

**REPORT OF THE SECRETARY OF HEALTH
AND HUMAN RESOURCES**

**Report of the Virginia Facilitated
Enrollment Work Group
(Chapter 973, 2020)**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 3

**COMMONWEALTH OF VIRGINIA
RICHMOND
2021**



COMMONWEALTH of VIRGINIA
Office of the Governor

Daniel Carey, MD
Secretary of Health and Human Resources

January 8, 2021

To: The Honorable Ralph S. Northam
Governor of Virginia

The Honorable Richard Saslaw
Chairman, Senate Commerce and Labor Committee

The Honorable Jeion Ward
Chairwoman, House Labor and Commerce Committee

The Honorable Janet Howell
Chairwoman, Senate Finance Committee

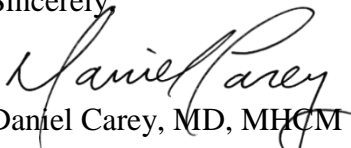
The Honorable Luke Torian
Chairman, House Appropriations Committee

Re: Virginia Facilitated Enrollment Work Group Report

Dear Governor Northam, Chairman Saslaw, Chairwoman Ward, Chairwoman Howell, and
Chairman Torian,

The attached report of the Virginia Facilitated Enrollment Work Group is submitted pursuant to
Chapter 917, Acts of Assembly. Please feel free to contact me if you have any questions.

Sincerely,


Daniel Carey, MD, MHCM

Report of the Virginia Facilitated Enrollment Work Group

**To the Governor and Chairmen of the
House Labor and Commerce
Senate Commerce and Labor**

**House Appropriations
and
Senate Finance and Appropriations Committees**

January 8, 2021

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Introduction

The purpose of this report is to develop a Virginia specific proposal for a Facilitated Enrollment Program, to promote and maximize access to comprehensive health insurance coverage for all Virginians.

Pursuant to [SB 732/HB 1428](#), The Virginia Health Benefit Exchange, Enactment Clause number three, the General Assembly directed,

That the Secretary of Health and Human Resources shall convene a work group that includes representatives from the State Corporation Commission, the Department of Medical Assistance Services, the Department of Social Services, and the Department of Taxation and a consumer advocate with expertise in health program eligibility and enrollment to develop systems, policies, and practices to leverage state income tax returns to facilitate the enrollment of eligible individuals in insurance affordability programs through the Virginia Health Benefit Exchange established by this act. The Secretary shall report the work group's recommendations to the Governor and the General Assembly by September 15, 2020.

The charge of the Work Group was technical in nature to develop an operational proposal. As such, the Work Group was comprised of the following state agencies and organizations:

- *Virginia State Corporation Commission, Health Benefit Exchange, and the Bureau of Insurance (SCC, HBE, BOI)*
- *Department of Medical Assistance Services (DMAS)*
- *Department of Tax (TAX)*
- *Department of Social Services (DSS)*
- *Enroll Virginia*
- *The Commonwealth Institute*

The Work Group first met on September 24, 2020 with four meetings between then and October 22, 2020. A group work plan to guide the discussion was provided to the group and feedback was sought to inform the plan. The resulting report explains the plan in detail.

Work Group members from each agency provided input to develop a legislative proposal for General Assembly consideration that would be necessary in order to operationalize the plan for Facilitated Enrollment. DMAS, TAX, and DSS each submitted budget requests to the Department of Planning and Budget for funding that is needed in order to implement the suggested legislation. These items were included in the Governor's 2021 introduced budget.

