school division from claiming more than 10 unscheduled remote learning days in a school year unless the Superintendent of Public Instruction grants an extension.

Impact of COVID-19 on Virginia's Public Schools, Students, and School Employees; Report [SJ 308](#) (Lucas) directs the Joint Legislative Audit and Review Commission to study the impact of COVID-19 on Virginia's public schools, students, and school employees, including examining and determining reasons for barriers to student success in virtual and hybrid models as well as the overall impact of COVID-19 face-to-face learning restrictions on previously existing student achievement gaps, student achievement, and student well-being, including any disproportionate impact on at-risk populations; determining the impact of the COVID-19 pandemic on staffing levels, including the impact of teacher and school employee retirements and resignations on delivery of instruction and the ability of local school boards to fully staff their needs, employment levels, and local budgets; determining the short-term and projected long-term changes in student enrollment in response to the COVID-19 pandemic and the impact of such changes on funding levels; determining the impact of implementing COVID-19 health and safety measures in public schools; evaluating public schools' level of emergency preparedness to face another pandemic or statewide crisis and making recommendations to help guide planning for such events and examining programs that can address learning loss and identifying barriers to implementing those programs, including resource gaps. *Note that a House version of this legislation, [HJ 549](#) (Guy), did not pass.*

Virginia Freedom of Information Act; Electronic Meetings [HB 1931](#) (Levine) authorizes a public body to conduct through electronic communication means a meeting for which, on or before the day of the meeting, a member of the public body holding the meeting notifies the chair that such member is unable to attend the meeting due to a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance. The bill also will clarify that participation in an electronic meeting by a member of a public body due to the inability to attend because of a personal matter is limited each calendar year to two such meetings, which is current law, or 25 percent of the meetings held that calendar year rounded up to the next whole number, whichever is greater.

Virginia Freedom of Information Act; Meetings Held Through Electronic Communication Means During a State of Emergency [SB 1271](#) (McPike) allows a public body, or a joint meeting thereof, to meet by electronic communication means without a quorum of the public body physically assembled at one location when a locality in which the public body is located has declared a local state of emergency, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities. Under current law, public bodies may only meet in such manner when the Governor has declared a state of emergency and only for the purpose of addressing the emergency. Finally, the bill requires public bodies meeting through electronic communication means during a local or state declaration of a state of emergency to (a) make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body, and (b) provide the public with the opportunity to comment at such meetings when public comment is customarily received.

Virginia Freedom of Information Act; Record Exclusion for Personal Contact Information Provided to a Public Body [HB 2025](#) (Gooditis) provides that personal contact information provided to a public body or any of its members for the purpose of receiving electronic communications from the public body or any of its members is excluded from the mandatory disclosure provisions of FOIA, unless the recipient of such electronic communications indicates his approval for the public body to disclose such information. Currently, the law provides protections for personal contact information provided to a public body, not to its members; only applies to electronic mail; and requires the electronic mail recipient to request the public body not to disclose his personal contact information in order for the information to be exempt from mandatory disclosure.

Virginia LGBTQ+ Advisory Board [HB 2130](#) (Lopez) establishes the Virginia LGBTQ+ Advisory Board to advise the Governor regarding the economic, professional, cultural, educational, and governmental links between the Commonwealth and the LGBTQ+ community in Virginia and sets out the powers and duties of the Board. The Board will be composed of 21 nonlegislative citizen members, at least 15 of whom shall identify as LGBTQ+, to be appointed by the Governor, and the Secretaries of the Commonwealth, Commerce and Trade, Education, Health and Human Resources, and Public Safety and Homeland Security, or their designees, who shall serve as ex officio members.

SCHOOL BOARD GOVERNANCE - FAILED

Academic Year Governor's Schools, Guidance on Governance [HB 2305](#) (Tyler) would have required the Board of Education to issue guidance on the governance of academic year Governor's Schools, including communication and outreach practices, admissions policies, and guidelines on diversity, equity, and inclusion training. The bill would have required such guidance to focus on the importance of increasing access to Governor's Schools for historically underserved students and to include best practices on conducting information sessions about the school and the availability of gifted, advanced, and specialty education program opportunities for feeder public middle schools; strengthening the student pipeline in feeder public middle schools, prioritizing the most underserved and underrepresented students and public middle schools; and conducting programs related to and evaluations of diversity, equity, and inclusion. The bill would have required the Board of Education, in developing such guidance, to collaborate with relevant stakeholders representing the geographical areas served by the Regional Governor's Schools, including local school boards representing the geographical areas served by the Regional Governor's Schools, Regional Governor's School boards, and Governor's School directors.

Board of Education Membership; Qualifications [HB 1826](#) (Austin) would have required the nine-member Board of Education to include at least one member with experience or expertise in local government leadership or policymaking, at least one member with experience or expertise in career and technical education, and at least one member with experience or expertise in early childhood education, all of whom are appointed by the Governor.

