

Request to Amend SB 29, as Introduced

Chief Patron: Reeves

Item 0 #1s

SB 528: Military Benefits/Income Tax Subtraction (language only)

Revenues

Revenues

Language

Language:

Page 1, line 35, strike "\$48,252,532,509" and insert "\$48,094,532,509"

Page 1, line 41, strike "\$52,517,677,137" and insert "\$52,359,677,137"

Page 2, strike "\$159,647,098,266" and insert "\$159,489,098,266"

Explanation:

(This amendment accompanies Senate Bill 528, a bill that would establish an income tax subtraction for up to \$20,000 of military benefits in taxable year 2021, up to \$30,000 in taxable year 2022, and up to \$40,000 in taxable year 2023 and each year thereafter. The companion bill defines military benefits to include military retirement income and benefits paid to the surviving spouse of a veteran and contains an emergency clause. The amendment accounts for a general fund revenue reduction of \$158.0 million in the current fiscal year.)

Chief Patron: Chase

Item 0 #2s

SB 586: Military Benefits/Income Tax Subtraction (language only)

Revenues

Revenues

Language

Language:

Page 1, line 35, strike "\$48,252,532,509" and insert "\$48,094,532,509"

Page 1, line 41, strike "\$52,517,677,137" and insert "\$52,359,677,137"

Page 2, strike "\$159,647,098,266" and insert "\$159,489,098,266"

Explanation:

(This amendment accompanies Senate Bill 586, a bill that would establish an income tax subtraction for up to \$20,000 of military benefits in taxable year 2021, up to \$30,000 in taxable year 2022, and up to \$40,000 in taxable year 2023 and each year thereafter. The companion bill defines military benefits to include military retirement income and benefits paid to the surviving spouse of a veteran and contains an emergency clause. The amendment accounts for a general fund revenue reduction of \$158.0 million in the current fiscal year.)

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Chief Patron: McClellan

Item 32 #1s

JLARC- Election Governance

Legislative Department	FY20-21	FY21-22	
Joint Legislative Audit and Review Commission	\$0	\$200,000	GF

Language:

Page 5, line 12, strike "\$5,701,520" and insert "\$5,901,520".

Explanation:

(This amendment provides \$200,000 GF in FY 2022 to cover costs associated with a Joint Legislative Audit and Review Commission review of elections governance in the Commonwealth pursuant to SJ 33, introduced for consideration by the 2022 General Assembly, contingent on its final passage.)

Chief Patron: Newman

Item 52 #1s

Creation of 6.0 FTEs in the Office of the Governor

Executive Offices	FY20-21	FY21-22	
Office of the Governor	\$0	\$1,700,000	GF
	0.00	6.00	FTE

Language:

Page 10, line 3, strike "\$6,173,077" and insert "\$7,873,077".

Explanation:

(This amendment provides \$1.7 million GF and 6.0 FTEs in FY 2022 for the Office of the Governor, in lieu of existing executive branch agency-based positions currently on loan to the Office of the Governor.)

Chief Patron: Dunnivant

Item 68 #1s

Locality Bonuses or Salary Increases

Administration

Compensation Board

Language

Language:

Page 265, after line 49, insert:

"a. Notwithstanding Chapter 1, 2021 Special Session II, Acts of Assembly, and Item 479.20, subdivision B.2.s.2) of this act, any locality that provides a bonus or salary increase equal to, or greater than \$3,000 shall satisfy the requirements of this paragraph."

Explanation:

(This amendment includes language that would allow localities that provide either a one-time bonus or a salary increase equal to or greater than a \$3,000 bonus for state-supported sworn officers of sheriffs' departments and regional jails shall satisfy the requirement of the paragraph.)

Chief Patron: Ebbin

Item 92 #1s

State and Local Cybersecurity Grant Funding

Administration

Virginia Information Technologies Agency

Language

Language:

Page 22, strike line 42.

THIS AMENDMENT IS WRITTEN TO CHAPTER 552

Page 98, after paragraph E.2. insert:

"F. The Virginia Information Technologies Agency (VITA) shall take the necessary steps to obtain and use the cybersecurity grant funding that is available to Virginia under the State and Local Cybersecurity Improvement Act subtitle of the Infrastructure Investment and Jobs Act of 2021, P.L. 117-58.

1. VITA shall establish and identify candidates for appointment by the Governor to a planning committee that includes members from: (i) state government; counties, cities, and towns; and institutions of public education and health within Virginia; and (ii) suburban, rural, and high-population jurisdictions. At least half, and as many as practicable, of planning committee members shall have substantial professional experience in cybersecurity or information technology. The Chief Information Officer of the Commonwealth or the Chief Information Security Officer as designee, shall be the chair of the planning committee. The planning committee shall be supported by VITA as necessary and appropriate to carry out its

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responsibilities.

2. In compliance with the federal requirements, VITA shall develop a cybersecurity plan, present such plan to the planning committee for approval, and submit such plan to the appropriate federal officials.

3. VITA shall propose priorities for grant funding for the planning committee's consideration and approval.

4. VITA shall approve, manage, and allocate grant funding once received, ensuring that the grants are within the priorities approved by the planning committee, maximizing the benefit from the funding received, and working with the Department of the Treasury as appropriate. To the extent permitted, VITA may use a portion of the grant funding for direct support and administration expenses.

5. VITA shall report on the grant funding as required and shall provide copies of such reports to the House Appropriations Committee and the Senate Finance and Appropriations Committee.

Explanation:

(This amendment adds language directing the Virginia Information Technologies Agency to take the steps necessary to obtain federal cybersecurity grant funding, comply with federal guidelines, and develop a related planning committee. This item will be set out upon enrolling.)

Chief Patron: Hanger

Item 111.10 #1s

VEC: Corrective Action Planning

Commerce and Trade

FY20-21

FY21-22

Secretary of Labor

\$0

\$500,000 GF

Language:

Page 27, line 4, strike "\$599,192" and insert "\$1,099,192".

Page 27, line 4, strike "Not set out." and insert:

Amendment Drawn to Chapter 552

Page 116, after line 56, insert:

"F.1 The Secretary of Labor shall prioritize improvements and modernization of the VEC as outlined in the November 2021 JLARC Report, "Operations and Performance of the Virginia Employment Commission," including an analysis of the report's 40 recommendations and 10 policy options. Emphasis shall be placed on improving customer service and interactions with the public in the immediate time frame while still dealing with pandemic related issues and long range plans to improve the transparency of process and services. Additional focus shall be placed on (i) overall funding and management of the Unemployment Insurance (UI) trust; (ii) reviewing benefit levels for income replacement; (iii) ensuring appropriate staffing levels and well-trained personnel; and (iv) addressing technology needs. The current backlog of 2020 and 2021 claims shall be expedited for resolution immediately, including but not limited to

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resolving any outstanding claims; accounting for overpayments or inappropriate payments; and improving processes to prevent fraud and better identify valid claims.

2. The Secretary of Labor shall competitively procure a national firm with expertise in evaluating the efficiency of an organization's staffing structure, delegation of staff duties, and work processes to conduct a comprehensive efficiency review of the UI operations of the Virginia Employment Commission to (i) identify specific actions that could be taken to improve the efficiency of VEC's UI operations, including through more efficient and effective use of staff and technology; (ii) recommend improvements to the agency's staffing and workflows to most effectively use existing federal funding for UI operations; and (iii) determine whether current funding is adequate to ensure effective UI operations. The Secretary shall issue an interim report of its findings and recommendations to the General Assembly no later than December 1, 2022, and a final report no later than September 1, 2023."

Explanation:

(This amendment provides funding for the Secretary of Labor to competitively procure a comprehensive efficiency review of the operations of the Virginia Employment Commission consistent with Recommendation 1 of the JLARC Report, "Operations and Performance of the Virginia Employment Commission," from November 2021.)

Chief Patron: McPike

Item 111.10 #2s

VEC: JLARC Recommendation #1

Commerce and Trade	FY20-21	FY21-22	
Secretary of Labor	\$0	\$500,000	GF

Language:

Page 27, line 4, strike "\$599,192" and insert "\$1,099,192".