Facilitated Enrollment Work Plan

Meeting	Topic	Items/Focus
#1 -9/24	Organization Current Enrollment Mechanisms	<ul style="list-style-type: none"> ● Review of Charge ● What is the purpose of Virginia’s Facilitated Enrollment Program? ● Current enrollment practices in Virginia: Enroll Virginia, DMAS, DSS, SCC ● Next steps
# 2- 10/1	Setting a Vision Developing a Virginia Specific Approach	<ul style="list-style-type: none"> ● Presentation on Maryland approach to Facilitated Enrollment. ● What should Virginia’s Facilitated Enrollment Program look like?
#3-10/6	Proposal Development	<ul style="list-style-type: none"> ● Virginia proposal development
#4-10/7-10/21	Proposal Refinement	<ul style="list-style-type: none"> ● Group meets independently to refine proposal for facilitated enrollment program.
#4 -10/22	Recommendations	<ul style="list-style-type: none"> ● Group presents proposal to HHR, for consideration in GA 2021
#5- 11/15	Report Due to GA – (extended deadline)	

During the first meeting the Work Group members provided an overview of their current operational functions that relate to eligibility and enrollment in health insurance affordability programs. During the second meeting, the group met with Stan Dorn, Director of the National Center for Coverage Innovation & Senior Fellow at Families USA, to learn about the Maryland Easy Enrollment Program, to inform Virginia’s goals and implementation objectives. The remaining meetings, Work Group leads developed draft proposals for implementation of their respective responsibilities and presented to the group for discussion and feedback.

After the discussions, the Work Group arrived at a multi-phased proposal, detailed below to accomplish the goals consistent with SB 732/HB 1328, and the recommendations of the agencies and stakeholders.

Proposal for the Virginia Facilitated Enrollment Program

In addition to establishing the Virginia Health Benefit Exchange, Senate Bill 732 / House Bill 1428 (2020) established requirements to set in motion a process to facilitate enrollment of individuals into health insurance affordability programs. Two now existing code sections begin this process, specifically in Title 58.1 Taxation, and Title 38.2, Insurance- The Virginia Health Benefit Exchange.

I. Title 58.1 Taxation, contains the following:

§ 58.1-341.1. Returns of individuals; required information.

For all taxable years beginning on and after January 1, 2021, the Department of Taxation shall include on the appropriate individual income tax return forms a checkoff box or similar mechanism for indicating whether the individual, or spouse in the case of a married taxpayer filing jointly, or any dependent of the individual (i) is an uninsured individual at the time the return is filed and (ii) voluntarily consents to the Department of Taxation providing the individual's tax information, as provided in clause (xxii) of subsection C of § 58.1-3, to the Department of Medical Assistance Services for purposes of affirming that the individual, the individual's spouse, or any dependent of the individual meets the income eligibility for medical assistance. Such information shall not be used to determine an individual is ineligible for medical assistance.

II. Title 38.2 Insurance, contains the following:

38.2-6505 Duties of the Exchange.

The Exchange shall:

38.2-6505 subdivision 8 - *Inform individuals, in accordance with § 1413 of the Federal Act, of eligibility requirements for (i) the State Medicaid Program; (ii) the Children's Health Insurance Program (CHIP) under Title XXI of the Social Security Act, including FAMIS, as amended from time to time; or (iii) any applicable state or local public health subsidy program, and enroll an individual in such program if it is determined, through screening of the application, that such individual is eligible for any such program;*

and

38.2-6505 subdivision 18- *In collaboration with the Department of Medical Assistance Services, coordinate the operations of the Exchange with the operations of the state plan for medical assistance to determine initial and ongoing eligibility for those programs in a streamlined fashion.*

Building from these requirements, the work group developed the following recommendations.

Overview

To begin the Facilitated Enrollment Program, under existing law, the Department of Taxation (TAX) in taxable year 2021 (calendar year 2022), TAX is required to include a checkbox on individual tax return forms for an individual to voluntarily indicate whether they are uninsured at the time of filing, and whether the individual consents to TAX sharing eligibility related information with the Department of Medical Assistance Services (DMAS) to help connect uninsured Virginians to free or low-cost health insurance coverage.

These initial steps set the foundation for the Facilitated Enrollment Program, however, as contemplated by the Health Benefit Exchange legislation (Enactment Clause 3), the work group was tasked with identifying systems, policies, and practices, to use state individual income tax returns to facilitate enrollment into health insurance affordability programs. Ultimately, the work group found that a consumer-centered, streamlined, experience between state tax filing and Medicaid coverage is the goal.

Arrival at the goal will be accomplished by a phased-in approach, which recognizes the need for new resources, business processes, and system developments.