Campaign Finance; Prohibited Personal Use; Child Care Exception [HB 1952](#) (Simon) would have prohibited any person from converting any moneys, securities, or like intangible personal property contributed to a candidate or a candidate's campaign committee to his personal use, the personal use of the candidate, or the personal use of a member of the candidate's immediate family. Current law prohibits such conversion of contributions to personal use specifically with regard to disbursement of surplus funds at the dissolution of a campaign or political committee. The bill would have provided that a contribution is considered to have been converted to personal use if the contribution, in whole or in part, is used to fulfill any commitment, obligation, or expense that would exist irrespective of the person's seeking, holding, or maintaining public office but excepts from "personal use" the ordinary and accepted expenses related to campaigning for or holding elective office, including the use of campaign funds to pay for the candidate's child care expenses that are incurred as a direct result of campaign activity.

Consumer Protection Act; Prohibited Practices; Certain Advertising Related to School Quality [HB 2003](#) (Samirah) would have added as a prohibited practice under the Consumer Protection Act the use in any advertising any information regarding the quality of any public or private elementary or secondary school other than information derived from the school quality indicators contained in the School Quality Profiles established by the Department of Education or information derived from the school's website or the website of the school's district, unless such advertising contains a statement, displayed on its face in a conspicuous manner, that such school quality information is not derived from the school quality indicators contained in the School Quality Profiles established by the Department of Education or endorsed by the Department of Education. The bill would have provided that such provisions shall not become effective unless reenacted by the 2022 Session of the General Assembly.

Empowerment Scholarship Accounts Established [HB 2225](#) (Davis) would have permitted the parents of certain children to apply to the school division in which the child resides for a one-year, renewable Empowerment Scholarship Account that consists of an amount that is equivalent to a certain percentage

of all applicable annual Standards of Quality per pupil state funds appropriated for public school purposes and apportioned to the resident school division in which the student resides, including the per pupil share of state sales tax funding in basic aid and any state per pupil share of special education funding for which the student is eligible.

Equitable Educational Opportunities Constitutional Amendment (first reference); Public Schools in the Commonwealth; [SJ 275](#) (Stanley) would have required the General Assembly to provide for a system of public schools in the Commonwealth with equitable educational opportunities for all children and to ensure that all school-age children are provided with equitable educational opportunities.

Hearing Notice by Localities [HB 2124](#) (Ransone) would have expanded from only localities in Planning District 23 to all localities a provision that provides that in any instance in which a locality has submitted a timely notice of public hearing to a newspaper published or having general circulation in the locality and the newspaper fails to publish the notice, such locality shall be deemed to have met certain notice requirements so long as the notice was published in the next available edition. The provision in the bill as it applies to all localities would have expired on July 1, 2022.

Home Instruction and Private School Tax Credit [HB 2243](#) (LaRock) would have created an individual, nonrefundable income tax credit for taxable years beginning on or after January 1, 2021, but before January 1, 2026, for amounts paid by the parent or legal guardian of a child for the child's home instruction expenses or tuition for attending an accredited private school in Virginia. The credit would have equaled the lesser of the amount actually paid in the taxable year for such costs or half of the average state standards of quality funding per student per year. The credit could have been taken for instruction-related materials, courses, or programs used in home instruction or for private school tuition. The credit would have been available only to the parents and legal guardians of children who did not attend private school or were not home schooled in the previous year in Virginia. The credit would have been available for two years per child and can be carried forward for five taxable years.

In-Person Instruction; Education Vouchers; Emergency [HB 1742](#) (Webert) would have required in the event that any school board does not provide the option of in-person instruction as the sole method of instruction for any enrolled student, the parent of any such student who withdraws his child from attendance to receive, upon request, an education voucher in an amount equal to a prorated share of the applicable Standards of Quality per-pupil state funds appropriated for public school purposes and apportioned to the school division, including the per-pupil share of state sales tax funding in basic aid and any state per-pupil share of special education funding for which the child is eligible, to cover the expenses of providing in-person instruction in an alternative setting. The bill would have permitted the Department of Education to establish rules, regulations, or procedures for the issuance of such education vouchers. The bill would have contained an emergency clause.

Legislative Process; Required Expiration Provision [HB 1745](#) (Cole, M.L.) would have required any bill passed by the General Assembly when one or both houses meet and vote virtually to pass the bill to contain a provision requiring the expiration of such bill one year following the date the bill takes effect.

National Service Participation [HJ 543](#) (Helmer) would have requested the Department of Social Services to study ways to increase participation in national service.

Open Enrollment Policy Required [SB 1317](#) (Dunnavant) requires all local school boards to establish and implement policies to provide for the open enrollment to any school of any student who is eligible to receive free or reduced lunch upon the request of a parent or guardian, subject to conditions and limitations established by the local school board.

Public Hearing Notice by Localities [HB 2114](#) (Ransone) would have expanded from only localities in Planning District 23 to all localities a provision that provides that in any instance in which a locality has submitted a timely notice of public hearing to a newspaper published or having general circulation in the locality and the newspaper fails to publish the notice, such locality shall be deemed to have met certain notice requirements so long as the notice was published in the next available edition. Under current law, this provision that was created by the 2020 Regular Session and only applies to localities in Planning District

23 will expire on July 1, 2022. The provision in the bill as it applies to all localities would also have expired on July 1, 2022.