Page 27, line 4, strike "Not set out." and insert:

Amendment Drawn to Chapter 552

Page 116, after line 56, insert:

"F. The Secretary of Labor shall competitively procure a national firm with expertise in evaluating the efficiency of an organization's staffing structure, delegation of staff duties, and work processes to conduct a comprehensive efficiency review of the unemployment insurance (UI) operations of the Virginia Employment Commission to (i) identify specific actions that could be taken to improve the efficiency of VEC's UI operations, including through more efficient and effective use of staff and technology; (ii) recommend improvements to the agency's staffing and workflows to most effectively use existing federal funding for UI operations; and (iii) determine whether current funding is adequate to ensure effective UI operations. The Secretary shall issue an interim report of its findings and recommendations to

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the General Assembly no later than December 1, 2022 and a final report no later than September 1, 2023."

Explanation:

(This amendment provides funding for the Secretary of Labor to competitively procure a comprehensive efficiency review of the operations of the Virginia Employment Commission consistent with Recommendation 1 of the JLARC Report "Operations and Performance of the Virginia Employment Commission" from November 2021.)

Chief Patron: Ruff

Item 112 #1s

CoStar - MEI Project

Commerce and Trade	FY20-21	FY21-22	
Economic Development Incentive Payments	\$0	\$15,000,000	GF

Language:

Page 27, line 8, strike "\$79,585,483" and insert "\$94,585,483".

Page 30, after line 25, insert:

"S. Out of the amounts in this item, \$15,000,000 the second year from the general fund shall be provided to the City of Richmond for expenses related to public infrastructure improvements, including commuter access and parking, pedestrian access, roadway and traffic improvements, safety enhancements, site preparation, and utilities."

Explanation:

(This amendment provides \$15.0 million GF to the City of Richmond for expenses related to public infrastructure improvements, safety enhancements, and site preparation expenses associated with the incentive package for the CoStar Group approved by the MEI Commission in December 2021.)

Chief Patron: Ruff

Item 112 #2s

Blue Star - MEI Project

Commerce and Trade	FY20-21	FY21-22	
Economic Development Incentive Payments	\$0	\$1,427,000	GF

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Language:

Page 27, line 8, strike "\$79,585,483" and insert "\$81,012,483".

Page 30, after line 25, insert:

"S. Out of the amounts in this item, \$1,427,000 the second year from the general fund shall be provided to the Virginia Economic Development Partnership Authority for supplemental funding for expenses related to the provision of recruitment and training services through the Authority's Virginia Talent Accelerator Program for the benefit of the operators of a nitrile butadiene rubber production plant and a medical-grade glove manufacturing facility slated for development in Progress Park in the County of Wythe. These services will support the recruitment and training of up to 2,464 new jobs through 2026. These services are in addition to the services that the Authority expects to provide through the Virginia Talent Accelerator Program to other businesses around the Commonwealth as funded through Item 130 J."

Explanation:

(This amendment provides \$1.4 million GF in FY 22 to the Virginia Talent Accelerator Program to establish a nitrile glove manufacturing training program as part of the incentive package for Blue Star, approved by the MEI Commission in December 2022. A companion amendment to SB 30 is also proposed that would provide an additional \$1.3 million GF in the next biennium.)

Chief Patron: Marsden

Item 112 #3s

Virginia Business Ready Sites Program Fund

Commerce and Trade	FY20-21	FY21-22	
Economic Development Incentive Payments	\$0	\$150,000,000	GF

Language:

Page 27, line 8, strike "\$79,585,483" and insert "\$229,585,483".

Page 30, after line 25, insert:

"S. Out of the appropriation in this Item, \$150,000,000 the second year shall be deposited to the Virginia Business Ready Sites Program for grants to eligible political subdivisions for the development or redevelopment of an eligible industrial site for the purpose of creating and maintaining a portfolio of project-ready sites to promote economic development in all regions of the Commonwealth. Of these amounts, fifty percent shall be reserved for specific projects in each region on the basis of a region's share of industrial employment; and fifty percent shall be competitively awarded on the basis of expected economic impact and outcomes without regard to a region's share of industrial employment. Any funding remaining at the end of the fiscal year shall not revert to the general fund."

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Explanation:

(This amendment is part of a series of amendments that transfers a proposed deposit of \$150.0 million for the Virginia Business Ready Sites Program from the Virginia Economic Development Partnership to the Item for Economic Development Incentive Payments to ensure the entire amount is made available for grants to eligible political subdivisions.)

Chief Patron: Marsden

Item 130 #1s

Virginia Business Ready Sites Program Fund

Commerce and Trade	FY20-21	FY21-22	
Virginia Economic Development Partnership	\$0	(\$150,000,000)	GF

Language:

Page 32, line 28, strike "\$193,752,309" and insert "\$43,752,309".

Page 33, line 48, unstrike "\$5,562,500" strike "\$155,562,500".

Explanation:

(This amendment is part of a series of amendments that transfers the proposed deposit of \$150.0 million for the Virginia Business Ready Sites Program from the Virginia Economic Development Partnership to the Item for Economic Development Incentive Payments to ensure that the proposed new funding is used solely for grants to eligible political subdivisions. Base funding for the sites characterization program and administrative expenses of \$5.6 million GF are retained at VEDP and continued in the next biennium.)

Chief Patron: Mason

Item 137 #1s

DOE - Child Care Provisional Employment

Education

Department of Education, Central Office Operations

Language

Language:

Page 39, after line 16, insert: "U. Pending the results of all background check components set forth in subsection B of §22.1-289.035, Code of Virginia, an applicant for employment or an applicant to serve as a volunteer may work in a child day center, family day home, or family day system, provided that (i) the applicant has received qualifying results on a fingerprint-based background check through the Central Criminal Records Exchange or the Federal Bureau of

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Investigation and (ii) the applicant is supervised at all times by a person who received a qualifying result on a background check conducted in accordance with subsection B within the past five years."

Explanation:

(This amendment allows provisional employment of child care staff if the applicant has received qualifying results on a fingerprint-based background check through the Central Criminal Records Exchange or the Federal Bureau of Investigation and (ii) the applicant is supervised at all times by a person who received a qualifying result on a background check conducted in accordance with the Code of Virginia within the past five years.)

Chief Patron: Bell

Item 149 #1s

VSDB - IT Infrastructure

Education	FY20-21	FY21-22	
Virginia School for the Deaf and the Blind	\$0	\$500,000	GF

Language:

Page 91, line 32, strike "\$1,942,608" and insert "\$2,442,608".

Explanation:

(This amendment provides \$500,000 GF the second year to support upgrades and improvements to information technology infrastructure at the Virginia School of the Deaf and Blind.)

Chief Patron: Ruff

Item 164 #1s

Innovative Model for Higher Ed

Education

Richard Bland College

Language

Language:

Page 237, following paragraph D, insert:

"Richard Bland College shall provide a plan to the Chairs of the House Appropriations and the Senate Finance and Appropriations Committees by November 1, 2022 on the steps necessary to assess the need for an innovative model for higher education that prepares citizens for jobs in

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high-demand fields and in industries critical to the economic development of the Petersburg area, Virginia Gateway Region, and Commonwealth of Virginia, to begin in the 2024-25 academic year. Richard Bland College shall work in consultation with the Virginia Secretary of Education, the State Council of Higher Education for Virginia, the College of William and Mary in Virginia, and regional postsecondary and secondary education institutions in the development of this plan."

Explanation:

(This amendment directs Richard Bland College to provide a plan on the steps necessary to assess the need for an innovative model for higher education in the College's geographic service region. It is the intent of this amendment that Item 164 be set out and the embedded language be updated with the new language.)

Chief Patron: Newman

Item 264 #1s

Secretary of Finance Full-Time Position for Oversight of Contract

Finance	FY20-21	FY21-22	
Secretary of Finance	\$0	\$250,000	NGF
	0.00	1.00	FTE

Language:

Page 99, line 2, strike "\$685,384" and insert "\$935,384".
Page 99, strike line 2.

