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[00:00:03] All right. Good morning, everyone. Welcome to the October 15th, 2024 meeting of the legislative committee. We have three items on our agenda today. We're going to review the draft program, and there are a number of changes based on our previous meeting and new information.

[00:00:24] we're then going to discuss three consideration items and then we'll have a relatively brief discussion and presentation on the issue of skill games so we'll start with the program and board members should have the program in your packet and i'll ask miss arco to kick us off and walk us through the updates to the draft program thank you mr chairman so So as you mentioned, we have updates in the legislative program.

[00:00:57] A lot of them are in response to things that we discussed at the September Legislative Committee. This was posted on Friday, but as I highlighted for you all yesterday, we did repost it yesterday with the draft K-12 position. So that's the first position that has anything.

[00:01:13] Well, so I guess I'll start on page one and just say in the One Fairfax section, we just included some updated language that you'll see in yellow that just reflects things that in one Fairfax and kind of just tries to match them a little bit better to the language we use in the legislative program. But on page two is the first draft K-12 funding position that we're talking about for this year. Last meeting, it was in red because it was still the old position from 2024. We've worked with FCPS on this. It's a joint position with

the school board. And then you'll see the changes in yellow. A lot of the new language reflects the letter that the board

[00:01:49] put together and sent to the governor last month on budget priorities and so it focuses a lot on the JLARC study and sort of the elements of that and places where the state could make changes to K-12 to be to provide the resources necessary for school divisions. Okay, any questions on the K-12? All right, go on. So moving on to page three, Noel, do you want to talk about just the

[00:02:25] small updates there. Noelle Dominguez, Department of Transportation. In the middle of page three at the last meeting, the board had asked us to include how much local funding we provide for transit service. So we've included that number here for WMATA as well as VRE and Fairfax Connector. And then continuing on to page four at the top, we'd added language about funding for maintenance and pedestrian facilities being vital to moving people while also improving energy efficiency.

[00:02:56] That was also discussed at the last meeting. Okay. And I'll just note, you can hear already, most of our changes are additions, and we've slipped, I just checked, we've slipped to the 18th page. So I'm going to be definitely taking a red pen to this between now and the next meeting.

[00:03:18] We're not going to, we're going to keep it to the same page number as last year, at least. Any questions on transportation, WMATA and transportation funding? Nope. Okay. So then, Mr. Chairman, if you go on to page four, at the last legislative committee meeting, we had a fair amount of discussion about local taxing authority, the state tax structure, and kind of how it's outdated, antiquated, needs to be reformed.

[00:03:46] And so we did have a section in the local authority section that deals with local taxing authority, but we've kind of reworked it, tried to make it a little bit more direct, maybe a little more plain English to reflect the board's discussion. And then at the end of that, you'll see a little note in red.

[00:04:03] We talked about these at the last meeting, but there are a couple of study groups that are looking at these issues, tax preferences and tax policy. Tax policy is a little bit more comprehensive. preferences has existed for a long time they meet very sporadically though they have met a little bit this year and so that note will come off at the end but that's just to let you all know that that's kind of out there Supervisor Patrick thank you mr. chairman and here I was channeling your desire to try to

[00:04:36] minimize I number one was thinking that probably on page 17 the taxation section that's separate on local property tax exemptions might make sense at this point since we have such a large taxation section just to move it up here. And I think maybe the first two bullets could be condensed in this section as well. I love that we moved it up. I know we don't specifically call out the fact that there's no local income tax. I don't know if that's something we want

[00:05:12] the state, just to make it clear for people who live in the region and localities where there is local income tax, we get a lot of questions about that here. That's just a thought. So we can certainly do some of those things. I don't know if you want to comment on that. We can take a look at those. I'll just say in terms of taxing authority, we generally historically have kept it broad in the program rather than specifying we want this authority or that authority and then engage over the course of the session.

[00:05:46] Yeah, my only thought is the three bullet points here right now all feel very broad, right? And I get that we want to be broad. So either we give some recommendations on possible steps or maybe just condense them a little bit if we want to keep it broad.

[00:06:01] Okay, great. Thank you. So then, Mr. Chairman, the next changes are on page six. Those are mostly pretty small, just updates and edits to the program. At the bottom, the $114 million figure that has to do with how much the county provides to the courts and criminal justice system, I think I called out verbally last time at the meeting, but that's an updated number.

[00:06:30] It's $114 million a year, so that's the only other change on page six. If you go to page seven, the continuation of that position, we did add some language reflecting the discussion that we had at the last legislative committee in terms of early childhood and Virginia preschool initiative and so that's at the top of page 7. Supervisor Patrick. Thank you Mr. Chairman and this one I believe you and Ariel have been following I think November 1st will be the final meeting of the state early childhood commission which is looking at all the different

[00:07:06] possibilities and ways that they're going to be looking at flexibility and hopefully additional funding or other ways to move forward. So I would just recommend that we continue to monitor their work and recommendations to be as aligned as we can with those. Thank you.

[00:07:24] All right, Mr. Chairman. Just a question. $114 million, I'm assuming, is a number that keeps going up, or is that better than what we've seen in the past? I can get you a for sure answer, but based on my memory in this moment, it was $110,000 last year. Yeah, so I mean, the next Senate million. The next sentence says state funding form is awful, you know, often failed to account for the needs of large localities. I don't remember a time when they ever did.

[00:07:53] I mean, this is a chronic thing. It's across the board with our court system, sheriff, everything. And I just don't know if we need to be more emphatic than suggesting this kind of sometimes happens. It's not that big a deal. The way I read that, it sounds like it's not that big a deal. And the reality is, you know, our court system would be shut down for months at a time if we weren't providing supplemental support for the state's function.

[00:08:17] And I think we need to be a little more emphatic. Certainly, we could drop often. Let's start with that. We could also drop in particular because we're obviously. I mean, this is chronic. This is not new. This is getting worse. It just, I think, just cries out for more attention.

[00:08:34] It's something that no one walking in our court system knows, and yet we're picking up the tab for. So we can sharpen that language for sure and take out some of the qualifiers that you just mentioned, Mr. Chairman. Thank you. Okay, Supervisor Stork. Yeah, and really on that point, because I was going to jump in, one of the things that, particularly at VACO, we've, in the Finance Committee, Chair, we've been looking at jails, we've been talking about jails, and the fact that we don't, I mean, the state, it's not as bad as it was a few years ago, but there still is a number of folks who should be in state institutions and aren't because it's a lot cheaper for the state to keep them here

[00:09:13] because, frankly, they don't pay hardly anything. So I'd like to see those numbers included in the subsidy because there truly are real subsidies, not only the amount that we're supposed to be getting from the state to pay for inmates that we have at some level, but also the ones that we're basically that are kept here When they shouldn't be here not only is it a financial issue, but frankly, it's a it's a truly a Rehabilitation issue because we do not have the services in our county jail I mean consciously so to provide the kind of trades and other developmental needs that that somebody might

[00:09:52] Benefit from to so that there isn't the recidivism that we get already. So thank you Okay, so we'll work on that for the next meeting get some updated language for you all And there is some, there is VACO data that might be of help, too, if you want to talk with me about it.