READ Fund and READ Programs [HB 2090](#) (Cox) would have established the Reimbursement for Education Access Decisions (READ) Fund (the Fund); permitted any school board to establish a READ program to provide, during the state of emergency declared by the Governor in response to the COVID-19 pandemic, funds to any parent or legal guardian who meets compulsory attendance requirements by having his child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent in lieu of enrollment in the local school division to cover certain costs of such education; and permitted any such school board to apply to the Department of Education for an award from the Fund to reimburse the school board for half of the cost of making reimbursements to parents pursuant to its READ program.

Rights of Parents Constitutional Amendment [HJ 515](#) (Cole, M.L.) would have added to the Constitution of Virginia the fundamental right of parents to direct the upbringing, education, and care of their children. The amendment would have prohibited the Commonwealth from infringing these rights without demonstrating that the governmental interest as applied to the person is of the highest order and not otherwise served. This section would not have been construed to apply to a parental action or decision that would physically harm or end the life of the child.

School Division Boundaries; Conditions and Considerations [HB 2247](#) (Aird) would remove several conditions on the Board of Education's constitutional duty to determine school division boundaries and requires the Board, in fulfilling such duty, to consider equity in educational programs within and between school divisions.

Student Education Accounts [HB 1770](#) (Freitas) would have permitted any school division to establish a program to create savings accounts for students to be used for alternative educational programs. The bill would have required the Department of Education to establish policies and procedures under which the parent of each student may use such funds on public or private educational programs.

Virginia Freedom of Information Advisory Council; Charges for the Production of Public Records; Report [HJ 564](#) (Mullin) would have directed the Virginia Freedom of Information Advisory Council (FOIA Council) to study whether the provisions of the Virginia Freedom of Information Act (FOIA) allowing public bodies to charge requesters for the production of public records should be amended to make access to public records easier for requesters. The study further directs the FOIA Council to examine the current FOIA provisions on charges and make recommendations on ways to amend such provisions to make the assessment of charges by public bodies for the production of public records more uniform, more transparent, easier to understand, and less costly.

Virginia Freedom of Information Act; Charges for Production of Public Records [HB 2000](#) (Roem) would have prohibited a public body from charging a requester for any costs incurred during the first two hours spent accessing or searching for requested records when such requester has made four or fewer individual records requests to such public body within 31 consecutive days. *Note that while the legislation failed, the subject matter was referred to the Virginia FOIA Council for further consideration.*

Virginia Freedom of Information Act; Definition of "Meeting" [HB 1997](#) (Murphy) would have increased from three to four the number of members of a public body meeting as an informal assemblage that constitutes a meeting under the Virginia Freedom of Information Act. *Note that while the legislation failed, the subject matter was referred to the Virginia FOIA Council for further consideration.*

Voucher Program [SB 1433](#) (Chase) would have provided that, if a school operates a reduced schedule and the school offers online or virtual learning as a substitute for in-person attendance, it shall deposit a portion of unused funds resulting from the reduced schedule in a voucher account for each student, for use on programs operated by the school division or other educational options, whether public, private, or parochial.

SPECIAL SERVICES - PASSED

Albuterol Inhalers and Valved Holding Chambers [HB 2019](#) (McQuinn) requires each local school board to adopt and implement policies for the possession and administration of undesignated stock albuterol inhalers and valved holding chambers in every public school in the local school division, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers for any student believed in good faith to be in need of such medication. The bill will require the Department of Health, in conjunction with the Department of Education, to develop and implement policies for the administration of stock albuterol in public schools. *The bill will have a delayed effective date of January 1, 2022.*

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

Children's Services Act; Special Education Programs [HB 2117](#) (VanValkenburg) and [SB 1313](#) (Mason) requires that funds expended for private special education services under the Children's Services Act only be expended on educational programs that are licensed by the Board of Education or an equivalent out-of-state licensing agency. The bills also provide that as of July 1, 2022, such funds may only be expended for programs that the Office of Children's Services certify as having reported their tuition rates. The bill adds children and youth previously placed in approved private school educational programs for at least six months who will receive transitional services in a public-school setting to the target population for eligibility for the state pool of funds. The bills provide that state funds shall be allocated for no longer than 12 months for transitional services. The bills require the Secretaries of Education and Health and Human Resources, in conjunction with the Office of Children's Services and the Department of Education, to establish a work group with appropriate stakeholders to develop a detailed plan to direct the transfer of Children's Services Act funds currently reserved for children requiring an educational placement in a private special education day school or residential facility to the Department of Education, as well as several other topics. *The bills will require that the work group submit its plan and recommendations to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance and Appropriations by November 1, 2021, as well as a final plan and recommendations by November 1, 2022.*

Community Services Boards; Contracts With Private Providers [HB 2070](#) (Willett) clarifies that community services boards may enter into contracts with private providers for delivery of mental health, developmental, and substance abuse services.

Court-Appointed Special Advocates; Information Sharing [HB 1866](#) (Delaney) permits court-appointed special advocates to participate in and verbally share information with family partnership meetings and in meetings of family assessment and planning teams, multidisciplinary child sexual abuse response teams, individualized education program teams, and multidisciplinary teams related to child abuse.