Recommendation: Phase 1.0- Targeted Outreach (Implementation date January 2022)

In Phase 1, DMAS will use data provided by TAX to perform active outreach to uninsured individuals to facilitate their enrollment in coverage. If the data from TAX includes an individual's preferred method of communication, DMAS will develop business processes to utilize each of the relevant methods (e.g., email, phone, text, etc.).

Implementing this phase will require several steps, integrated across sister agencies.

1. As with any data source, a data-sharing agreement will need to be drafted and executed by TAX and DMAS and a secure method for transmitting the data established.
2. TAX will develop a check box or similar mechanism for the tax return form, for individuals to voluntarily consent to the transmission of appropriate data, and a mechanism to indicate a preferred method of contact for the household. (Taxable Year 2021/Calendar Year 2022)
3. DMAS will produce an informational packet describing Virginia Medicaid, other coverage options, and available application methods. Such information will be produced for all methods of information delivery. The packet will be reviewed by DMAS as well as stakeholders and DMAS will execute contract modifications to implement the outreach.
4. DMAS will develop a tracking system to ensure Virginians are taking advantage of this outreach in order to inform future developments.

Recommendation: Phase 1.5- Fast Track Approach (Implementation date January 2023)

Phase 1.5 moves beyond outreach to reduce complex administrative barriers for consumers by implementing a simplified application for individuals electing to share their tax return data with DMAS.

DMAS/DSS will work with TAX to identify additional data points that are necessary for determining eligibility, to be included on an appropriate tax return form. Examples of data points include but are not limited to: date of birth; social security number; email address; dependent's name, social security number, and date of birth; and preferred method for the Department of Medical Assistance Services and the Virginia Health Benefit Exchange to contact the individual for purposes of eligibility determination.

DMAS will develop a simplified online, telephonic, and paper application which would need to be approved by the Centers for Medicaid and Medicare Services (CMS) to collect any remaining information.

The Fast-Track approach would use the data authorized in Phase 1 as well as any additional points identified in the paragraph above, pursuant to CMS requirements, to send a simplified application to individuals who indicated on their tax return that they are interested in Medicaid coverage.

Depending on the level of information TAX collects on the tax return and is authorized to share with DMAS/DSS, the additional information needed for Medicaid eligibility could range from a large set of missing data (e.g., Address, date of birth, SSN, Citizenship or Alien Status, dependent information, etc.) to a very small set (e.g., an attestation, a few check boxes, and a signature requirement). The amount of data exchange depends on TAX's interpretation of current laws and what they are allowed to share from the tax return including but not limited to dependent information.

Beyond creating a simplified application, to process the applications, new system and business processes will need to be developed and implemented. Systems updates are a major lift in this phase.

The IAG will need to be updated to allow automation of the information through VDSS' eligibility system. An automated process would need to be developed to take the information from the file and populate it onto the streamlined application, either electronic or paper. DMAS and VDSS will then develop systems updates to enter the information from the streamlined application, including through a streamlined online and telephonic application flow that mirrors the information on the form. To execute these processes VDSS' eligibility system (VaCMS) will be updated to accept the streamlined application and incorporate this different data into the major components of application processing (i.e., file clearance/registration, data collection, and eligibility/authorization).

The new process will require training with VDSS and Cover Virginia staff on how to process the applications as well as how to evaluate eligibility.

Recommendation: Phase 2.0 (With implementation of the Virginia Health Benefit Exchange, Plan Year 2023)

The Virginia Health Benefit Exchange is expected to transition to a full state-based marketplace for insurance plans effective beginning January 1, 2023.

Building on Phase 1.0 and Phase 1.5, the health benefit exchange would receive information from the Department of Tax, and conduct outreach to individuals who voluntarily consent to having pertinent information shared with the HBE for the purposes of determining eligibility for Virginia health insurance affordability programs.

With a fully operational health benefit exchange, Virginia can pursue further streamlining applications and eligibility, as well as policies to make eligibility determination and enrollment processes expeditious and more consumer friendly to those who choose to have their information forwarded for these purposes.