[00:10:10] Okay, we'll do. Thank you. Thank you. All right, great. That takes us to environment. Did we get through early childhood? Yes. Yeah, so I think we talked about that a little bit already.

[00:10:25] And so in global climate change, environmental sustainability, we added a bullet reflecting the board support for the state rejoining the regional greenhouse gas initiative you all sent a letter on that a while back and so we just added that into this position as well okay so moving on to page 10 it's the position that actually starts on page 9 related to courts I think some board members will recall that we spent quite a lot of time a couple of sessions ago talking

[00:11:00] about the General Assembly's changes that require the sealing of some, you know, previous crimes and records and things like that. And so while the board supported, and we've had the language in the legislative program related to the policy question of, you know, providing people a fresh start and sealing some records and things like that, we also at the time knew that there was going to be a workload issue in terms of doing some of those ceilings. I think now our court staff is kind of grappling with that issue, and so we've included some new language.

[00:11:31] And Jennifer, I don't know if there's anything you wanted to mention on that, on what we added, but no. Okay, and obviously this relates to the broader underfunding that we mentioned previously. Right, it sort of compounds it, you know. Okay.

[00:11:49] And then also on page 10, the economic development and diversification position at the last meeting we talked about. The meeting that you all had had earlier that day with the new EAC, which I think now is called CEO, and some of the discussions there.

[00:12:05] So we worked with Rebecca Moodry and her staff to include some updated language and capture some of the discussion that you all had that day. Oh, yeah. I was only going to mention that we also added a bullet related to artificial intelligence or AI because we did talk about that a little bit last time, and there has been a group meeting in Richmond.

[00:12:29] There's a study going on that we've been following, So we added some language related to that as well. Okay. Supervisor Lusk. I just wanted to acknowledge and thank the staff for doing that. And just for clarity, specifically in the AI arena, but also thinking about scams in general.

[00:12:45] So ensuring that we're looking at ways to prevent that from happening to our residents, and particularly those who are elderly and young. So thank you, Mr. Chairman. Okay. So then, Mr. Chairman, the next change is on page 12, that position on Medicaid waiver starts on page 11.

[00:13:09] Arielle, do you want to explain that? Arielle McAloon, Human Services Legislative Liaison. The change on page 12 is to address an issue that came up during the pandemic. During the pandemic, more parents were allowed to be paid caregivers, and those parents were allowed to access respite for their children.

[00:13:31] Post-pandemic, that change was rolled back, So the parents who became caregivers for their children, they no longer were able to access respite services. So this change is aiming to address that issue and allow those children to now access respite.

[00:13:47] All right. Good. So then, Mr. Chairman, on page 14, at the end of the behavioral health, I'm sorry, on page 14, we still have a position on long-term care workforce needs that's in red.

[00:14:02] That's the position from last year that we still need to update. We are going to be talking about this a little bit in a few minutes when we get to our items. And so that's why that position hasn't been changed so far. We'll have a little more discussion in a few minutes. And then if we flip to page 16, there's a note at the end of the accessibility position that says that the Coordinating Council on Aging and Adults with Disabilities recommended that the board retain this position in the legislative program, which we have.

[00:14:30] And then they suggested a couple of things for us to sort of be on the lookout for in terms of the planning and design process, and so we've included that in the note as well. All right. Yeah, that's pretty much it.

[00:14:51] We have a very small add on page 17, but that's the end of the legislative program. Okay, great. And the agenda has the schedule of our upcoming meetings, But as you'll see, we have one more meeting of this committee before the draft program is made available to the public in advance of the public hearing on the 19th.

[00:15:15] So, you know, our goal always is to have it more or less finalized after that meeting on the 29th. So that'll be kind of a final opportunity for board members to give their input would be my request to make that final opportunity to provide input.

[00:15:30] Supervisor Stork. I know we put together a summary page or two. I think that it captures the core of what we're trying to get the states to do for us. I don't recall, and this conversation today is reminding me of, and I know we've had many, many conversations about the states underfunding of various things and the mandates that aren't paid for, et cetera, et cetera. Do we have, I don't we have some collection of those mandates that would have a total so we'd have in the different

[00:16:05] areas as well as a grand total of what we at least believe are the unfunded mandates and or requirements that the local government and frankly local taxpayers have to fund in addition to the fact that I know everybody's heard well maybe not heard me but I know my committee members have heard me talk about 23 cents a lot, as well as where maybe you can get to 50 cents if you add in the state services that don't come directly to us. But if you add to the 50 cents, we send a dollar to Richmond, we get 50 cents back. You know, in addition to that, here are the other things that

[00:16:40] we're subsidizing with your local tax dollars that is obviously the least appropriate way of funding those services. So the most regressive. Yeah, that's a good question and a good point. I think we do talk about that. I think the challenge with focusing on the questions of mandates sometimes is that there are obviously a lot of mandates that the state should be doing a better job of partnering with us on. There certainly are things where we go beyond because we don't think that the state does enough. But there's also things that the state requires that we would do

[00:17:16] anyway. And so when you look at that, sometimes it's a little bit challenging to tease out. And just as a, for example, if the state suddenly said, well, you can have 50 kids per student in the schools, it would save us a lot of money, but we wouldn't actually do that, right?

[00:17:33] And so it can be a little bit, we can make a list of things that are required, but it will include things that we would do anyway as well. And so I think we just probably need to think a little bit about that

question, what the best way to present that.

[00:17:51] What I would obviously be very difficult to put together the comprehensive list. You certainly could put together like a top 10, you know, most egregious list. But also the handouts that we produce each year in advance of the work session with the General Assembly do get at, I think, that issue subject by subject, right?

[00:18:16] So education and transportation, and they include some of those numbers and tell a little bit of that story. But maybe, you know, one of the things we could think about for the work session is having that list, you know, here are some highlights of mandates that have been imposed on local governments and local taxpayers in recent years, and here's the cost to your constituents who are local taxpayers.