COVID-19 Vaccine Facilitation [HB 2333](#) (Bagby) and [SB 1445](#) (Dunnivant) facilitate the administration of the COVID-19 vaccine. The bills require the Department of Health (the Department) to establish a program to enable eligible health care providers to volunteer to administer the COVID-19 vaccine to residents of the Commonwealth during a state of emergency related to the COVID-19 pandemic declared by the Governor. The bills define "eligible health care provider" and provide that the program shall include a process by which an eligible health care provider may register to participate in the program and the training requirements for participating eligible health care providers related to the administration of the COVID-19 vaccine, including training on the intramuscular injection of the COVID-19 vaccine and contraindications and side effects of the COVID-19 vaccine. The bills specify requirements that the Department shall ensure that each site at which COVID-19 vaccinations are administered by eligible health care providers satisfies. The bills also require the Department to establish a process by which entities, including medical care facilities, hospitals, hospital systems, corporations, businesses, pharmacies, public

and private institutions of higher education, localities, and any other professional or community entity operating in the Commonwealth, may volunteer their facilities as sites at which the COVID-19 vaccine may be administered to residents of the Commonwealth. The bills permit a public institution of higher education or a private institution of higher education in the Commonwealth to volunteer to provide assistance to the Department and local health departments for data processing, analytics, and program development related to the COVID-19 vaccine through the use of its employees, students, technology, and facilities. The bills also permit localities with fire departments, emergency medical services departments, and volunteer rescue squads to establish and staff vaccine administration clinics. The bills provide civil and criminal immunity to individuals and professional entities acting pursuant to the bill. *The bills became effective on February 15 upon the Governor's signature.*

Excused Student Absences; Civic or Political Engagement [HB 1940](#) (Rasoul) and [SB 1439](#) (McClellan) provide that, subject to guidelines established by the Department of Education, each school board (i) will permit one school day-long excused absence per school year for any middle school or high school student in the local school division who is absent from school to engage in a civic event and (ii) may permit additional excused absences for such students who are absent for such purposes. The bills also provide that local school boards may require that the student provide advance notice of the intended absence and require that the student provide documentation of participation in a civic event.

Get Skilled, Get a Job, Give Back (G3) Fund and Program Established [HB 2204](#) (Filler-Corn) and [SB 1405](#) (Saslaw) establishes the Get Skilled, Get a Job, Give Back (G3) Fund and requires the Virginia Community College System to establish the G3 Program for the purpose of providing financial assistance from the Fund to certain low-income and middle-income Virginia students who are enrolled in an educational program at an associate-degree-granting public institution of higher education that leads to an occupation in a certain high-demand field. The bills contain provisions for student eligibility, financial assistance award amounts, and data reporting.

Individuals with Intellectual and Developmental Disabilities, Department of Medical Assistance Services (DMAS) Work Group to Study Options for the Permanent Use of Virtual Supports and Increasing Access to Virtual Supports and Services [HB 2197](#) (Runion) directs the Department of Medical Assistance Services to study and develop recommendations for the permanent use of virtual supports and increasing access to virtual supports and services for individuals with intellectual and developmental disabilities by promoting access to assistive technology and environmental modifications and to report its findings and recommendations to the Governor and the General Assembly by November 1, 2021.

Licensed Private Schools for Students with Disabilities; Accreditation [HB 2238](#) (Kory) directs the Board of Education to require, pursuant to regulation, any private school for students with disabilities that is licensed by the Board, as a condition for renewal of its initial license to operate, to obtain accreditation from an accrediting agency recognized by the Virginia Council for Private Education within three years of the issuance of its initial triennial license by the Board. The bill provides that, notwithstanding the foregoing requirement, any private school for students with disabilities that is licensed to operate by the Board as of July 1, 2021, shall obtain accreditation from an accrediting agency recognized by the Virginia Council for Private Education no later than July 1, 2024.

Licensure of Occupational Therapists; Occupational Therapy Interjurisdictional Licensure Compact [SB 1189](#) (Hashmi) authorize Virginia to become a signatory to the Occupational Therapy Interjurisdictional Licensure Compact. The Compact will permit eligible licensed occupational therapists and occupational therapy assistants to practice in Compact member states, provided that they are licensed in at least one member state. *The bill will have a delayed effective date of January 1, 2022, and will direct the Board of Medicine to adopt emergency regulations to implement the provisions of the bill. The Compact will take effect when it is enacted by a tenth member state.*

Military Spouse Liaison [SB 1150](#) (Kiggans) establishes the position of Military Spouse Liaison (the Liaison) in the Department of Veterans Services to conduct outreach and advocate on behalf of military spouses in the Commonwealth. The bill directs the Liaison to report by December 1 of each year through the Commissioner of the Department of Veterans Services to the Secretary of Veterans and Defense

Affairs, the Governor, and the General Assembly on the work of the Liaison and any legislative recommendations.