Consistent with goals of SB 732/HB 1428, the Health Benefit Exchange will:

Oversee the development and implementation the following objectives outlined in [38.2-6505 subdivisions 8 and 18](#).

- Inform individuals, in accordance with § 1413 of the Federal Act, of eligibility requirements for:
 - the State Medicaid Program
 - the Children's Health Insurance Program (CHIP) and

- FAMIS
- any applicable state or local public health subsidy program
- Enroll an individual in such program if it is determined, through screening of the application, that such individual is eligible for any such program;
- Collaborate with the Department of Medical Assistance Services, coordinating the operations of the Exchange with Virginia Medicaid operations to determine initial and ongoing eligibility for those programs in a bi-directional, streamlined fashion.
- In accordance with the report required in [38.2-6516](#), include information pertaining to the effectiveness of outreach and implementation activities of the Exchange in reducing the number of individuals without health insurance coverage.

In order to do so, the Virginia Health Benefit Exchange should consult with stakeholders, including the Department of Tax, the Department of Medical Assistance Services, the Department of Social Services, consumer groups, insurers, health care providers, navigators or other consumer assisters, insurance brokers or agents, and any other relevant stakeholders determined by the Exchange.

Legislative and Budget Development

In order to implement the program detailed above, the work group provided input for a draft legislative proposal for consideration, contained in Appendix A.

DMAS, DSS, and TAX worked together and with the Department of Planning and Budget, Health and Human Resources, and the Governor's Policy Office to develop budget decision packages for the purposes of implementing the program proposed in the draft legislation. Each agency submitted those proposals separately.

Should the legislation pass as proposed, the State Corporation Commission Health Benefit Exchange, would begin to receive information from TAX, in the year 2024 (for taxable year beginning January 1, 2023).

Below is a summary of the agency budget requests included in the Governor's 2021 introduced budget, which includes the following recommendations to fund the Facilitated Enrollment Program:

DMAS

[Item 317](#)

- \$1,166,180 GF in FY 2022 and \$447, 700 GF in FY 2023 and onward.
- \$6,959,211 NGF in FY 2022 and \$1, 212, 666 NGF in FY 2023 and onward.
- This provides funding to support the legislation that will require the Department of Taxation to communicate tax data to DMAS, DSS, and the HBE for the purposes of affirming eligibility for Virginia's Medical Assistance program. Includes funding for four positions and \$1.0 million one-time funding to make upgrades to the Virginia Case Management System (VACMS) at the Department of Social Services.

Department of Taxation (TAX)

[Item 282](#) and [Item 284](#)

- \$234,635 GF in FY 2022 and additional expenses in FY 2023, and onward.
- This provides funding for upgrades to tax systems to include providing a check off box or similar mechanism for indicating whether the individual, or spouse, or any dependent is uninsured and voluntarily consents to TAX providing the individual's information to DMAS for the purpose of affirming that the individual meets the income eligibility for medical assistance.

Department of Social Services (DSS)

[Item 349](#) and [Item 351](#)

- \$376,909 GF in FY 2022 and \$622,797 GF in FY 2023 and onward.
- \$2,709,776 NGF in FY 2022 and \$4,663,628 in FY 2023 and onward.
- This provides funding for two program consultant positions at the DSS central office and staffing costs for local departments of social services, that will provide eligibility determinations for applicants as needed.

Findings and Limitations

The Work Group learned from the Maryland and Colorado experiences implementing easy enrollment programs, which informed Work Group considerations.

Virginia transitioned to a state-based exchange on the federal platform (SBE-FP) for Plan Year 2021 and is expected to be a full state-based exchange (SBE) by 2023. Both Maryland and Colorado have full state-based exchanges, and as such, the Virginia plan is a phased in approach, which accounts for these differences.

The phased in approach envisioned in this plan accounts for the current status and capability of Virginia's Exchange, and evolves into a more robust facilitated enrollment program as the Exchange matures by 2023 and beyond.

Work group members recommended that the group continue to meet during the interim of 2021 to evaluate emerging needs for future implementation stages.