THIS AMENDMENT IS WRITTEN TO CHAPTER 552

After paragraph C. insert:

"D. The Secretary of Finance shall certify that each executive branch agency and local government directly receiving federal pandemic relief, economic stimulus grants, or loans engages an internal or independent third-party firm to perform a risk assessment over the agency's controls in administering the program and audit the disbursement of the funds. The Secretary of Finance shall compile the findings and provide a report to the Governor, Chair of Senate Finance and Appropriations, and Chair of House Appropriations by November 1 of each year."

Explanation:

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(This amendment provides \$250,000 NGF and 1.0 FTE the second year within the Secretary of Finance, funded through federal pandemic relief funds, to oversee a contract with an internal or third-party vendor to audit the proper use of the funds, in accordance with federal regulation, craft internal controls and other activities, and report to the Governor and Chairs of the House Appropriations and Senate Finance and Appropriations Committees. This item will be set out upon enrolling.)

Chief Patron: Newman

Item 264 #2s

RFP for Audit of Federal Funds

Finance	FY20-21	FY21-22
Secretary of Finance	\$0	\$350,000 NGF

Language:

Page 99, line 2, strike "\$685,384" and insert "\$1,035,384".

Page 99, strike line 2.

THIS AMENDMENT IS WRITTEN TO CHAPTER 552

Item 264, after paragraph C. insert:

"D. The Secretary of Finance shall use a portion of the federal funds allocated to engage internal or third-party assistance to perform a risk assessment over the executive agency and local government controls in administering federal pandemic relief funds, economic stimulus grants, and loans; and audit the disbursement of the funds. The Secretary of Finance shall certify that this provision is being met, compile the findings and provide a report to the Governor, Chair of Senate Finance and Appropriations, and Chair of House Appropriations by November 1 of each year."

Explanation:

(This amendment provides \$350,000 NGF in pandemic relief funds and adds language that directs the Secretary of Finance to issue a request for proposal for an internal or third-party audit of state and local government pandemic funds administration and disbursement. This item will be set out upon enrolling.)

Chief Patron: Cosgrove

Item 301 #1s

American K-9 Interdiction for COVID-19

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Health and Human Resources	FY20-21	FY21-22	
Department of Health	\$0	\$500,000	GF

Language:

Page 118, line 32, strike "\$164,546,113" and insert "\$165,046,113".

Explanation:

(This amendment provides \$500,000 general fund each year for the American K-9 Interdiction to assist in the continued training of dogs to detect COVID-19 and other potential viruses in people.)

Chief Patron: Pillion

Item 301 #2s

Southwest Virginia Health Authority

Health and Human Resources	FY20-21	FY21-22	
Department of Health	\$0	\$225,000	GF
	0.00	0.50	FTE

Language:

Page 118, line 32, strike "\$164,546,113" and insert "\$164,771,113".

Explanation:

(This amendment provides \$225,000 and one-half position the second year from the general fund for the support and deployment of population health programs and initiatives, including the revision of "The Blueprint For Health Improvement and Health-Enabled Prosperity". This amendment provides funds for the hiring of a part-time position, office leasing, office expenses, insurance coverage, website development expenses, promotional activities related to the activities of the Southwest Virginia Health Authority, and support for the fulfilment of the mission of the authority.)

Chief Patron: Pillion

Item 303 #1s

Co-Patron(s): Hackworth, Norment

Funding for the Health Wagon

Health and Human Resources	FY20-21	FY21-22	
Department of Health	\$0	\$1,749,576	GF

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Language:

Page 120, line 3, strike "\$22,283,384" and insert "\$24,032,960".

Page 120, line 3, strike "Not set out."

Language drawn to Chapter 552:

Item 302, Paragraph N., after "first year and" strike "\$402,712" and insert "\$2,152,288".

Explanation:

(This amendment provides \$1.7 million from the general fund in fiscal year 2022 for the Health Wagon, which has expended more than \$1.7 million in unbudgeted capital and operation and maintenance expenses directly related to COVID-19. This funding will help replenish the Health Wagon's emergency reserve fund. This Item will be set out upon enrolling.)

Chief Patron: Dunnavant

Item 307 #1s

Connect Department of Health to Emergency Department Care Coordination System

Health and Human Resources

FY20-21

FY21-22

Department of Health

\$0

\$455,600 GF

Language:

Page 120, line 36, strike "\$25,855,725" and insert "\$26,311,325".

Page 120, line 36, strike "Not set out."

Explanation:

(This amendment provides \$455,600 from the general fund in fiscal year 2022 to connect the Virginia Department of Health to the Emergency Department Care Coordination Program to track real time hospital data and demographics. The annual cost of the data is \$220,000, and one staff person to work with the data is an additional \$145,600. Expanding access and utilization of other data is an additional \$90,000 in the first year and \$60,000 annually thereafter.)

Chief Patron: Hanger

Item 313 #1s

Psychiatric Residential Treatment Services

Health and Human Resources

Department of Medical Assistance Services

Language

Language:

Page 131, line 31, after "shall be" strike "subject to a ceiling based one" and insert "equal to".

Explanation:

(This amendment increases rates for psychiatric residential treatment services on July 1, 2021 of all facilities equal to the statewide weighted average cost per day.)

Chief Patron: Deeds

Item 313 #2s

Psychiatric Residential Treatment Facility Rates

Health and Human Resources

Department of Medical Assistance Services

Language

Language:

Page 131, line 30, after "rate.", insert "Beginning July 1, 2021,".

Page 131, line 31, strike "be subject to a ceiling on" and insert "equal to".

Page 131, line 32, after "reports" insert "until June 30, 2022".

Explanation:

(This amendment modifies rate increases for psychiatric residential treatment services on July 1, 2021, which resulted in a rate decrease for several providers of this service. Prior to the implementation, providers of this service had not received a rate increase in fourteen years.)

Chief Patron: Mason

Item 313 #3s

Medicaid Home Health Services Study

Health and Human Resources

Department of Medical Assistance Services

Language

Language:

Page 160, after line 18, insert:

"PPPPPP. The Department of Medical Assistance Services shall conduct a study and make recommendations on Medicaid home health services that considers different reimbursement methodology based on comprehensive service delivery in the home, patient age, patient acuity, or other special circumstances including patients with life limiting conditions. The study shall: (i) analyze federal and state regulations and funding mechanisms pertaining to home health reimbursement; (ii) review reimbursement methodologies implemented in other state Medicaid programs; (iii) make recommendations on appropriate services and rates to be included in the Medicaid home health benefit; and (iv) project estimated costs over the next five years proposing implementation in a budget neutral fashion. The department shall report on the results

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and recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by June 30, 2023."

Explanation:

(This amendment directs the Department of Medical Assistance Services (DMAS) to conduct a study and make recommendations on Medicaid home health services that considers different reimbursement methodology based on comprehensive service delivery in the home, patient age, patient acuity, or other special circumstances including patients with life limiting conditions. The study shall: (i) analyze federal and state regulations and funding mechanisms pertaining to home health reimbursement; (ii) review reimbursement methodologies implemented in other state Medicaid programs; (iii) make recommendations on appropriate services and rates to be included in the Medicaid home health benefit; and (iv) project estimated costs over the next five years proposing implementation in a budget neutral fashion. DMAS shall report on the results and recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by June 30, 2023.)

Chief Patron: Favola

Item 313 #4s

Barriers for Medicaid Patients to Access Telehealth Services Across State Lines

Health and Human Resources

Department of Medical Assistance Services

Language

Language:

Page 160, after line 18, insert:

"PPPPPP. The Department of Medical Assistance Services shall identify barriers that Virginia Medicaid patients face in accessing Telehealth services from out of state providers and provide recommendations to the General Assembly on how such barriers can be removed by November 1, 2022."

Explanation:

(This amendment directs the Department of Medical Assistance to identify barriers that Virginia Medicaid patients face in accessing Telehealth services from out of state providers and provide recommendations to the General Assembly on how such barriers can be removed by November 1, 2022.)