[00:18:42] They aren't all necessary mandates, too. Like the county jail, that's the one I would kind of come back to that. That's theoretically a state. Yeah, I always try to talk about, you know, how much the meager state contribution for state inmates and the massive county contribution when we talk to the General Assembly.

[00:19:01] But, yeah, I think we can work on sharpening that for the work session, Mr. Chairman. Yeah, I mean, I think for the work session, if we sharpen that, I think the agenda for the work session should be J. Lark's education study. and related to that if that weren't bad enough there's all this other stuff too so you know to me if the needle doesn't get moved on the education piece with a almost 600 million dollar hole in the county this other stuff is substantive but it's nowhere near the dollar amounts we're talking about with that and so i think the point of that session is we have this huge jlark problem that you all now have identified appropriately but that's not where that

[00:19:41] stops and we have all these other things too we're funding and that's why this education piece becomes that much more important we can't continue to sustain all these state operations that are put in our lab at the same time you're asking us to crawl out of a 600 million dollar education hole every year and so to me that should be the presentation and the focus of that session because the two are directly related and i think if we limited it to the operational pieces that we have to pay for mostly in the court system the clerk's office the office of the sheriff all those things plus maybe some of the human services things because i think that's where the other

[00:20:20] big ticket item is yeah that we focus on where the big ticket items are as opposed to maybe trying to come up with a comprehensive list of every single thing and we talked about that with with jlark too we know we're not going to get upwards of 600 million in one year but what pieces of the JLARC analysis would be most beneficial to us, what would be the things that would be most beneficial to us?

[00:20:43] Is it raising the amount we get per inmate? Is it the state picking up the salary responsibility for more of the people in the clerk's office? I mean, those are just examples. But I think that should be what we should focus our time with our legislators this year on, because that's the thing we need them to go down there and improve.

[00:21:02] I think that's a really good point. And I think we'll certainly work on pulling that together as we get towards it. I think your point, Mr. Chairman, is a very good one. We look at kind of a basket of issues, and there's a lot of them out there. The amount of funding for K-12 so dwarfs anything that it's just kind of in a class of its own.

[00:21:22] And if we address that, it wouldn't be such a problem that there's all these other things because none of them adds up to that. But obviously, it does kind of pile on. And so I think that's probably a good way to think about it. We'll work on that. Supervisor Alcorn. Yeah, just to build on this, I think, you know, where we're asking for change, you know, to summarize that, maybe total it, maybe have running subtotals would be helpful.

[00:21:48] Because, yeah, that's, and with the understanding that K-12 is going to, you know, dominate everything, but really to bring it home. So, thank you. Okay, let's move on to our consideration items. Two. Did I skip something?

[00:22:04] No. Okay. We have three consideration items. Board members should have it. Second, pack it in your packet. And the first one is related to trees and tree preservation, and it's a somewhat lengthy one. Let me just preface, I just want to preface this by saying, you know, this is a topic on which we spent a lot of time at the Legislative Committee over the last few years, and there are a lot of folks in our community very passionate about this issue, tree preservation in the context of development, tree preservation in the context of transportation

[00:22:42] projects. The approach that we, and I know that there is a hope or a sense that there is some kind of broad sweeping solution that will help to solve this issue. And A, there isn't. And B, if there was, it wouldn't be passed by the General Assembly or signed into law by Governor Yunkin, but we have had success over the last two years in finding very specific, very targeted opportunities and ways to improve the process on the margins. And we've been able to get some bills

[00:23:20] across the finish line doing that. And it's my suggestion that we continue with that approach, find the narrow targeted opportunities that we can have a positive impact, whether it's related the development process land use process or transportation and vdot and try to work with our delegation to build a bipartisan coalition to get something like that across the finish line that's what we did last year with delegate sullivan and i'm hopeful to identify opportunities to do that to do that again this year so with that preface my my personal recommendation to us

[00:23:58] miss arco let's go through the trees consideration item so mr chairman kristin's going to walk us through this first item, but because we didn't have consideration items at the last meeting, just to kind of set the stage or maybe provide a little bit of background, as I think the board is generally aware, as we are updating the legislative program for the coming general assembly session, the county executive sends out a solicitation to all county agencies and also to county boards, authorities, and commissions to kind of share the previous year's legislative program to get submissions in terms of updates to the language or proposals

[00:24:35] that agencies and BACs may have, of course, the Board of Supervisors can always send us things, too. And so when you look at a consideration item, you'll see the proposal that we received, and you'll see who we received it from, whether it was county staff, whether it was the board, whether it was the BAC. And so in this case, all of these proposals related to trees came from the Tree Commission. There is a portion of one of them that we also got from EQAC. And so we've kind of noted that there. And we'll walk through all of these. But the items in general will kind of look like that. It'll say where it came from and what we were asked to look at. And then when

[00:25:11] you get to the narrative portion, that'll really be kind of the staff description of the other things that are out there. Because obviously a particular agency or a BAC is looking at it from their perspective.

And so we'll pull in other county agencies, county attorney's office, and provide sort of that additional background so that the board has a clear picture before you all move forward with anything. So, Kristen, do you want to start with that item? Sure. Kristen Kanasky, Office of the County Attorney. The Tree Commission submitted eight proposals. The first three will look familiar. They were carryovers from last year. Another two addressed the need to combat

[00:25:50] non-native invasive plants. And the remaining three addressed the preservation of the county's tree canopy in different forms. Not to play spoiler too much, but for each of these eight proposals, the staff's recommendation after looking through the legislative program was that the current language does encompass what each of these proposals seek to address.

[00:26:19] And so the staff recommendation is to, as Mr. Chairman suggested, seek out the specific legislation and bring it back to the board for consideration at legislative committee meetings during session. So for each of these, I can start with Proposal A. It's looking to increase the ability of the Virginia Conservation Assistant Program and of homeowners living in property associations to install low-impact conservation landscaping to address stormwater concerns.

[00:26:52] Currently, HOAs have covenants and other rules or regulations in place that would prevent the owners from installing this type of low-impact conservation landscaping. The Housing Commission is actually currently studying this, and they look to be submitting a bill.

[00:27:13] There's representatives from the HOA communities as well as proponents to put something together that would allow... If your HOA has a covenant or a declaration already in place that would prohibit it, then it won't disrupt necessarily those original documents, but it would prevent certain subsequent rules from preventing owners from incorporating this type of low-impact conservation landscaping.

[00:27:47] The second one is to support legislation to allow localities to adopt ordinances banning or imposing a surcharge on the sale of the most damaging of invasive plant species, which are threatening the viability of countless trees in parklands and forested areas across Virginia. This past year, we saw a bill that would have prevented the sale of English ivy.