Conclusion

After four group meetings and independent work, over the course of six weeks, the Work Group developed the aforementioned plan to begin a phased implementation of the Virginia Facilitated Enrollment Program, beginning in 2021, and to develop and implement facilitated enrollment practices, as the Virginia's Health Benefit Exchange evolves to a full state-based marketplace and beyond.

The attached legislative proposal for General Assembly consideration represents the input of Work Group members for statutory changes that are necessary in order to operationalize the plan for Facilitated Enrollment. DMAS, TAX, and DSS each submitted budget requests to the Department of Planning and Budget (as discussed above) for funding that is needed in order to implement those changes for FY 21-22. These items as referenced above, were included in the Governor's 2021 introduced budget.

Appendix A- Draft Legislative Proposal (attached)

The Virginia Facilitated Enrollment Program

The Virginia Facilitated Enrollment Program—DRAFT PROPOSAL

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-6505, 58.1-3, and 58.1-341.1 of the Code of Virginia are amended and reenacted as follows:

58.1-3. Secrecy of information; penalties

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;
7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified

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escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

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4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. (Effective January 1, 2021) Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of income, filing status, number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed

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property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services, *and the Department of Social Services*, upon entering into a written agreement, the name, address, social security number, *email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1*, number and type of personal exemptions, tax-filing status, ~~and~~ adjusted gross income, *and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivisions B1 and B 2 of § 58.1-341.1*, of an individual, or spouse in the case of a married

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taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; ~~and~~ (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months; and (xxiv) provide to the Virginia Health Benefit Exchange, upon entering into a written agreement, for taxable years starting on January 1, 2023, or as soon thereafter as practicable, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivision B 3 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who do not meet the income eligibility requirements for medical assistance and would like to newly enroll in a qualified health plan. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide

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information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. (Effective until January 1, 2021) Additionally it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

F. (Effective January 1, 2021) Additionally it is unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

58.1-341.1. Returns of individuals; required information.

A. For all taxable years beginning on and after January 1, 1995, the Department of Taxation shall include in any packet of instructions and forms for individual income tax returns an application to register to vote by mail and appropriate instructions for the completion and mailing of the application to register to vote. The form of the application shall be prescribed and the instructions shall be provided by the State Board of Elections.

B. 1. For all taxable years beginning on and after January 1, 2021, the Department of Taxation shall include on the appropriate individual income tax return forms the following:

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- a. A checkoff box or similar mechanism for indicating whether the individual, or spouse in the case of a married taxpayer filing jointly, or any dependent of the individual (i) is an uninsured individual at the time the return is filed; ~~and~~ (ii) voluntarily consents to the Department of Taxation providing the individual's tax information, as provided in clause (xxii) of subsection C of § 58.1-3, to the Department of Medical Assistance Services for purposes of affirming that the individual, the individual's spouse, or any dependent of the individual meets the income eligibility for medical assistance; and
- b. Space for an individual to voluntarily include a preferred method for the Department of Medical Assistance Services to contact the individual for purposes of an eligibility determination.

2. For all taxable years beginning on and after January 1, 2022, the Department of Taxation shall include on the appropriate individual income tax return forms the following:

- a. A checkoff box or similar mechanism for indicating whether the individual, or spouse in the case of a married taxpayer filing jointly, or any dependent of the individual voluntarily consents to the Department of Taxation providing the individual's tax information to the Department of Social Services and the Department of Medical Assistance Services as provided in clause (xxii) of subsection C of § 58.1-3; and
- b. Space for an individual to voluntarily include the following information: date of birth; email address; dependent's name, and date of birth, and preferred method for the Department of Social Services and the Department of Medical Assistance Services to contact the individual for purposes of an eligibility determination; and

3. For all taxable years beginning on and after January 1, 2023, the Department of Taxation shall include on the appropriate individual income tax return the following:

- a. A checkoff box or similar mechanism for indicating whether the individual, or spouse in the case of a married taxpayer filing jointly, or any dependent of the individual voluntarily consents to the Department of Taxation providing the individual's tax information to the Virginia Health Benefit Exchange as provided in clause (xxiv) of subsection C of § 58.1-3; and
- b. Space for an individual to voluntarily include a preferred method for the Virginia Health Benefit Exchange to contact the individual for purposes of an eligibility determination.