Chief Patron: Barker

Item 313 #5s

Remove Limitation on Group Home Size

Health and Human Resources

Department of Medical Assistance Services

Language

Language:

Page 160, after line 18, insert:

"PPPPPP. The Department of Medical Assistance Services shall take such action necessary to amend the Home and Community-based Services (HCBS) Transition Plan and 12VAC30-122-390 to remove the provision which specifically requires that group homes larger than six beds will not be able to enter the Virginia Home and Community Based System program. The department shall have the authority to implement these changes effective upon the Governor's approval of the budget and prior to the completion of any regulatory changes."

Explanation:

(This amendment directs the Department of Medical Assistance Services to amend the Home and Community-based Services Transition Plan and 12VAC30-122-390 to remove the provision which specifically requires that group homes larger than six beds will not be able to enter the Virginia Home and Community Based System program. This provision took effect on March 31, 2021. While the goal is to decrease the size of community settings, and the tiered rate structure is designed to facilitate that goal, the workforce crisis is forcing program closures. The restriction forces individuals away from familiar staff and housemates. Medicaid cannot reimburse for services for any individual in a new setting greater than six beds. due to this limitation.)

Chief Patron: Barker

Item 320 #1s

Complex Care Teams for ER High Utilizers

Health and Human Resources

FY20-21

FY21-22

Department of Behavioral Health and
Developmental Services

\$0
\$0

\$1,000,000 GF
\$1,000,000 NGF

Language:

Page 161, line 5, strike "\$115,766,786" and insert "\$117,766,786".

Explanation:

(This amendment adds \$1.0 million from the general fund and \$1.0 million from nongeneral funds for the Department of Behavioral Health and Developmental Services to expand their current pilot program for complex care for high utilizer program of inpatient care to patients with six or more emergency department admissions and a behavioral health diagnosis. The funding will set up and staff teams across the Commonwealth, each responsible for managing a

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certain number of the estimated 225 enrollees per year, which could result in state savings. The program shall coordinate with the Emergency Department Care Coordination Program for data collection. A contractor could be used to coordinate efforts, including the Department of Medical Assistance Services, private payers and existing community resources, such as Unite US, a resource tool, with a focus on the following five areas of proven success with complex cases: (i) direct patient engagement, (ii) community resource coordination, partnering with Unite Us, (iii) customized care plan development using the current EDIE program of the EDCC, (iv) community multi-disciplinary team development, and (v) community controlled substance monitoring.)

Chief Patron: Hanger

Item 320 #2s

Stakeholder Group to Address Crisis Care

Health and Human Resources

Department of Behavioral Health and Developmental Services

Language

Language:

Page 167, after line 43, insert:

"OO. The Department of Behavioral Health and Developmental Services shall assemble a stakeholder group to develop a plan and make recommendations on an appropriate system for "Crisis Care" throughout the Commonwealth. The focus shall be on timely processing and appropriate service availability for individuals in need of interventions and behavioral health supports to include emergency custody orders and temporary custody orders."

Explanation:

(This amendment creates a stakeholder group to develop a plan and make recommendations on an appropriate system for "Crisis Care" throughout the Commonwealth. The focus shall be on timely processing and appropriate service availability for individuals in need of interventions and behavioral health supports to include emergency custody orders and temporary custody orders.)

Chief Patron: Pillion

Item 374 #1s

Mendota Trail

Natural Resources

Department of Conservation and Recreation

Language

Language:

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Page 200, line 4, strike "Not set out." and insert:

Amendment Drawn to Chapter 552

Page 491, line 44, after "trail." insert:

"Any remaining balances shall not revert to the general fund and shall be carried forward to the subsequent fiscal year."

Explanation:

(This amendment authorizes any balances of funds appropriated for the Mendota Trail project at the end of FY 2022 to be carried forward to the subsequent fiscal year.)

Chief Patron: Pillion

Item 374 #2s

Breaks Interstate Park Lodge Repairs

Natural Resources

FY20-21

FY21-22

Department of Conservation and Recreation

\$0

\$430,000 GF

Language:

Page 200, line 4, strike "\$84,086,747" and insert "\$84,516,747".

Page 200, line 4, strike "Not set out." and insert"

Amendment Drawn to Chapter 552

Page 489, line 47, after "year" insert "and \$430,000 the second year"

Explanation:

(This amendment provides an additional \$430,000 GF in FY 2022 to address cost increases, due to inflation, to complete repairs to the Breaks Lodge in memory of Senator Ben Chafin. An additional \$430,000 is needed to complete the project, originally supported with a \$1.4 million state allocation.)

Chief Patron: Surovell

Item 374 #3s

Co-Patron(s): Ebbin

River Farm

Natural Resources

Department of Conservation and Recreation

Language

Language:

Request to Amend SB 29, as Introduced

Page 200, line 4, strike "Not set out." and insert:

Amendment Drawn to Chapter 552

Page 491, strike line 45 through line 47, and insert:

"U. Out of the amounts in this item, \$2,000,000 the second year from the general fund is provided for the Department of Conservation and Recreation to establish a grant program for accessibility improvements at a property owned by a charity, formerly part of George Washington's estate, including the design and construction of ADA compliant public trails and viewing areas, driveway and parking areas, shoreline stabilization, passive use water access and riverbank restoration, and elimination of invasive plant species in coordination with the Virginia Outdoors Foundation."

Explanation:

(This amendment repurposes \$2.0 million GF currently appropriated in FY 2022 for a grant program to provide for accessibility improvements that facilitate public access and educational opportunities at George Washington's historic River Farm property.)

Chief Patron: Pillion

Item 376 #1s

Bristol Landfill Technical Assistance

Natural Resources

Department of Environmental Quality

Language

Language:

Page 200, line 7, strike "Not set out." and insert:

Amendment Drawn to Chapter 552

Page 493, after line 13, insert:

"D. The Department of Environmental Quality is directed to provide emergency technical assistance to the City of Bristol, Virginia as may be requested to resolve immediate landfill concerns and facilitate a long-term plan for returning the landfill to operational status upon remediation of any environmental, public health, or quality of life issues."

Explanation:

(This amendment authorizes the Department of Environmental Quality to provide emergency technical assistance to the City of Bristol, Virginia in resolving ongoing issues with the city-owned landfill and to facilitate a long-term plan for the operational status of the landfill once any health, environmental, or quality of life issue has been mitigated.)

Chief Patron: Ebbin

Item 402 #1s

Air Conditioning at DOC Facilities

Public Safety and Homeland Security	FY20-21	FY21-22	
Department of Corrections	\$0	\$8,820,000	GF

Language:

Page 204, line 26, strike "\$181,542,810" and insert "\$190,362,810".

Explanation:

(This amendment provides \$8,820,000 to the Department of Corrections for the completion of the installation of air conditioning and associated construction costs at ten facilities.)

Chief Patron: Newman

Item 406 #1s

Southern Virginia Internet Crimes Against Children Task Force

Public Safety and Homeland Security	FY20-21	FY21-22	
Department of Criminal Justice Services	\$0	\$544,000	GF

Language:

Page 204, line 42, strike "\$148,587,958" and insert "\$149,131,958".

Explanation:

(This amendment provides an additional \$544,000 from the general fund to the Department of Criminal Justice Services for the Southern Virginia Internet Crimes Against Children Task Force, to account for recent declines in nongeneral fund revenues from court fees.)

Chief Patron: Edwards

Item 408 #1s

Aid to Localities with Police Departments ("599") Program

Public Safety and Homeland Security	FY20-21	FY21-22	
Department of Criminal Justice Services	\$0	\$38,400,000	GF

Language:

Page 209, line 48, strike "\$191,746,081" and insert "\$230,146,081".

Request to Amend SB 29, as Introduced

Explanation:

(This amendment provides \$38.4 million from the general fund for the State Aid to Localities with Police Departments ("599") Program. The purpose is to reflect the general fund revenue growth rate of 14.4 percent in FY 2021 and 4.9 percent in FY 2022, as directed by § 9.1-165, et seq., *Code of Virginia*.)

Chief Patron: Lucas

Item 408 #2s

Aid to Localities with Police Departments ("599") Program

Public Safety and Homeland Security	FY20-21	FY21-22	
Department of Criminal Justice Services	\$0	\$38,400,000	GF

Language:

Page 209, line 48, strike "\$191,746,081" and insert "\$230,146,081".