Public Institutions of Higher Education; Certain Students; Financial Assistance Programs [HB 2123](#) (Lopez) and [SB 1387](#) (Boysko) provides that students who meet the criteria to be deemed eligible for in-state tuition regardless of their citizenship or immigration status shall be afforded the same educational benefits, including financial assistance programs administered by the State Council of Higher Education for Virginia, the State Board for Community Colleges, or a public institution of higher education, as any other individual who is eligible for in-state tuition. *The bills will have a delayed effective date of August 1, 2022 and directs the State Council of Higher Education for Virginia, in coordination with institutions of higher education in the Commonwealth, to promulgate regulations to implement the provisions of the bill.*

School-Based Health Services; Telemedicine [SB 1307](#) (Dunnivant) directs the Board of Medical Assistance Services to amend the state plan for medical assistance services to provide for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions, regardless of whether the student receiving care has an individualized education program or whether the health care service is included in a student's individualized education program. The bill will specify that such services shall include those covered under the state plan for medical assistance services or by the Early and Periodic Screening, Diagnostic, and Treatment benefit as specified in § 1905(r) of the federal Social Security Act, and shall include a provision for payment of medical assistance for health care services provided through telemedicine services. The bill also requires the Department of Medical Assistance Services to provide technical assistance to the Department of Education and local school divisions to facilitate their understanding of and compliance with federal ordering, referring, and prescribing provider screening and enrollment requirements.

Seizure Management and Action Plans; Biennial Training [SB 1322](#) (DeSteph) provides for the submission and utilization of seizure management and action plans for students with a diagnosed seizure disorder. The bill requires each such seizure management and action plan to state that such plan is separate from any individualized education program (IEP) or Section 504 Plan that is in place for the student and nothing in such plan shall be construed to abrogate any provision of any IEP or Section 504 Plan that is in place for the student. The bill requires that school nurses and certain school division employees biennially complete Board of Education-approved training in the treatment of students with seizure disorders. The bill provide immunity from civil liability for acts or omissions related to providing for the care of a student under a seizure management and action plan. *The bill will have a delayed effective date of July 1, 2022.*

Special Education Regulations [HB 2314](#) (Mugler) requires the Board of Education to amend a certain regulation relating to special education to remove the word "component" following the word "evaluation," thereby ensuring compliance with the relevant federal regulation and clarifying that the parent of a child with a disability has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the local educational agency.

Special Education and Related Services for Students with Disabilities [HB 2316](#) (Mundon-King) requires the Department of Education to update its special education eligibility worksheets as necessary, including clarifying any ambiguity or vagueness in eligibility criteria, and provide to each local school division the appropriate level of guidance on eligibility determinations for special education and related services. The bills require the Board of Education to amend its regulations to ensure that each education preparation program graduate in a K-12 general education endorsement area demonstrates proficiency in understanding the role of general education teachers on the individualized education program (IEP) team.

Special Education [HB 2299](#) (Carr) and [SB 1288](#) (Dunnivant) require the Department of Education to (i) provide training and guidance documents to local school divisions on the development of Individualized Education Programs (IEPs) for children with disabilities, (ii) develop a training module for each individual who participates in an IEP meeting, with the exception of parents, (iii) annually conduct structured reviews of a sample of IEPs from a sufficiently large sample of local school divisions to verify that the IEPs are in compliance with state and federal laws and regulations, (iv) develop and maintain a statewide plan for

improving (a) its ongoing oversight of local practices related to transition planning and services for children with disabilities and (b) technical assistance and guidance provided for postsecondary transition planning and services for children with disabilities, (v) develop and maintain a statewide strategic plan for recruiting and retaining special education teachers, and (vi) (a) conduct a one-time targeted review of the transition sections of a random sample of students' IEPs in each school division; (b) communicate its findings to each local school division, school board, and local special education advisory committee; and (c) ensure that local school divisions correct any IEPs that are found to be out of compliance no later than the end of the 2021-22 school year.

"Traumatic Brain Injury" Definition [HB 2182](#) (Wilt) requires the Board of Education to amend its regulatory definition of "traumatic brain injury," for the purpose of the provision of special education for children with disabilities, to include an acquired injury to the brain caused by a medical condition, including stroke, anoxia, infectious disease, aneurysm, brain tumors, and neurological insults resulting from medical or surgical treatments.

SPECIAL SERVICES - FAILED

Board of Counseling; Licensure of Professional Counselors Without Examination [HB 1795](#) (Cole, Mk) would have required the Board of Counseling to issue a license as a licensed professional counselor without examination to a person who has applied for such a license and who satisfies all other education, experience, and fitness to practice requirements set forth in regulation and who, in the judgment of the Board, is qualified to practice professional counseling.

Children's Services Act; Eligibility for State Pool of Funds [SB 1114](#) (Peake) would have expanded eligibility for use of the state pool of funds under the Children's Services Act to services that are provided in a public school setting.

Children's Services Act; Eligibility for State Pool of Funds [HB 2289](#) (Austin) would have declared eligible for the Children's Services Act state pool of funds any child or youth who was previously placed in an approved private school educational program for at least six months and who will receive certain transitional services in a public school setting for no longer than 12 months or whose individualized education program team has determined that his placement in a private special education day school, residential program, or other out-of-school placement could be prevented by his receipt of specialized or intensive services and supports delivered in the public school setting if such services and supports are estimated to have an annual cost that is more than three times the average annual cost of educating in a public school setting a student who does not require special education services and supports.

Children's Services Act; Eligibility for State Pool of Funds; Pilot Program Related to Educational Placement Transition for Certain Students With Disabilities [SB 1133](#) (Suetterlein) would have expanded eligibility for use of the state pool of funds under the Children's Services Act to services that are provided in a public school setting and requires that private day schools be approved and licensed by the Department of Education or an equivalent out-of-state licensing agency to be eligible for the state pool of funds. The bill would have required the Department of Education and relevant local school boards to develop and implement a pilot program for up to four years in two to eight local school divisions in the Commonwealth.