4. Such information, obtained in this subsection, shall not be used to determine an individual is ineligible for medical assistance.

Section 38.2-6505- Duties of Exchange.

The Exchange shall:

1. Implement procedures for the certification, recertification, and decertification of qualified health plans and qualified dental plans consistent with guidelines developed by the Secretary under § 1311(c) of the Federal Act and § 38.2-6506;
2. Provide for enrollment periods under § 1311(c)(6) of the Federal Act;
3. Provide for the operation of a toll-free telephone hotline to respond to requests for assistance;

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4. Utilize a website on which enrollees and prospective enrollees of qualified health plans and qualified dental plans may obtain standardized comparative information. Information on qualified health plans shall include, at a minimum, (i) premium and cost-sharing information; (ii) the summary of benefits and coverage offered; (iii) identification of a qualified health plan as a bronze-level, silver-level, gold-level, or platinum-level plan as defined by § 1302(d) of the Federal Act or a catastrophic plan as defined by § 1302(e) of the Federal Act; (iv) the results of enrollee satisfaction surveys, described in § 1311(c)(4) of the Federal Act; (v) quality ratings assigned pursuant to § 1311(c)(3) of the Federal Act; (vi) medical loss ratio information as reported to the Secretary in accordance with 45 C.F.R. Part 158; (vii) transparency of coverage measures reported to the Exchange during certification processes; and (viii) the provider directory made available to the Exchange. The website shall be accessible to persons with disabilities, shall provide meaningful access for persons with limited English proficiency, and shall contain the information described in clauses (i) through (viii) without diversion to a website of a carrier;
5. Assign a rating to each qualified health plan offered through the Exchange in accordance with the criteria developed by the Secretary under § 1311(c)(3) of the Federal Act;
6. Determine each qualified health plan's level of coverage in accordance with regulations issued by the Secretary under § 1302(d)(2)(A) of the Federal Act;
7. Use a standardized format for presenting health benefit options in the Exchange, including the use of the uniform outline of coverage as established under § 2715 of the PHSA, 42 U.S.C. § 300gg-15;
8. Inform individuals, in accordance with § 1413 of the Federal Act, of eligibility requirements for (i) the State Medicaid Program; (ii) the Children's Health Insurance Program (CHIP) under Title XXI of the Social Security Act, including FAMIS, as amended from time to time; or (iii) any applicable state or local public health subsidy program, and enroll an individual in such program if it is determined, through screening of the application, that such individual is eligible for any such program;
9. Make available by electronic means through the website described in subdivision 4 a calculator to determine the actual cost of coverage after application of any premium assistance tax credit under 26 U.S.C. § 36B and any cost-sharing reduction under § 1402 of the Federal Act;
10. Establish an American Health Benefit Exchange through which qualified individuals may enroll in any qualified health plan or qualified dental plan offered through the American Health Benefit Exchange for which they are eligible and establish a SHOP exchange through which qualified employers may make their eligible employees eligible for one or more qualified health plans or qualified dental plans offered through the SHOP exchange or specify a level of coverage so that any of their eligible employees may enroll in any qualified health plan or qualified dental plan offered through the SHOP exchange at the specified level of coverage;
11. Subject to § 1411 of the Federal Act, grant a certification attesting that, for purposes of the individual responsibility penalty under § 5000A of the Internal Revenue Code of 1986, an individual is exempt from the individual responsibility requirement or from the penalty imposed by that section because there is no affordable qualified health plan available through the Exchange, or the individual's employer, covering the individual or the individual meets the

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requirements for any other such exemption from the individual responsibility requirement or penalty;