Explanation:

(This amendment provides \$38.4 million from the general fund for the State Aid to Localities with Police Departments ("599") Program. The purpose is to reflect the general fund revenue growth rate of 14.4 percent in FY 2021 and 4.9 percent in FY 2022, as directed by § 9.1-165, et seq., *Code of Virginia*.)

Chief Patron: Reeves

Item 408 #3s

Aid to Localities with Police Departments ("599") Program

Public Safety and Homeland Security	FY20-21	FY21-22	
Department of Criminal Justice Services	\$0	\$50,500,000	GF

Language:

Page 209, line 48, strike "\$191,746,081" and insert "\$242,246,081".

Explanation:

(This amendment provides \$50.5 million from the general fund for the State Aid to Localities with Police Departments ("599") Program, established by § 9.1-165, et seq., *Code of Virginia*. \$12.0 million of this amount will be allocated to local police departments to assist with pay compression, recruitment, and retention of officers.)

Chief Patron: Newman

Item 430 #1s

Deputy Secretary for Transportation Innovation

Transportation	FY20-21	FY21-22	
Secretary of Transportation	\$0 0.00	\$125,000 1.00	GF FTE

Language:

Page 214, line 3, strike "\$953,895" and insert "\$1,078,895".

Explanation:

(This amendment establishes a Deputy Secretary for Transportation Innovation position, full-time, at the Office of the Secretary of Transportation. This is a strategic analyst who will improve interagency cooperation, as well as identify potential partnerships and additional federal government innovation opportunities for Virginia transportation programs.)

Chief Patron: Newman

Item 436 #1s

DMV Innovation

Transportation	FY20-21	FY21-22	
Department of Motor Vehicles	\$0	\$350,000	GF

Language:

Page 219, line 36, strike "\$216,673,180" and insert "\$217,023,180".

Page 222, after line 44, insert:

"W. The Commissioner, in consultation with the Secretary of Administration and the Governor's Chief Transformation Officer, is authorized to issue a Request for Information for (i) updating customer-facing web applications; (ii) pursuing the use of Artificial Intelligence in day-to-day activities; (iii) the issuance of digital passports and mobile driver's licenses; (iv) improving customer service, specifically through Smart Phone technologies and the use of self-service kiosks; and (v) other innovative technologies to improve the overall customer experience. The Commissioner is further authorized to enter into agreements with surrounding states for the purpose of building a multi-state consortium to improve the overall customer experience across state lines. Included in the amounts in this Item, \$650,000 the second year from the general fund is provided for direct and indirect consulting and technical support costs

Request to Amend SB 29, as Introduced

associated with the DMV innovation and customer service enhancement initiative."

Explanation:

(This amendment provides an appropriation \$650,000 GF in FY 2022 to immediately address any potential technical support costs of initiating an innovation and customer service enhancement initiative and authorizes the DMV to enter into a multi-state consortium to improve the customer experience. A companion amendment to SB 30 proposes an additional \$1.3 million GF over the biennium.)

Chief Patron: Lucas

Item 446 #1s

Evaluation of City Street Maintenance

Transportation

Department of Transportation

Language

Language:

Page 224, after line 40, insert:

"G. The Department of Transportation shall conduct an evaluation of the conditions of city streets. The evaluation shall include (i) an assessment of the current conditions of pavements and bridges on city-maintained streets throughout the Commonwealth, (ii) a review of the current formula used for distributing city street payments including comparisons of age, condition, vehicles miles traveled relative to per mile payments, (iii) opportunities for efficiency through partnerships with the Department, and (iv) recommendations, if any, for revisions to the formula for the distribution of city street payments. The evaluation shall be complete no later than December 1, 2023."

Explanation:

(This amendment moves language included in the introduced budget directing VDOT to review the condition of city streets from the Item that provides financial assistance to localities for city road maintenance to VDOT's budget for system planning and research in order to ensure that funding disbursements for localities are not reduced. The Joint Legislative and Review Commission recommended the review and found the cost to implement this change could range from a hundred thousand dollars up to \$2 million per year, depending on the data collection methods used and the extensiveness and frequency of collection.)

Chief Patron: Saslaw

Item 446 #2s

Evaluation of City Street Maintenance

Transportation

Department of Transportation

Language

Language:

Page 224, after line 40, insert:

"G. The Department of Transportation shall conduct an evaluation of the conditions of city streets. The evaluation shall include (i) an assessment of the current conditions of pavements and bridges on city-maintained streets throughout the Commonwealth, (ii) a review of the current formula used for distributing city street payments including comparisons of age, condition, vehicles miles traveled relative to per mile payments, (iii) opportunities for efficiency through partnerships with the Department, and (iv) recommendations, if any, for revisions to the formula for the distribution of city street payments. The evaluation shall be complete no later than December 1, 2023."

Explanation:

(This amendment moves language included in the introduced budget directing VDOT to review the condition of city streets from the Item that provides financial assistance to localities for city road maintenance to VDOT's budget for system planning and research in order to ensure that funding disbursements for localities are not reduced. The Joint Legislative and Review Commission recommended the review and found the cost to implement this change could range from a hundred thousand dollars up to \$2 million per year, depending on the data collection methods used and the extensiveness and frequency of collection.)

Chief Patron: Newman

Item 447.10 #1s

Multi-Use Trails "Peaks to Creeks" Project

Transportation

Department of Transportation

Language

Language:

Page 227, line 34, after "Rail-Trail," insert "the Peaks to Creeks project in Lynchburg,"

Explanation:

(This amendment adds the "Peaks to Creeks" project in Lynchburg, Virginia to the list of named projects eligible to receive a portion of the \$25.8 million GF proposed for regional trails.)

Chief Patron: Lucas

Item 451 #1s

Move Evaluation of City Streets Maintenance

Transportation

Department of Transportation

Language

Language:

Page 231, strike line 12 through line 19.

Explanation:

(This amendment is one of a series of amendments to move language included in the introduced budget directing VDOT to review the condition of city streets from the Item that provides Financial Assistance to Localities for city road maintenance to VDOT's budget for system planning and research in order to ensure that funding disbursements for localities are not reduced. The Joint Legislative and Review Commission recommended the review and found the cost to implement this change could range from a hundred thousand dollars up to \$2 million per year, depending on the data collection methods used and the extensiveness and frequency of collection.)

Chief Patron: Saslaw

Item 451 #2s

Move Evaluation of City Street Maintenance

Transportation

Department of Transportation

Language

Language:

Page 231, strike line 12 through line 19.

Explanation:

(This amendment is one of a series of amendments to move language included in the introduced budget directing VDOT to review the condition of city streets from the Item that provides Financial Assistance to Localities for city road maintenance to VDOT's budget for system planning and research in order to ensure that funding disbursements for localities are not reduced. The Joint Legislative and Review Commission recommended the review and found the cost to implement this change could range from a hundred thousand dollars up to \$2 million per year, depending on the data collection methods used and the extensiveness and frequency of collection.)

Chief Patron: Hashmi

Item 479.20 #1s

APRA - Teacher Premium Pay Increase

Central Appropriations	FY20-21	FY21-22	
Central Appropriations	\$0	\$50,915,743	NGF

Language:

Page 256, line 48, strike "\$9,094,043,771" and insert "\$9,144,959,514".