[00:28:14] The governor had vetoed that because he was concerned about what type of precedent that might send about addressing just a specific species there does seem to be support there it passed both the House and Senate and I do expect something to be brought back again this year to to address English ivy specifically and the board will probably recall there was a bill brought by Senator Saleem that the board supported about having signage on and that actually is going to be proposal

[00:28:49] 8. It was to support legislation requiring retailers to post signs near any plants offered for sale that appear on DCR's list of invasive plants. And the bill that the board initially saw was to have it at the front, said to have the sign at the front of the retail place.

[00:29:11] And the board had suggested we'll put it next to the plant so that it can actually assist. And so that was um taken up and that was added to the bill and uh wasn't successful um ultimately but did have support just on proposal b it jumped out the surcharge jumped out at me was there legislation in the previous session that would have imposed the surcharge or i know there was the ban was there surcharge legislation i don't recall the surcharge legislation um there were fines that were going to be imposed um for if you violate the ban yeah okay i guess i i mean for me

[00:29:49] i i'm not really enthusiastic about the surcharge idea i mean um maybe some would view it as a compromise i think i would prefer to wait for a governor who's willing to sign the ban i just don't think the surcharge i mean unless it was an extremely onerous surcharge would necessarily have much of an impact in this context. So I would say we should continue our current posture of supporting local option ban on the sale of invasive species and not mention the surcharge. If it gets

[00:30:29] along in the process and that's a compromise that maybe could move forward, we could discuss that at that time. But I don't think we should start by proposing that as a compromise, Supervisor Alcorn. Yeah, thank you. I agree with you on the surcharge. On the ban, I actually think that's a great precedent.

[00:30:47] I'm not sure why the governor would go the other direction on that, considering the damage that's done by some of these more aggressive invasive species. But my suggestion would be maybe as a local option, but actually these tend to work better if they operate on a more regional basis.

[00:31:05] So, I mean, I would love to see if we are going to go down, you know, banning English ivy sales, that it be done, if possible, regionally. Local options, fine, too. Wasn't there legislation for a ban in planning district gates?

[00:31:20] Yes. Yes. I don't know if it was this year or the past year. It might have been 2023. Okay, yeah. So I think that would be our preferred position. Thank you. Local option, next. Surcharge, maybe we're willing to talk about it at some point in the future, But I don't think it makes sense to put that on the table at this point.

[00:31:41] Mr. Chairman, I just wanted to mention one thing related to Supervisor Alcorn's question. I think the governor's issue with English ivy was that it was only one plant that was called out. It wasn't so much. I'm not saying whether that's right or wrong. Well, you've got to start somewhere. I hear you. I also find it very hard to believe he would have signed a bill that had 10 plants.

[00:32:00] So that gave him a pretext maybe. But that's how he described it in his B2M. Yeah, okay. Okay, let's keep going. Ms. Konoski? Sure. Proposal C seeks to support legislation to establish a study that would assess the benefits and impacts of permitting systems for trees.

[00:32:22] And we note in the item that the county does typically support increased local authority. And while this is for a study, it's a study that would perhaps lead to legislation creating a tree permitting system.

[00:32:38] So it would have to be carefully reviewed to determine the extent of that authority and how it would be regulated. A question that I have on this is, were permitting systems not discussed by the tree preservation working group that the General Assembly created a few years ago?

[00:33:04] It was, and it was under, I believe Senator Marsden had brought forward a bill that would have addressed it, and those studies seemed to lapse. I'll follow through to see what the status of that was. They had come up with a number of recommendations, and ultimately, they got carved away to about three.

[00:33:25] Right. I'm just wondering, is this a recommendation to study something that was already studied as part of that process? That's all I'm trying to get at, so maybe we can... I'll confirm. Dig into that the GA studying something it already studied never heard that one before Yeah, so I I suspect and we'll we'll double-check and get back to all with an update But I suspect that yes, they did talk about it Those

studies didn't come to a lot of conclusions or at least a lot of consensus conclusions But yes, I think it was included in some of this. Okay. Mr. Chair Supervisor. Yeah on that one You know, we we do have it's not exactly permitting a permitting process

[00:34:05] But, for example, in our resource protection areas, to take down trees, there is a requirement that they check with, you know, they basically have to get approval to do that. So this is an interesting idea. I guess my thought is that we're sort of already doing this in some sensitive areas, and perhaps, you know, maybe we review that.

[00:34:28] Are there other sensitive areas where maybe we should be thinking about requiring permission to take down trees, for example? So I think maybe taking a look at where we already operate a similar system and if that's sufficient or needs to be changed would be my suggestion.

[00:34:54] Okay. Well, let's go back because I do think this was a topic that that working group discussed at great length, at some length. So another study of it, we'd have to determine what would be the value of another study of it because they did have some recommendations that came out of it, not consensus recommendations, which I think highlights the challenge of getting into these issues. Okay, let's go to D. Proposal D is complicated because it suggests to support

[00:35:28] legislation to ensure that VDOT, but also local agencies and other state agencies, have a directive and the authority to mitigate the loss of tree canopy as a result of transportation projects. So, essentially, it could look like legislation that would require VDOT to account for the lost tree canopy.

[00:35:52] It could also be legislation that would require Fairfax County Department of Transportation to account for lost tree canopy. And it's not clear necessarily who would bear the cost of that. And we would predict probably delays in certain projects, added expense, and perhaps in the eminent domain realm needing to take more land to account for that if that is a necessary part of the transportation project.

[00:36:23] So it will depend on what the specific wording is in the legislation. And so we can carefully review that if one is proposed. Yeah, so, you know, my reaction to this proposal is obviously it's very broad and vague.

[00:36:41] I'm not sure how one would take this language, which, you know, probably something we all support in concept, and write legislation to implement it. One thought I did have that I know has been a frustration has been, you know, VDOT's development of tree preservation plans relatively late in the design process.

[00:37:05] And I've experienced that. I know Supervisor Bierman has experienced that, probably everybody. So maybe there's a targeted path there for legislation to encourage or require development of that preservation plan earlier in the design process.

[00:37:21] But let me open it up and start with the chairman. Well, you know, the commitment we've made to pedestrian projects concerns me a little bit. I would love to see this if transit and pedestrian projects were exempted from this requirement because you have competing environmental issues here.

[00:37:39] And we know what the cost and timeline is for some of our pedestrian and bicycle projects to get completed. And so I don't know if that's, you know, within the realm of something we should be suggesting. I think for transportation projects, use that terminology broadly.