12. Transfer to the U.S. Secretary of the Treasury the following:

a. A list of the individuals who are issued a certification under subdivision 11, including the name and taxpayer identification number of each individual;

b. The name and taxpayer identification number of each individual who was an employee of an employer but who was determined to be eligible for the premium assistance tax credit under 26 U.S.C. § 36B because (i) the employer did not provide minimum essential coverage or (ii) the employer provided minimum essential coverage but a determination under 26 U.S.C. § 36B(c)(2)(C) found that either the coverage was unaffordable for the employee or did not provide the required minimum actuarial value; and

c. The name and taxpayer identification number of (i) each individual who notifies the Exchange under 42 U.S.C. § 18081 that the individual has changed employers and (ii) each individual who ceases coverage under a qualified health plan and the effective date of the cessation;

13. Provide to each employer the name of each of the employer's employees described in subdivision 12 b who ceases coverage under a qualified health plan during a plan year and the effective date of the cessation;

14. Perform duties required of the Exchange by the Secretary or the U.S. Secretary of the Treasury related to determining eligibility for premium assistance tax credits, reduced cost-sharing, or individual responsibility requirement exemptions;

15. Certify entities qualified to serve as Navigators in accordance with § 1311(i) of the Federal Act and § 38.2-6513;

16. Consult with stakeholders relevant to carrying out the activities required under this chapter, including:

a. Health care consumers who are enrollees in qualified health plans and qualified dental plans;

b. Individuals and entities with experience in facilitating enrollment in qualified health plans and qualified dental plans;

c. Advocates for enrolling hard-to-reach populations, which include individuals with mental health or substance use disorders;

d. Representatives of small businesses and self-employed individuals;

e. The Department of Medical Assistance Services;

f. Federally recognized tribes, as defined in the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. § 479a), that are located within the Exchange's geographic area;

g. Public health experts;

h. Health care providers;

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i. Large employers;

j. Health carriers; and

k. Insurance agents;

17. Meet the following financial integrity requirements:

a. Keep an accurate accounting of all activities, receipts, and expenditures and annually submit to the Secretary, the Governor, and the Commission a report concerning such accountings;

b. Fully cooperate with any investigation conducted by the Secretary pursuant to the Secretary's authority under the Federal Act and allow the Secretary, in coordination with the Inspector General of the U.S. Department of Health and Human Services, to:

(1) Investigate the affairs of the Exchange;

(2) Examine the properties and records of the Exchange; and

(3) Require periodic reports in relation to the activities undertaken by the Exchange; and

c. Not use any funds in carrying out its activities under this chapter that are intended for the administrative and operational expenses of the Exchange for staff retreats, promotional giveaways, excessive executive compensation, or promotion of federal or state legislative and regulatory modifications;

18. In collaboration with the Department of Medical Assistance Services, coordinate the operations of the Exchange with the operations of the state plan for medical assistance to determine initial and ongoing eligibility for those programs in a streamlined fashion; and

19. In accordance with 38.2-6505, the Virginia Health Benefit Exchange shall identify systems, policies, and practices to achieve the requirements of 38.2-505 subdivision 8 and 38.2-6505 subdivision 18, and in doing so, consult with stakeholders, including the Department of Taxation, the Department of Medical Assistance Services, the Department of Social Services, consumer groups, insurers, health care providers, navigators or other consumer assisters, insurance brokers or agents, and other relevant stakeholders selected by the Exchange.

20. Take any other actions necessary and appropriate to ensure that the Exchange complies with the requirements of the Federal Act.

2. That, for all taxable years beginning on and after January 1, 2021, upon entering into a written agreement, the Department of Taxation shall provide to the Department of Medical Assistance Services the following information authorized for disclosure pursuant to clause xxii of subdivision C of § 58.1-3: the name, address, social security number, number and type of personal exemptions, tax-filing status, adjusted gross income of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance

3. That, for all taxable years beginning on and after January 1, 2022, upon entering into a written agreement, the Department of Taxation shall provide to the Department of Medical Assistance Services and the Department of Social Services all information authorized for disclosure pursuant to clause xxii of subdivision C of § 58.1-3.

4. That, for taxable years beginning on and after January 1, 2023, upon entering into a written agreement, the Department of Taxation shall provide to the Virginia Health Benefit Exchange all information authorized for disclosure pursuant to clause xxiv of subdivision C of § 58.1-3.