Page 260, after line 27, insert

"5) a) \$50,915,743 to Direct Aid to Public Education (197) shall be disbursed to divisions based on the estimated number of federal Free Lunch Program participants, in support of premium pay increases to attract and retain public school employee positions or contracted positions to work at public school sites. The additional payment shall be based on the state share of an add-on, as a percent of the per pupil Basic Aid cost, for each child who qualifies for the federal Free Lunch Program. Each school division shall receive a total between 0.0 and 6.0 percent in additional Basic Aid per Free Lunch participant, based on the 2022-22 biennium composite index of local ability-to-pay. These funds shall require no local match.

b) School divisions are required to spend these payments on premium pay increases up to an additional \$13.00 an hour for employees or contract workers, with a cap of \$25,000 per position. School divisions must follow all Treasury reporting and eligibility requirements for using State Fiscal Local Recovery Funds for premium pay and the Virginia Department of Education shall offer guidance upon distribution of funds. Any unexpended funds may carry over to FY 2023; however, funds shall be expended by June 30, 2023"

Explanation:

(This amendment provides \$50.9 million NGF the second year from the federal State and Local Recovery Fund (SLRF) pursuant to the American Rescue Plan Act of 2021 to attract and retain public school employee positions or contracted positions to work at public school sites. These payments are distributed to school divisions based on a Basic Aid add-on, using an add-on range of 0.0 to 6.0 percent based on the percentage of Free Lunch participants. No local match is required, and unexpected funds from the second year shall remain available in FY 2023.)

Chief Patron: McClellan

Item 479.20 #3s

ARPA: Transit Worker Pay

Central Appropriations	FY20-21	FY21-22	
Central Appropriations	\$0	\$20,000,000	NGF

Language:

Page 256, line 48, strike "\$9,094,043,771" and insert "\$9,114,043,771".

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Page 266, after line 34, insert:

"u. Public Transit

1) \$20,000,000 to the Department of Rail and Public Transportation (505) to fund the grants to local transit operators pay incentives for public transit workers."

Page 266, line 35, strike "u." and insert "v."

Explanation:

(This amendment provides \$20.0 million in federal American Rescue Plan Act funds to provide pay incentives, such as signing and periodic retention bonuses, to public transit workers. There are 40 transit agencies in Virginia, sustaining over 28,000 jobs annually.)

Chief Patron: Barker

Item 479.20 #4s

ARPA Funds for Local Government Nursing Facilities

Central Appropriations	FY20-21	FY21-22	
Central Appropriations	\$0	\$9,718,539	NGF

Language:

Page 256, line 48, strike "\$9,094,043,771" and insert "\$9,103,762,310".

Page 268, after line 47, insert:

"8) \$9,718,539 to the Department of Medical Assistance Services to reimburse nonstate government-owned nursing facilities for unreimbursed expenses and lost revenue attributable to COVID-19 as defined by the United States Department of Health and Human Services. Specifically, the amounts shall be allocated as follows:

Bedford County Nursing Home: \$352,239

Birmingham Green: \$3,068,652

Dogwood Village of Orange County: \$856,437

Lake Taylor Transitional Care Hospital: \$745,673

Lucy Corr Village: \$4,695,538"

Explanation:

(This amendment provides \$9.7 million from the American Rescue Plan Act fund to support Virginia's local government nursing homes for unreimbursed expenses and lost revenue attributable to COVID-19.)

Chief Patron: Cosgrove

Item 494 #1s

Retired Law-Enforcement Officers Employed as School Security Officers (SB 18)

Request to Amend SB 29, as Introduced

Independent Agencies	FY20-21	FY21-22
Virginia Retirement System	\$0	\$16,000 NGF

Language:

Page 276, line 13, strike "\$46,770,856" and insert "\$46,786,856".

Explanation:

(This amendment provides \$16,000 NGF in FY 2022 for implementation costs associated with SB 18, of the 2022 General Assembly, contingent upon its final passage, which allows a retired law-enforcement officer to continue to receive their service retirement allowance during a subsequent period of full-time employment by a local school division as a school security officer following a break in service of at least one month.)

Chief Patron: Hackworth

Item 494 #2s

Fund Implementation Costs (SB 17)

Independent Agencies	FY20-21	FY21-22
Virginia Retirement System	\$0	\$148,000 NGF

Language:

Page 276, line 13, strike "\$46,770,856" and insert "\$46,918,856".

Explanation:

(This amendment provides \$148,000 NGF in FY 2022 to cover costs to the Virginia Retirement System to implement the provisions of SB 17, introduced for consideration by the 2022 General Assembly, contingent upon its final passage, which allows a retired law-enforcement officer to continue to receive his service retirement allowance during a subsequent period of employment by a state and local law-enforcement agency under certain circumstances.)

Chief Patron: Governor Youngkin

Item 3-5.24 #1g

Language to Support Increase in Tax Rebate

Adjustments and Modifications to Tax Collections

Individual Income Tax Rebate

Language

Language:

Request to Amend SB 29, as Introduced

Page 313, line 21, strike "\$250" and insert "\$300".

Page 313, line 21, strike "\$500" and insert "\$600".

Explanation:

(This amendment increases the individual income tax rebate included in the introduced bill to \$300 for individual tax filers and \$600 for married persons filing a joint return. Companion amendments to Item 0 and § 3-5.22 of House Bill 30 also reflect this change to include the associated revenue impact.)

Chief Patron: Suetterlein

Item 4-5.04 #1s

Limit Funding for Abortion Services to Federal Law

Special Conditions and Restrictions on Expenditures

Goods and Services

Language

Language:

Page 344, line 7, after "federal law", strike "or state statute".

Explanation:

(This amendment provides that no expenditures from general or nongeneral fund sources out of any appropriation by the General Assembly may be expended for abortion services unless otherwise required by federal law.)

Chief Patron: Governor Youngkin

Item 4-5.12 #1g

Regional Greenhouse Gas Initiative Withdrawal

Special Conditions and Restrictions on Expenditures

Regional Greenhouse Gas Initiative Withdrawal

Language

Language:

Page 347, after line 36, insert:

“§ 4-5.12 REGIONAL GREENHOUSE GAS INITIATIVE WITHDRAWAL

Notwithstanding the Clean Energy and Community Flood Preparedness Act (§§ 10.1-1329-1331) or any other provision of the Code of Virginia, the Department of Environmental Quality, the State Air Pollution Control Board, and any other applicable state office, state board, or state agency shall stop participation in an auction program to sell allowances into a market-based

Request to Amend SB 29, as Introduced

trading program consistent with, or participation in, the Regional Greenhouse Gas Initiative (RGGI), and shall stop enforcing and rescind any regulation that adopts its authority from or is directly supportive of participation in such an auction program. The Department of Environmental Quality shall take all steps necessary to terminate all contracts with the Regional Greenhouse Gas Initiative, Inc. and the states participating in RGGI. Additionally, the Departments of Environmental Quality, Conservation and Recreation, Housing and Community Development, and Energy, and the Virginia Resources Authority shall not incur any obligations or expenditures, or direct the payment of revenues generated from the Commonwealth's participation in RGGI, without prior written approval by the Governor."

Explanation:

(This amendment directs the impacted state agencies and entities to begin terminating the Commonwealth's participation in RGGI and prohibits the expenditure of revenues generated from participation in RGGI without prior approval of the Governor.)

Chief Patron: Governor Youngkin

Item 4-5.13 #1g

Repeal Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus that Causes COVID-19

Special Conditions and Restrictions on Expenditures

Repeal Standard for Infectious Disease Prevention of the SARS-CoV-2 Virus that Causes COVID-19

Language

Language:

Page 347, after line 36, insert:

“§ 4-5.13 REPEAL STANDARD FOR INFECTIOUS DISEASE PREVENTION OF THE SARS-COV-2 VIRUS THAT CAUSES COVID-19

The Department of Labor and Industry, the Safety and Health Codes Board, the Board of Health, the Virginia Department of Health, and any other applicable state office, state board, or state agency shall take all steps necessary to rescind 16VAC25-220 et seq. and any other regulation that draws its authority from or is directly supportive of 16VAC25-220.”

Explanation:

(This amendment requires agencies to rescind regulations that draw their authority from 16VAC25-220 of the Virginia Administrative Code.)

Chief Patron: Governor Youngkin

Item 4-14.00 #1g

Suspension of Gas Tax Increase

Request to Amend SB 29, as Introduced

Effective Date

Effective Date

Language

Language:

Page 402, after line 31, insert:

“27. That § 58.1-2217 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-2217. Taxes levied; rate.