Children's Services Act; Special Education Programs [SB 1099](#) (Stuart) would have expanded eligibility for services under the Children's Services Act to students who transfer from an approved private school special education program to a public school special education program established and funded jointly by a local governing body and school division located within Planning District 16 for the purpose of providing special education and related services when the public school special education program is able to provide services comparable to those of an approved private school special education program and the student would require placement in an approved private school special education program but for the availability of the public school special education program.

Children with Disabilities; High School Extensions [HB 2277](#) (Bell, R.B.) would have required any child with a disability who receives special education and related services, reaches age 22 after September 30, 2020, and is scheduled to complete high school in the spring of 2021 to be given the option for an extension to attend high school for the duration of the 2021-22 school year. *Note that while the legislation itself failed, HB 1800 (Torian, the Appropriations Act) includes language that would have the exact same effect of requiring school divisions to offer such extensions.*

COVID-19 Immunization; Prohibition on Requirement; Discrimination Prohibited [HB 2242](#) (LaRock) would have prohibited the State Health Commissioner and the Board of Health, the Board of Behavioral Health and Developmental Services, the Department of Health Professions and any regulatory board therein, and the Department of Social Services from requiring any person to undergo vaccination for COVID-19 and prohibits discrimination based on a person's vaccination status with respect to any COVID-19 vaccine with regard to education, employment, insurance, or issuance of a driver's license or other state identification or in numerous other contexts. The bill would have also prohibited the inclusion of any patient immunization information in the Virginia Immunization Information System (VIIS) unless the patient has consented, in writing, to inclusion of his information in the VIIS.

COVID-19 Immunization; Prohibition on Requirement; Employment Discrimination Prohibited [SB 1449](#) (Chase) would have prohibited discrimination based on a person's vaccination status with respect to any COVID-19 vaccine in numerous employment contexts.

COVID-19 Vaccine Administration [HB 2328](#) (Byron) would have facilitated the administration of the COVID-19 vaccine.

COVID-19 Vaccination; Discrimination in Employment Prohibited [SB 1450](#) (Chase) would have prohibited discrimination in employment based on a person's vaccination status with respect to any COVID-19 vaccine.

COVID-19 Vaccination; Voluntary [HJ 573](#) (LaRock) would have expressed the sense of the General Assembly that any vaccination for the COVID-19 virus shall be voluntary within the Commonwealth of Virginia and that it fully supports the practice of medical informed consent.

Department of General Services; Equal Access to State and Local Public Property by Persons Who Choose Not to Receive COVID-19 Vaccine [SB 1451](#) (Chase) would have prohibited state agencies and localities from denying the use of certain public facilities to any person based on such person's vaccination status with respect to any COVID-19 vaccine.

Department of Health; Certain Communication Prohibited [HB 2084](#) (Byron) would have prohibited any person employed by or who has entered into a contract to provide services on behalf of the Department of Health or a local department of health from initiating communication regarding health-related matters with a minor on behalf of the Department or local department of health without the consent of the minor's parent, except as otherwise required by law. [SB 1235](#) (Peake) would have prohibited any person employed by or who has entered into a contract to provide services on behalf of the Department of Health or a local department of health from initiating communication regarding the following matters with a minor on behalf of the Department or local department of health without the consent of the minor's parent or guardian or person serving in loco parentis: family living and community relationships; the benefits, challenges, responsibilities, and value of marriage for men, women, children, and communities; the value of family relationships; abstinence education; the value of postponing sexual activity; the benefits of adoption as a positive choice in the event of an unwanted pregnancy; human sexuality; human reproduction; the prevention of human trafficking; dating violence, the characteristics of abusive relationships, steps to take to deter sexual assault, the availability of counseling and legal resources, and, in the event of such sexual assault, the importance of immediate medical attention and advice, as well as the requirements of the law; the etiology, prevention, and effects of sexually transmitted diseases; and mental health education and awareness. The bill would have clarified that its provisions do not apply to school nurses, physicians, or Department employees or agents who are inquiring about medical conditions, outbreaks, pandemics, or any other declared state of emergency relating to a communicable disease or public health threat.

Employers; Reporting Outbreaks of COVID-19 [SB 1362](#) (Lewis) would have required that, upon determination that a worksite cluster of COVID-19 has occurred at a workplace with 50 or more employees, the Department of Health (the Department) shall make a report available to the public on a website maintained by the Department that includes the name of the employer at which a worksite cluster has been reported and the number of confirmed cases of COVID-19 reported by such employer. The Department would have also been required to report when previously reported outbreaks are under control. The bill would have defined "worksite cluster" as five or more cases with illness onset or initial positive results within a 14-day period and a likely epidemiologic linkage between cases. The bill would have provided that the provisions of the act shall expire upon expiration of the Governor's declared state of emergency in response to the continued spread of the SARS-CoV-2 novel coronavirus, or COVID-19. The provisions of the bill would have been contingent on funding in a general appropriation act.