[00:37:55] That means our safety, sidewalk, pedestrian improvements, and transit improvements, bus stop, shelter installations, all of those things. And to me, if it's environmentally – we're making this improvement for environmental benefits, maybe those elements of it could be exempt from the requirements.

[00:38:14] But absolutely, for roadway projects, I see no reason why we shouldn't be doing that, given some of the concerns that we've had working with VDOT in the past, where these tree preservation plans or remediation plans come out so late in the process and people are shocked by it. And the amount of public input, especially in the public-private partnership realm of some of these VDOT plans is quite limited. And so I don't have a problem with the intention of it, but I sure hate for it to make the timely application of pedestrian and transit benefits across the county that much more difficult and much more cumbersome and expensive. And I think

[00:38:52] that would be a competing environmental issue we just need to be aware of. Supervisor Beerman? Yeah, I agree with what Chairman McKay said, but I also agree with the approach that you brought up first and the approach that Ms. Kadaski was talking about.

[00:39:08] I mean, this is the perfect example where the devil will be in the details, so I would like to – I think that the approach of waiting to see what actually comes out as a piece of legislation and then us revisiting it is the right one because you could certainly see legislation that really does help the county.

[00:39:27] You could see legislation that makes things a little bit more complicated for the reasons that Chairman McKay just talked about. But obviously, overall, would like to see something better here. I mean, Chairman McKay just mentioned a public-private partnership. I may or may not know about one of those in the Drainsville District that led to a bunch of trees coming down.

[00:39:45] So trying to figure out ways to ameliorate that specific problem, especially with roadways, is very important. Thanks. Okay, Supervisor Palchuk. Thank you, Mr. Chairman. I do, I support that approach. I have a question because I haven't seen it anywhere here, and I believe at times there is some requirement to have communication with our park authority or parklands, but that's one thing that I don't see here specifically is protecting parkland or having that communication unless it's somewhere else already when it's going to have an

[00:40:20] impact on public parks. Excuse me, I think on page nine of the current program was when I saw support state and incentives that promote donations to park authorities or associated foundations, increase funding for the development and rehabilitation of park infrastructure, and increase education about environmentally sensitive land, including resource protection

[00:40:54] areas. Yeah, so I was reading that as well. Maybe there's, maybe we can add in there specifically around when there are state projects or we have a recommendation to strengthen that a little bit to ensure the land conservation component, especially of state directed projects. We can certainly take a look at that and see if we can address that a little bit more clearly. We'll go to Supervisor Alcorn. We have about five more minutes on trees before we need to move on.

[00:41:25] Just a quick question for information to come back later. I completely agree, by the way, with the chairman, you know, in terms of exempting transit and pedestrian projects. But this would not, I presume, cover privately developed streets that are accepted into the VDOT system.

[00:41:46] Is that right? Or would it? It could potentially include it, I think. Yeah. All right. I guess if possible, I don't know if it's possible to get a sense of the scale of how many basically transportation projects are coming in that way versus road widenings, because I think we're still seeing a good number of privately developed transportation projects coming through, because that might affect, I think, how we look at this. Thank you.

[00:42:15] Okay. We're on E, and we already mentioned Proposal E, and I think it's clear our position on invasives is we want a Northern Virginia ban on the sale of invasives. Clever ideas about signs or surcharges, not what we're interested in, at least at the start of the session. I mean, My reaction to the sign legislation was, you know, good luck negotiating what that sign says,

[00:42:51] because the retailers are going to beat you up on the language in that sign. You're going to end up with signs telling people invasives are the greatest thing ever in a lot of these stores. So it just is one of those where I'm not confident that the General Assembly would get the legislation written correctly, such that the signs actually discouraged people from selling, and then they'll want us to enforce it.

[00:43:17] And be consistent with the First Amendment. Yeah, that's right. Yeah, I think it's very difficult. It gets very subjective. So let's go on to Proposal F, maybe, which is on the same topic here of invasives.

[00:43:33] Yes, and it's to support funding for the strategies identified in the Virginia Invasive Species Management Plan, and they specifically address including an estimation of the economic impact of invasive species. And the reason for this is because staff had estimated that it can cost up to $10,000 to remove a tree that's been damaged by invasive plants.

[00:44:00] And to have a solid number to demonstrate the economic impact would help in future legislation. Yeah, that sounds great. Okay. proposal G is broadly worded but again is one of those that can lead to bringing back legislation to the board to consider it's to support legislation that provides incentives to enhance urban tree canopy and just on on its face I guess in line with the county's position that it should be incentives

[00:44:37] for local authority local authority incentives not incentives that the state would be mandating on the local authority to impose. So we'll just be careful with the language and we can bring that back. Yeah, and I would say, I mean, this is a good example of, I mean, I'm sure everybody supports this sentence as a recommendation.

[00:44:57] The challenge is, okay, what next? And this was our challenge last year, and at our work session, we recommended to Delegate Sullivan to go back to that tree preservation working group and identify from among their recommendations a very specific targeted way to provide incentive to enhance or preserve urban tree canopy, which he did.

[00:45:22] So I think that burden is going to be on us a little bit to figure out, are there other specific targeted ways that we could gain a local authority to provide incentive to enhance urban tree canopy?

[00:45:41] Because on their own, the General Assembly is not going to know how to do that. And that's one of the things we need to be working on over the course of the next month as we finalize the program. You know, as I said to Ms. Arco earlier, I would like to see something with respect to trees as an initiative this year that we can specifically champion, that we feel has a reasonable chance of success.

[00:46:07] But it can't be as broad as support legislation that provides incentives. We've got to figure out what those incentives are and how it could be implemented. Okay. Supervisor Patrick? No, I fully support that in sitting here, not as an expert in the topic. I was wondering, is there research out there of what has been successful in other states?

[00:46:25] I can certainly check with LDS and others, too, to see if they've been looking out abroad. I'm not sure who the goal, who the practical, like, to increase.

[00:46:44] Yeah, we can look throughout the country, but there has not been a lot on this topic, and we'll have to figure out how to figure this out, like Supervisor Walkinshaw said, and we'll do what you said. There's not a lot out there on this topic. Okay, I just want to make sure it's based on any evidence that's out there on what's actually proven to work.

[00:47:06] Okay, Supervisor Beerman. So I'm previewing something that has not come before the board yet, but that might be relevant here. Supervisor Stork and I have been working together on something related to potentially infill development and the preservation of trees.

[00:47:26] And one idea that was actually given to me by folks in LDS was to actually engage the home builder community to ask them what has to do with – if you've got a plot of land, what types of incentives or what types of rules might lead you to not knock down 80 percent of the trees but instead knock down 60 percent of the trees to still build a house that you can still make money on that could still be economically viable.