A. (Contingent expiration date) There is hereby levied an excise tax on gasoline and gasohol as follows:

1. On and after July 1, 2020, but before July 1, 2021, *and on and after July 1, 2022, but before July 1, 2023*, the rate shall be 21.2 cents per gallon;

2. On and after July 1, 2021, but before July 1, 2022, the rate shall be 26.2 cents per gallon; ~~and~~

3. *On and after July 1, 2023, but before July 1, 2024, the rate shall be 26.2 cents per gallon adjusted based on the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for 2022 or (ii) zero; and*

~~3.~~ 4. On and after July 1, ~~2022~~ 2024, the rate shall be adjusted annually based on the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPIU), as published by the Bureau of Labor Statistics for the U.S, Department of Labor for the previous year or (ii) zero.

A. (Contingent effective date) There is hereby levied an excise tax on gasoline and gasohol at a rate of 16.2 cents per gallon.

B. (Contingent expiration date) There is hereby levied an excise tax on diesel fuel as follows:

1. On and after July 1, 2020, but before July 1, 2021, *and on and after July 1, 2022, but before July 1, 2023*, the rate shall be 20.2 cents per gallon;

2. On and after July 1, 2021, but before July 1, 2022, the rate shall be 27 cents per gallon; ~~and~~

3. *On and after July 1, 2023, but before July 1, 2024, the rate shall be 27 cents per gallon adjusted based on the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for 2022 or (ii) zero; and*

~~3.~~ 4. On and after July 1, ~~2022~~ 2024, the rate shall be adjusted annually based on the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPIU), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year or (ii) zero.

B. (Contingent effective date) There is hereby levied an excise tax on diesel fuel at a rate of

Request to Amend SB 29, as Introduced

20.2 cents per gallon.

C. Blended fuel that contains gasoline shall be taxed at the rate levied on gasoline. Blended fuel that contains diesel fuel shall be taxed at the rate levied on diesel fuel.

D. There is hereby levied a tax at the rate of five cents per gallon on aviation gasoline. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation gasoline shall be liable for the tax at the rate levied on gasoline and gasohol, along with any penalties and interest that may accrue.

E. There is hereby levied a tax at the rate of five cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate levied on diesel fuel, along with any penalties and interest that may accrue.

F. In accordance with § 62.1-44.34:13, a storage tank fee is imposed on each gallon of gasoline, aviation gasoline, diesel fuel (including dyed diesel fuel), blended fuel, and heating oil sold and delivered or used in the Commonwealth.”

Page 402, line 32, strike “27” and insert “28”.

Page 402, line 33, strike “28” and insert “29”.

Page 402, line 34, strike “twenty-seventh” and insert “twenty-eighth”.

Page 402, line 36, strike “29” and insert “30”.

Page 402, line 40, strike “30” and insert “31”.

Page 402, line 40, strike “and twenty-sixth” and insert:

“, twenty-sixth, and twenty-seventh”.

Explanation:

(This amendment delays a planned increase in gasoline taxes from July 1, 2022 until July 1, 2023.)

Chief Patron: Governor Youngkin

Item 4-14.00 #2g

Inherently Divisive Concepts

Effective Date

Effective Date

Language

Request to Amend SB 29, as Introduced

Language:

Page 402, after line 31,

“27. That the Code of Virginia is amended by adding a section numbered 22.1-208.03 as follows:

§ 22.1-208.03. *Curricula and instruction including inherently divisive concepts prohibited.*

A. As used in this section, "inherently divisive concepts" means advancing any ideas in violation of Title IV and Title VI of the Civil Rights Act of 1964, including, but not limited to of the following concepts (i) one race, skin color, ethnicity, sex, or faith is inherently superior to another race, skin color, ethnicity, sex, or faith; (ii) an individual, by virtue of his or her race, skin color, ethnicity, sex or faith, is racist, sexist, or oppressive, whether consciously or subconsciously; (iii) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race, skin color, ethnicity, sex or faith; (iv) members of one race, ethnicity, sex or faith cannot and should not attempt to treat others as individuals without respect to race, sex or faith; (v) an individual's moral character is inherently determined by his or her race, skin color, ethnicity, sex, or faith; (vi) an individual, by virtue of his or her race, skin color, ethnicity, sex, or faith, bears responsibility for actions committed in the past by other members of the same race, ethnicity, sex or faith; (vii) meritocracy or traits, such as a hard work ethic, are racist or sexist or were created by a particular race to oppress another race.

B. Each public elementary or secondary school principal shall ensure that no curriculum utilized or instruction delivered in the school includes inherently divisive concepts, regardless of whether such curriculum or instruction is provided by a school board employee or any other individual or entity."

Page 402, line 32, strike "27" and insert "28".

Page 402, line 33, strike "28" and insert "29".

Page 402, line 34, strike "twenty-seventh" and insert "twenty-eighth".

Page 402, line 36, strike "29" and insert "30".

Page 402, line 40, strike "30" and insert "31".

Page 402, line 40, strike "and twenty-six" and insert:

", twenty-sixth, and twenty-seventh".

Explanation:

(This amendment prohibits the promotion of inherently divisive concepts in public education.)

Chief Patron: Governor Youngkin

Item 4-14.00 #3g

Costs of Allowances Purchased Through Trading Program for Carbon Dioxide Emissions

Effective Date

Effective Date

Language

Language:

Page 402, after line 31, insert:

“27. That § 56-585.1 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for

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the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with subsequent reviews on a triennial basis utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. All such reviews occurring after December 31, 2017, shall be referred to as triennial reviews. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the Commission during each such triennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but for applications received by the Commission on or after January 1, 2020, such return shall not be set lower than the average of either (i) the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such triennial review or (ii) the authorized returns on common equity that are set by the applicable regulatory commissions for the same selected peer group, nor shall the Commission set such return more than 150 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities for applications received by the Commission on or after January 1, 2020, the Commission shall first remove from such group the two utilities within such group that have the lowest reported or authorized, as applicable, returns of the group, as well as the two utilities within such group that have the highest reported or authorized, as applicable, returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are

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conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such triennial review, and (iv) it is not an affiliate of the utility subject to such triennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in

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subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision are subject to the provisions of subdivision 8.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent triennial review.

3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021, consisting of the schedules contained in the Commission's rules governing utility rate increase applications. Such filing shall encompass the three successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, except that the filing for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31, 2020, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The

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Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future triennial review proceedings. In a triennial filing under this subdivision that does not result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.

4. (Expires December 31, 2023) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission; (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member; and (iii) costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service; charges for new and existing transmission facilities, including costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park; administrative charges; and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

4. (Effective January 1, 2024) The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July

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1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peakshaving programs or pilot programs. The Commission shall approve such a petition if it finds that the program is in the public interest, provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs or pilot programs. Any such petition shall include a proposed budget for the design, implementation, and operation of the energy efficiency program, including anticipated savings from and spending on each program, and the Commission shall grant a final order on such petitions within eight months of initial filing. The Commission shall only approve such a petition if it finds that the program is in the public interest. If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program that has bearing upon the Commission's determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.

Energy efficiency pilot programs are in the public interest provided that the pilot program is (i) of limited scope, cost, and duration and (ii) intended to determine whether a new or substantially revised program would be cost-effective.

Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses for energy efficiency programs and pilot programs, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. Beginning January 1, 2022, and thereafter, if the Commission determines that the utility meets in any year the annual energy efficiency standards set forth in § 56-596.2, in the following year, the Commission shall award a margin on energy efficiency program operating expenses in that year, to be recovered through a rate adjustment clause, which margin shall be equal to the general rate of return on common equity determined as described in subdivision 2. If the Commission does not approve energy efficiency programs that, in the aggregate, can achieve the annual energy efficiency standards, the Commission shall award a margin on energy efficiency operating expenses in that year for any programs the Commission has approved, to be recovered through a rate adjustment clause under this subdivision, which margin shall equal the general rate of return on common equity determined as described in subdivision 2. Any margin awarded pursuant to this subdivision shall be applied as part of the utility's next rate adjustment clause true-up proceeding. The Commission shall also award an additional 20 basis points for each additional incremental 0.1 percent in annual savings in any year achieved by the utility's energy efficiency programs approved by the Commission pursuant to this subdivision, beyond the annual requirements set forth in § 56-596.2, provided that the total performance incentive awarded in any year shall not exceed 10 percent of that utility's total energy efficiency program spending in that same year.