Fundamental Right to be Free From Medical Mandates [HB 2335](#) (Walker) would have declared that, except as otherwise provided by law, each adult has a fundamental right to be free from medical mandates of the Commonwealth or any locality, private employer, health care entity or provider, or provider of public accommodations. The bill would have provided that it shall be no less a medical mandate for such entities to condition an individual's receipt of otherwise ordinary services, benefits, or employment upon the performance or acquiescence of undergoing or participating in a health-related test, procedure, tracking or monitoring program, or bodily insertion or injection of any drug or the wearing of any medical equipment or apparel. The bill would have set out exceptions, including protocols in health care facilities and food handling operations and valid orders of quarantine or isolation.

Immunizations; Religious Tenets or Practices [SB 1117](#) (Peake) would have allowed a parent or guardian to object to the vaccination or immunization of a child on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, even if an emergency or epidemic of disease has been declared by the State Board of Health, which is not allowed under current law.

Individualized Education Programs; Identification of Necessary Additional Services and Referrals [HB 2211](#) (Plum) would have required individualized education program teams to identify any children with disabilities who may need additional services outside of the school setting and refer them to the local family assessment and planning team.

Non-FDA-Vaccines; Preventing Public and Private Imposition of Vaccines [HB 2336](#) (Wiley) would have prevented public and private imposition of non-FDA-vaccines and would have created new code subsection.

Powers of State Health Commissioner in Epidemic; Vaccine; Religious Tenets or Practices [SB 1116](#) (Peake) would have allowed a parent or guardian to object to the vaccination or immunization of a child on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, even if an emergency or epidemic of disease has been declared by the State Board of Health, which is not allowed under current law. The bill would have also provided that nothing shall preclude the State Health Commissioner from requiring immediate immunization of all persons in the case of an epidemic of any disease of public health importance for which a vaccine exists other than a person, including a parent or guardian on behalf of a child, who objects on the grounds that the administration of the vaccine conflicts with his religious tenets or practices.

School Nurses; Nomenclature [HB 1736](#) (Adams) would have prohibited any individual who provides nursing services in a public elementary or secondary school as a school board employee or through a contract with the local health department from using the title of school nurse unless such individual is a registered nurse who possesses an active license to practice in the Commonwealth.

School Nurses [SB 1191](#) (Kiggans) would have excluded school nurse positions from requirements for student support positions and instead requires each local school board to employ at least one full-time equivalent school nurse position in each elementary school, middle school, and high school in the local school division. The bill would have also required the Department of Education to establish and administer a waiver process for local school boards for which the requirements of the bill create an undue hardship.

Therapeutic Day Treatment [HB 2301](#) (Bell, R.B.) would have directed the Department of Medical Assistance Services (the Department) to develop and implement a plan that directs and guides Medicaid managed care organizations' decisions regarding authorization of school-based therapeutic day treatment for children and adolescents during the transition to the full implementation of redesigned school-based services to minimize gaps in therapeutic day treatment coverage during the transition period and implement a process for reviewing such decisions of managed care organizations.

STANDARDS OF QUALITY - PASSED

JLARC Study; Costs of Education [SJ 294](#) (Lewis) directs the Joint Legislative Audit and Review Commission to study the true cost of education in the Commonwealth and provide an accurate assessment of the costs to implement the Standards of Quality. *An interim report will be available by November 30, 2022 and the final report will be completed on or before November 30, 2023.*

Specialized Student Support Positions, Standards of Quality [SB 1257](#) (McClellan) modifies a school personnel requirement in Standard 2 of the Standards of Quality and will require each school board to provide at least three specialized student support positions, which can include school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, per 1,000 students.

STANDARDS OF QUALITY - FAILED

High School Graduation Requirements; Certain Substitutions [HB 1947](#) (Davis) would have required the Board of Education, in establishing high school graduation requirements, to provide for the substitution of computer coding course credit for any foreign language course credit required to graduate with a standard or advanced diploma for children with disabilities. Such requirement would have replaced a narrower provision in current law that requires the Board to permit a student who is pursuing an advanced diploma and whose individualized education program specifies a credit accommodation for world language to substitute two standard units of credit in computer science for two standard units of credit in a world language.

School Equity and Staffing Act; Standards of Quality; Work-Based Learning; Teacher Leaders and Mentors; Principal Mentors; Certain Personnel Positions and Initiatives [HB 1929](#) (Aird) would have made several changes to the Standards of Quality, including requiring the establishment of units in the Department of Education to oversee work-based learning and principal mentorship statewide in Standard 1 and requiring the Board of Education to establish and oversee the local implementation of teacher leader and teacher mentor programs in Standard 5. The bill would have also made several changes relating to school personnel in Standard 2, including establishing schoolwide ratios of students to teachers in certain schools with high concentrations of poverty and granting flexibility to provide compensation adjustments to teachers in such schools; requiring each school board to assign licensed personnel in a manner that provides an equitable distribution of experienced, effective teachers and other personnel among all schools in the local school division; requiring each school board to employ teacher leaders and teacher mentors at specified student-to-position ratios; requiring state funding in addition to basic aid to support at-risk students and granting flexibility in the use of such funds by school boards; lowering the ratio of English language learner students to teachers; requiring each school board to employ reading specialists and establishing a student-to-position ratio for such specialists; requiring school boards to employ one full-time principal in each elementary school; lowering the ratio of students to assistant principals and school counselors in elementary, middle, and high schools; and requiring each school board to provide at least four specialized student support positions, including school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, per 1,000 students. *Note however that SB 1257 (McClellan) as passed did include one change (requiring specialized student support positions) which was also proposed in this legislation.*

Standards of Quality Constitutional Amendment [HJ 548](#) (Hurst) would have provided that it is the responsibility of the Commonwealth, rather than the General Assembly, to provide for a system of free public elementary and secondary schools and to ensure a high-quality educational program is established

and maintained. The amendment would have also removed the authority of the General Assembly to revise the standards of quality that are determined and prescribed by the Board of Education for school divisions. Current constitutional language requires the General Assembly only to “seek to ensure” a high-quality education program.