[00:47:55] So that is something we intend to – or I at least – Supervisor Stork and I are still talking about it, so I shouldn't have – maybe I shouldn't have said this, but intend to ask about as an idea because it would be nice to know if you're a home builder what types of things might actually get you to leave up a couple extra mature trees.

[00:48:15] And on that note, of course, you should come to the Drainsville Loves Trees event on Sunday at Lewinsville Park, 4 to 6 p.m. Thanks. Yeah, I think that's great. And I sound like a broken record or like all I do is read the report from the Tree Preservation Working Group.

[00:48:34] But I would recommend as a starting point to use that report because they did exactly what you just described. So obviously the development community and home builders were at that table and they put forward some ideas, one of which turned into Delegate Sullivan's legislation that we'll be talking more about the implementation of Supervisor Alcorn.

[00:48:55] Thank you. And I, as it relates to what Supervisor Bierman just said, I think that's probably addressing more site-specific issues. And I think perhaps if we're going to hear back from staff on possible incentives, maybe there could be a distinction between really the serious site-specific things that could affect the immediate neighborhood and then other incentives that might be more macro. So, I mean, just as an example, like if we, you know, we're looking to move the needle countywide you know we'd be looking i don't know maybe a tax break or something like that but that wouldn't do anything for site specific situation so i i think thinking about it that way might help

[00:49:34] at least me get my head around what might make sense thank you okay i'm gonna i'm gonna move us on proposal h as you'll see is is consistent with our long-standing position that local governments have the authority and flexibility to increase tree canopy requirements just one one thing on that, can we

just make sure that this also includes by-right development in terms of flexibility? Do you mean on the previous item that we were just discussing or this?

[00:50:05] H. H, okay. Yeah, that it's not just through the rezoning process, but also by-right. So that typically is the stickiest. Yeah, I understand. I know, that's why I wanted to say let's don't ignore it. But I think, you know, obviously when you get into the specific legislation, it would likely be in the context of a rezoning, but our position is, you know, we support increased flexibility to make those decisions. That's what's in the program. Okay. All right. Let's move on to the next consideration item, and I'm hoping we can do this one quickly because I don't think

[00:50:42] it involves a change from discussion we had last year and positions that we took last year. So, Mr. Chairman, Oriel is going to talk about this item. You're right. It kind is a follow-on to something we discussed last session. And so this is related to an item that we received from one of our BACs.

[00:51:03] Yes, Mr. Chairman, members of the board. This proposal came to us from the Coordinating Council on Aging and Adults with Disabilities, and their recommendation is to add language to the long-term care workforce needs position in the program to support helping assisted living facilities and community-based care settings with recruiting and retaining highly qualified, well-trained staff.

[00:51:27] And in addition to that, part of the item that's a little bit new this year is they also recommended adding language supporting ensuring competitive salaries for home health aides, nursing assistants, and other long-term care paraprofessionals not funded through Medicaid waivers. And really what the recommendation is getting at is that many long-term care settings experience staffing issues, and quality staffing is really a critical component of care for the populations being served in these various settings.

[00:52:00] Similar to last year, I think ultimately, or our recommendation ultimately is to monitor for specific legislation, given that this is a complex, there's complex issues in this area. And while there are some impacts on the county, there are, it's largely aimed at community providers who are operating these assisted living facilities or various community-based care settings.

[00:52:32] In terms of assisted living facilities, one thing that I just wanted to note is kind of an update from the discussion last year was that back in 2018, the Joint Commission on Health Care had recommended as one of the ways to kind of help with affordability around assisted living facilities was to raise the auxiliary grant rate.

[00:52:56] That is really addressed at very low-income individuals. And while the General Assembly has raised those rates a number of times since 2018, including a more significant increase from $1,609 per month to $2,055 a month in 2023, and then a further increase to $2,079 per month in 2024. Really, we haven't seen that those increases have created an incentive for the facilities to offer additional beds. So just

[00:53:32] wanted to kind of mention that and then as I said many of the most largely this impacts the community providers the Fairfax County Redevelopment and Housing Authority does operate a couple assisted living facilities and then the county also contributes to Birmingham Green is one of the five sponsoring jurisdictions so there are some potential impacts on the county if legislation in this area passed which is why we'd want to look at specific legislation just to be able to look at the actual impact of that in context. And then as far as the

[00:54:11] community-based care settings, we had identified that there was approximately 110 county positions that could fall into that category. And so again, while there is largely a community impact, there could be a small impact on the county if legislation in this area were to pass. Okay, you know, I think the challenge here, the proposal is to support legislation that helps assisted living facilities and community-based care recruit and retain highly qualified, well-trained staff.

[00:54:46] You know, the question is how to do that. You know, there's, I'm sure, a good conversation to be had about staffing ratios and what's the appropriate number. But changing the staffing ratios doesn't actually help facilities recruit and retain highly qualified staff, especially in a full employment economy, which we're in.

[00:55:09] I mean, you know, the only thought I have that maybe isn't mentioned here but we probably do have in the program somewhere is, you know, state funding for the community college system. Northern Virginia Community College is probably in the Commonwealth the number one educator for and certifier for individuals who work in assisted living facilities, and they do a lot at the Springfield campus, the medical education campus, and maybe state funding for medical training programs at community college is something that we could reference or specifically

[00:55:48] look for. But let me open it up. Supervisor Palchuk. Thank you, Mr. Chairman. I think I'm thinking similarly, how do we help improve quality, right, which is the goal here. This reminds me so much of the Virginia Equality Birth to Five initiatives that are underway, And I think that approach that the state has taken to really help ensure quality measures, because these are all, right, independently, the majority independently owned.

[00:56:16] And so how do we focus on quality, quality improvement, you know, and those kinds of supports? Especially, I think they use meets expectations, exceeds, and doesn't meet because they need additional support. I do think that they've been innovative in that field, and that could be helpful here.

[00:56:34] One totally separate recommendation I have, because I don't know if others, when I first read through this packet, it might be helpful as we move forward to, for the consideration items, state the source first, and then at the end put staff recommendation, because I think it may be a little confusing that it's, you know, an external proposal, right?