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The Commission shall annually monitor and report to the General Assembly the performance of all programs approved pursuant to this subdivision, including each utility's compliance with the total annual savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs produce; utility spending on each program, including any associated administrative costs; and each utility's avoided costs and cost-effectiveness results.

Notwithstanding any other provision of law, unless the Commission finds in its discretion and after consideration of all in-state and regional transmission entity resources that there is a threat to the reliability or security of electric service to the utility's customers, the Commission shall not approve construction of any new utility-owned generating facilities that emit carbon dioxide as a by-product of combusting fuel to generate electricity unless the utility has already met the energy savings goals identified in § 56-596.2 and the Commission finds that supply-side resources are more cost-effective than demand-side or energy storage resources.

As used in this subdivision, "large general service customer" means a customer that has a verifiable history of having used more than one megawatt of demand from a single site. Large general service customers shall be exempt from requirements that they participate in energy efficiency programs if the Commission finds that the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than June 30, 2021, adopt rules or regulations (a) establishing the process for large general service customers to apply for such an exemption, (b) establishing the administrative procedures by which eligible customers will notify the utility, and (c) defining the standard criteria that shall be satisfied by an applicant in order to notify the utility, including means of evaluation measurement and verification and confidentiality requirements. At a minimum, such rules and regulations shall require that each exempted large general service customer certify to the utility and Commission that its implemented energy efficiency programs have delivered measured and verified savings within the prior five years. In adopting such rules or regulations, the Commission shall also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource

planning process, as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. Savings from large general service customers shall be accounted for in utility reporting in the standards in § 56-596.2.

The notice of nonparticipation by a large general service customer shall be for the duration of the service life of the customer's energy efficiency measures. The Commission may on its own motion initiate steps necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a body of evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

A utility shall not charge such large general service customer for the costs of installing energy

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efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of compliance with renewable energy portfolio standard requirements pursuant to § 56-585.5 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs incurred as required by § 56-585.5, provided that the Commission does not otherwise find such costs were unreasonably or imprudently incurred;

e. ~~Projected~~ *Except as provided in subdivision 11, the projected* and actual costs of projects that the Commission finds to be necessary to mitigate impacts to marine life caused by construction of offshore wind generating facilities, as described in § 56-585.1:11, or to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations, ~~including the costs of allowances purchased through a market based trading program for carbon dioxide emissions.~~ The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations;

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility; and

g. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled individuals or (ii) organizations providing residential services to low-income, elderly, and disabled individuals for the installation of, or access to, equipment to generate electric energy derived from sunlight, provided the low-income, elderly, and disabled individuals, or organizations providing residential services to low-income, elderly, and disabled individuals, first participate in incentive programs for the installation of measures that reduce heating or cooling costs.

Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until the utility exhausts the approved budget for the energy efficiency program. The Commission shall have the authority to determine the duration or amortization period for any other rate adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers

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of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of overhead distribution facilities to underground facilities that have been previously approved or are pending approval by the Commission through a petition by the utility under this subdivision. Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs or makes modifications to any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground

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facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility that emits carbon dioxide shall demonstrate that it has already met the energy savings goals identified in § 56-596.2 and that the identified need cannot be met more affordably through the deployment or utilization of demand-side resources or energy storage resources and that it has considered and weighed alternative options, including third-party market alternatives, in its selection process.

The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. In any application to construct a new generating facility, the utility shall include, and the Commission shall consider, the social cost of carbon, as determined by the Commission, as a benefit or cost, whichever is appropriate. The Commission shall ensure that the development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on historically economically disadvantaged communities. The Commission may adopt any rules it deems necessary to determine the social cost of carbon and shall use the best available science and technology, including the Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse Gases from the United States Government in August 2016, as guidance. The Commission shall include a system to adjust the costs established in this section with inflation.

Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility

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shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities or new electric distribution grid transformation projects are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, that use energy derived from sunlight or from onshore wind and are located in the Commonwealth or off the Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title.

The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of \$20,000, with such customers, including those served directly by or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines

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converted, exclusive of financing costs, of \$750,000. A utility shall, without regard for whether it has petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric distribution grid transformation projects shall include both measures to facilitate integration of distributed energy resources and measures to enhance physical electric distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without regard to whether the costs associated with such projects will be recovered through a rate adjustment clause under this subdivision or through the utility's rates for generation and distribution services; and without regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric distribution grid transformation plan shall be entered by the Commission not more than six months after the date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

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Only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest. Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore wind with an aggregate capacity of 16,100 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, together with a utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000 megawatts, are in the public interest. Additionally, energy storage facilities with an aggregate capacity of 2,700 megawatts are in the public interest. To the extent that a utility elects to recover the costs of any such new generation or energy storage facility or facilities through its rates for generation and distribution services and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection D of § 56-580 or in a

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triennial review proceeding.

Electric distribution grid transformation projects are in the public interest. To the extent that a utility elects to recover the costs of such electric distribution grid transformation projects through its rates for generation and distribution services, and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a triennial review proceeding.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.2-1600, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced

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rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate adjustment clause involving said test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution services, with no change in such rates for generation and distribution services as a result of the combination of such costs with the other costs, revenues, and investments included in the utility's rates for generation and distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and investments included in its rates for generation and distribution services until such costs are fully recovered.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant

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normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to triennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later.

8. In any triennial review proceeding, for the purposes of reviewing earnings on the utility's rates for generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such triennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that

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would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a triennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such triennial review that: a. Revenue reductions related to energy efficiency measures or programs approved and deployed since the utility's previous triennial review have caused the utility, as verified by the Commission, during the test period or periods under review, considered as a whole, to earn more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates for generation and distribution services necessary to recover such revenue reductions. If the Commission finds, for reasons other than revenue reductions related to energy efficiency measures, that the utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any

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rate increase under the standards of this sentence, and the amount thereof; and provided that, solely in connection with making its determination concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the combined test periods under review in that triennial review proceeding, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the first triennial review proceeding conducted after January 1,

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2021, for a Phase II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall not exceed \$50 million in annual revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof; and

d. (Expires July 1, 2028) In any triennial review proceeding conducted after December 31, 2017, upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the utility's plant in service and construction work in progress balances related to such investments as recorded per books by the utility for financial reporting purposes as of the end of the most recent test period under review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such excess shall be credited to customer bills as provided in subdivision 8 b in connection with the triennial review proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be

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recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall not thereafter be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

The Commission's final order regarding such triennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such triennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire three successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent triennial review filing under subdivision 3 and shall apply to applicable rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order in the triennial review proceeding, utilizing rate adjustment clause trueup protocols as the Commission in its discretion may determine.

9. If, as a result of a triennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items,

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all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall

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exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

11. The costs of allowances purchased through a market-based trading program for carbon dioxide emissions shall only be eligible for recovery from customers through the utility's base rates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by customers.

E. Notwithstanding any other provision of law, the Commission shall determine the amortization period for recovery of any appropriate costs due to the early retirement of any electric generation facilities owned or operated by any Phase I Utility or Phase II Utility. In making such determination, the Commission shall (i) perform an independent analysis of the remaining undepreciated capital costs; (ii) establish a recovery period that best serves ratepayers; and (iii) allow for the recovery of any carrying costs that the Commission deems appropriate.

F. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.”

Page 402, line 32, strike “27” and insert “28”.

Page 402, line 33, strike “28” and insert “29”.

Page 402, line 34, strike “twenty-seventh” and insert “twenty-eighth”.

Page 402, line 36, strike “29” and insert “30”.

Page 402, line 40, strike “30” and insert “31”.

Page 402, line 40, strike “and twenty-sixth” and insert “, twenty-sixth, and twenty-seventh”.

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Explanation:

(This amendment provides that the costs of allowances purchased through a market-based trading program for carbon dioxide emissions shall only be eligible for recovery from customers through a utility's base rates.)