STUDENT ACTIVITIES AND ATHLETIC PROGRAMS - PASSED

High School Student Parking Passes; Valid Driver's License or Driver Privilege Card Required [HB 1918](#) (Mugler) and [SB 1169](#) (Norment) requires (i) a student to submit a standard application form developed by the Department of Education by which the student provides evidence that he possesses a valid driver's license or driver privilege card before being issued a pass to park a vehicle on high school property and (ii) require driver education programs to include instruction on the dangers of distracted driving and speeding.

STUDENT ACTIVITIES AND ATHLETIC PROGRAMS - FAILED

Assault and Battery or Threats of Bodily Injury; Sports Official; Penalty [HB 1791](#) (McNamara) would have provided that if any person commits a simple assault or assault and battery against another knowing or having reason to know that such other person is a sports official who is engaged in the performance of his duties as such during a sports event or on the premises where a sports event is held immediately preceding or following a sports event, such person is guilty of a Class 1 misdemeanor. The bill would have also provided that the sentence of such person, upon conviction, shall include a mandatory minimum fine of \$500 and such person shall be prohibited from coming within 50 feet of the premises where any sports event is held in the Commonwealth an hour prior to the beginning of the sports event, during the sports event, and an hour following the conclusion of the sports event for one year.

STUDENT TESTING - PASSED

Standards of Learning assessments; reading and mathematics; grades three through eight; individual student growth [HB 2027](#) (Coyner) and [SB 1357](#) (Dunnivant) requires the Board of Education to establish, in lieu of a one-time end-of-year assessment and for the purpose of providing measures of individual student growth over the course of the school year, a through-year growth assessment system, aligned with the Standards of Learning, for the administration of reading and mathematics assessments in grades three through eight. The bills require such through-year growth assessment system to include at least one beginning-of-year, one mid-year, and one end-of-year assessment in order to provide individual student growth scores over the course of the school year, provided that the total time scheduled for taking all such assessments shall not exceed 150 percent of the time scheduled for taking a single end-of-year proficiency assessment. The bills will require the Department of Education to ensure adequate training for teachers and principals on how to interpret and use student growth data from such assessments to improve reading and mathematics instruction in grades three through eight throughout the school year. The bills will provide that with such funds and content as are available for such purpose, such through-year growth assessment system shall provide accurate measurement of a student's performance, through computer adaptive technology, using test items at, below, and above the student's grade level as necessary. The bills will require full implementation of such system no later than the 2022–2023 school year and partial implementation during the 2021–2022 school year consisting of one beginning-of-year assessment and one end-of-year assessment.

STUDENT TESTING - FAILED

Standards of Learning Assessments; Reduction [HB 2094](#) (O'Quinn) and [SB 1401](#) (Pillion) would have reduced the total number and type of required Standards of Learning assessments to the minimum requirements established by the federal Elementary and Secondary Education Act of 1965, as amended.

TAXATION - FAILED

Additional Local Sales and Use Tax to Support Schools [SB 1170](#) (Norment) would have added Isle of Wight County to the list of localities that, under current law, are authorized 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.

Income Tax; Rate Increase; Funding for Schools and Law-Enforcement Officer Salaries [SB 1286](#) (Deeds) would have increased from 5.75 percent to 5.9 percent the income tax rate on income over \$150,000. The bill would have required revenue from the increase to be appropriated for nonrecurring capital expenditures of school divisions and salary increases for state and state-supported law-enforcement officers.

Regulating Electronic Gaming Devices; Penalties [SB 1407](#) (Bell, J.J.) would have authorized the manufacturing, distributing, operating, servicing, hosting, and playing of electronic gaming devices in the Commonwealth, to be regulated by the Virginia Lottery Board, which the bill renames as the Virginia Lottery and Gaming Oversight Board. The bill would have specified the licensing requirements for the manufacture, distribution, operating, servicing, and hosting of electronic gaming devices, requires employees of such licensees to be registered with the Virginia Lottery, which the bill renames as the Virginia Lottery and Gaming Department, and imposes criminal and civil penalties for violations of the law and regulations related to electronic gaming devices. The bill would have imposed a 34 percent tax on all gross profits from the play of electronic gaming devices and provides for how the tax proceeds are disbursed; most are deposited into the Virginia Electronic Gaming Device Education Support Fund, created by the bill.

Sales and Use Tax Distribution to Localities; Report [HJ 536](#) (Mugler) would have directed the Joint Legislative Audit and Review Commission (JLARC) to study the distribution of remote sales and use taxes to localities.