[00:56:57] State the source first, and then at the end put staff recommendation. So we know that's how you all have reacted. it would have helped me when i was reading it but um beyond so so we do have the source at the top but but you're saying where it says recommendation to clarify that that's the staff record i would flip source and proposal because the proposal is just put so i would put source first because sometimes the proposal is so long like the first one that you don't get to the source until the second page so um it might help reduce some confusion all right sure and then staff recommendation right at the end so we realize it's not the proposal's recommendation but the staff recommendation thank you supervisor alcorn yeah thank you and i i am i am sympathetic with

[00:57:37] what the coordinating council is asking for i guess one of the things that i i think there is a quality problem but there's also a quantity problem uh we just don't have enough beds uh right now so i i would encourage staff um to to see if there are other innovative uh things that might be done that would require state legislation.

[00:57:59] I mean, one of the underlying problems for the workforce here, amongst many other things, is something we talk about a lot, and that's affordable housing. So is there anything creative, innovative, that might require the General Assembly's involvement that we should be thinking about there?

[00:58:18] So just if there are any ideas, I'd be open. Thank you. Okay. Let's move on to our final consideration item related to assault charges and mental health. And, Mr. Chairman, as you can see, that came to us from the Fairfax area coordinating council on aging and adults with disabilities.

[00:58:42] Ariel is going to talk about that one as well. Yes. So this proposal was to add language to the behavioral health position in the legislative program supporting discretion to allow police officers and prosecutors to decide if physical interactions with police officers during a time of crisis should result in an assault on an officer charge and also further discretion to determine an appropriate sentencing time removing the felony conviction and mandatory six months in jail.

[00:59:13] And so the Code of Virginia currently specifies that if an individual commits assault or assault and battery on specific categories of people, it would be charged as a felony rather than a misdemeanor, one of those categories of people being law enforcement.

[00:59:32] And as kind of noted in the proposal, that also carries a mandatory minimum sentence of six months in jail. And so what the Coordinated Council is really trying to get at is just that as we're looking at kind of providing alternatives to incarceration, this has become more of an area of interest.

[00:59:56] And the General Assembly has considered legislation in recent years, all of which has been unsuccessful. Most recently, during the 2024 session, Delegate Watts and Senator Boisco introduced legislation that would provide an affirmative defense if an individual proves that at the time of the assault or assault in battery, their behavior was the result of mental illness, neurocognitive disorder, or neurodevelopmental disability, so something like autism or Alzheimer's or similar conditions.

[01:00:32] And unlike in previous years, both of those bills passed the GA, but then were vetoed by Governor Youngkin, who had expressed concern that those bills could reduce protections for law enforcement officers and also erode the discretion that Commonwealth's attorneys have in evaluating these cases.

[01:00:53] Earlier this month, the Behavioral Health Commission looked at this issue, and their staff presented a report on a study they had completed looking at strategies to minimize assaults on law enforcement officers and also avoidable arrests of individuals in mental health crisis.

[01:01:08] They found a number of different factors that, you know, are important to consider in this, that while the majority of assaults don't typically cause serious injuries, those that can can be debilitating. Also, arrests can have long-term consequences for the person in crisis.

[01:01:28] And one of the other findings that they raised was that the state hospital bed crisis could put some pressure on law enforcement officers to make arrests because if psychiatric beds are not available, they may feel that if they arrest the person, they can connect that person to services through jail when they don't have another place to go.

[01:01:51] So that was an interesting finding just in terms of how this could lead to involvement in the criminal justice system that might otherwise be avoided. One thing that's important to note is that police officers currently do have discretion.

[01:02:07] And so in many cases, they aren't charging people in these situations with assault. And commonwealth's attorneys, our prosecutors also have discretion in terms of how to, whether to change, pursue, drop charges in this area.

[01:02:24] And also, Fairfax County has worked proactively through initiatives like Diversion First and Marcus Alert to try to address these issues proactively. The county currently has 606 CIT-trained police officers who often, as part of the co-responder program, will go out with CSB crisis intervention specialists to respond to public safety calls with a behavioral health component.

[01:02:56] And it's often the case that those police officers use their discretion not to charge individuals. So ultimately, we recognize that the issues here are complex, and we would recommend that monitoring for legislation to bring relevant bills back so that we could look at specific proposals.

[01:03:16] Okay, thank you. And I think the background and staff recommendation does a good job of outlining the work that we have done to be proactive on these issues, whether it's CIT training or our co-responder model or diversion first.

[01:03:33] Also note, you know, the the proposal is to add language supporting discretion for police officers and prosecutors after staff went back and checked with FCPD, checked with the Commonwealth's attorney that we have the discretion today and exercise that discretion in the rare instances when this kind of situation occurs.

[01:04:01] So it's not our view that there's additional discretion needed here as the proposal would suggest. But let me open it up to board members if there are any other thoughts. Supervisor Lusk.

[01:04:17] Thank you, Mr. Chairman. Just out of curiosity, would be interested in seeing if there's data on the number of times that Fairfax County has not gone after individuals who have mental health or developmental or other types of issues.

[01:04:33] So basically seeing what we have in terms of a number would be helpful. I appreciate this point, and I think it's really important that the police are exercising discretion, because I think there's a concern, and I think in the community we want to be as emphatic and clear that this is a position that the police department is taking.

[01:04:56] I'd also be interested, and I know we're continuing this evolution of the co-responder program, And I know that we are struggling to get it to 100%, but, you know, being able to share maybe some updated information in terms of where we are with the co-responder model and then last, acknowledging the point about the CIT-trained police officers, recognizing that I think the last time we did a public safety meeting that talked about this issue, we were

[01:05:30] about 40 percent of the police department being trained in CIT would be just interested in seeing where we are in terms of the number today as well. So thank you. Thank you very much. All right. Thank you. And, you know, final point I'll make, and I think the background does a good job of this, and probably all of us have experienced this in our respective districts because of the Commonwealth's failure to provide sufficient psychiatric beds and provide the kind of full

[01:06:02] support that people need, police department, community, us are often in a situation where it feels as if the only way for somebody to get the care that they need is for them to be charged.

[01:06:19] And we don't do that, but it sometimes feels that way because of the absence of state support for mental health. And we've got to continue to urge the General Assembly to do more and do better, Supervisor Alcorn.

[01:06:35] Can we put that on that funding list, the money that we talked about earlier? I mean, this is a big one as well. This is quasi-related to what we learned years ago, which is our Diversion First program was costing our Commonwealth's Attorney's Office revenues because we were not prosecuting as many people, and that was the measure for how much Commonwealth's Attorney's Offices were funded in Virginia is how many people are you prosecuting.

[01:07:01] And so I think these things all relate. So this is, you know, that's where the focus should be on and encouraging the types of programs that we have at a minimum, making sure no state revenue models discourage this type of work from happening at a local level.

[01:07:19] And I can remember taking tours of people through VACO through our Diversion First program and reminding them that, you know, they were excited about doing this because it's the right thing to do from a moral and policy standpoint. But I had to remind them on the way out the door that it's going to cost them a lot more money than just the setup of the program that, in fact, in the back room, their state funding could be going down by doing the right thing.

[01:07:44] And I still think that's something lost on many people in this space and something that gives us another opportunity to emphasize. Yeah, we'll certainly look at that, Mr. Chairman. We certainly have talked about that quite a bit exactly for the reasons that you said.

[01:08:00] So we'll kind of keep that in mind as we're working on some documents and updates and things. I did just want to mention on Supervisor Lost's point related to how many times police don't charge. We have had some conversations with FCPD, and we'll kind of follow up with them. My sense is that it's a little bit difficult to quantify that across cases, but, you know, we might be able to see if we could find some examples or some things that would be helpful to you all to be aware of, even if we can't quantify the full amount.

[01:08:30] Okay. So that gets us through the consideration items, and as our last agenda item, we'll have a presentation on the issue of skill games. And I ask that staff bring this to us. We referenced it briefly at our last meeting.

[01:08:48] And, you know, I'll just say a couple of things. Obviously, there's been a lot of attention and time devoted to the casino question. And that's certainly an important question. This, I would say, is equally important.

[01:09:07] Because if you want to talk just about volume of skill gaming, if one accepts that term, across Fairfax County and every convenience store and every 7-Eleven, it would dwarf what could exist in one building.

[01:09:27] I do want to try to keep us focused on the local questions and the local impacts, which obviously could include, you know, public safety implications of having these machines all across the county.

[01:09:44] The local tax revenue or lack thereof is an important one for me, one that I've discussed directly with Senator Rouse, who's been kind of leading this effort to legalize the machines in the Senate.

But I want to just kind of ground all of us in the issue so folks have an understanding of it, because it will be a topic again in the session coming up.

[01:10:05] Ms. Arko? So, Mr. Chairman, as you said, we discussed this briefly at the last legislative committee meeting. This issue of skill games has been around Virginia for a while. On the first slide, we talk a little bit about the distinction in state code between games of skill that require the player to do something that requires knowledge or skill or something versus games that are purely by chance, which is more like what you would think of in like a slot machine. You know, you pull over, the machine kind of does all the work. You don't really do anything.

[01:10:37] And so part of the challenge over time, I think, in Virginia has been that state law was a little bit unclear in terms of how these games of skill could be captured. They look like slot machines. Apparently, they require some amount of skill or some kind of knowledge to play.

[01:10:55] And so they kind of are referred to as gray machines because of this sort of gray area in state law that they lived in for a long time. And so that's kind of the overview of what the devices are. A lot of them look the same.

[01:11:11] I guess they could look like a lot of different things. Sometimes they look like slot machines. Sometimes they look like kind of video games. They often appear in, like, convenience stores, 7-Elevens, things of that nature. But sometimes those locations are very small, and you might see there's a couple in the corner. And so the General Assembly really kind of started to grapple with this around, you know, 2020 and then finally decided to ban those machines.

[01:11:38] And so when that happened, there was a court case in a locality in another part of the state where that ban was challenged. Ultimately, the Virginia Supreme Court decided that the ban on skill games is lawful and that's something that could happen.

[01:11:56] And so that's kind of the lay of the land right now. And in addition to this presentation, you have in your packets kind of a front and back flyer that FCPD has been using with businesses to kind of explain the law, the ban, the consequences, what the penalties look like.

[01:12:12] And so we just printed that out to kind of share that with you all to sort of know what is sort of out there in the universe and how FCPD is dealing with these devices and this ban. So there are a number of penalties related to operating of these types of machines.

[01:12:32] And so I don't want to take too much time on this in case you all want to talk about it a little bit. But this past General Assembly session, as the legislative chairman mentioned, there was legislation, SB 212, that would have established kind of a legalized framework for these types of skill machines.

[01:12:51] I think the idea was to try to put some guardrails on it, but to allow them to exist. Um, that legislation passed the general assembly. When it got to the governor, he added a number of, um, restrictions, changes, amendments to it. Um, he had a lot of concerns about it. Um, and, uh, and also as the legislative chairman mentioned, um, there, there was not in that legislation, um, a local revenue component, um, tax revenue.

[01:13:18] Some of the introduced bills did have, or at least one of them did have, a local revenue component, but the one that passed did not. And so the governor sent down a lot of amendments. The General Assembly at the veto session in April looked at all the amendments and ultimately rejected them.

[01:13:42] Jennifer, you can jump in when we get to that point. No, that's fine. So the General Assembly rejected the governor's amendments, and so I think as the board is aware, the governor gets kind of the last say. So if the GA rejects his amendments, he can veto a bill outright, which is what he did with this. After that happened, there were some discussions and the governor sort of said publicly and the General Assembly said publicly that maybe they could work on some compromise legislation that would legalize them but provide some of the guardrails that the governor was concerned about.

[01:14:10] As you all recall, last summer there was a special session dealing with a number of issues and some legislation was introduced at that time to try to address some of what the governor included in his veto message. There was a thought that over the summer the GA might really kind of get into this issue and meet and look at skill games that ended up not happening.

[01:14:32] And then there's been sort of this continued discussion that potentially they would do that this fall in advance of the coming General Assembly session. However, the sort of late-breaking developments in recent weeks are that one of the companies that manufactures and places these machines apparently developed some kind of devices that seem to circumvent the ban in state law because they don't require you to put money or tokens or things like that in it.

[01:15:03] And I think the idea was, well, if you don't do that, maybe you don't trip up on state law. I think the governor did not appreciate that movement and felt that it was kind of a bad faith effort on behalf of the company and so has sort of said publicly recently he's not signing anything related to skill games because he has kind of a sour taste in his mouth about that action.

[01:15:28] Obviously, that doesn't necessarily mean that in perpetuity he won't do it, and I'm sure we'll see bills back during the coming GA, but that's kind of where we are. So I think in terms of having the likelihood of something happening before the 2025 GA is probably not great at the moment Although obviously things can change, but we do think that we'll see if you know bills come back During 2025 and so we wanted to give a little bit of an overview of kind of what's out there And give the board a chance to Ask some questions or talk about it. We have a lot of staff in the room if you all have specifics And then at least we'll kind of have that as we go forward towards the next session and

[01:16:08] Just, you mentioned the most recent kind of legal wrinkle or assertion. And what that highlights is that one of the challenges is the machines accept cash. So just like an ATM that we know, you know, creates a public safety question and challenge in terms of theft, you have these machines that are boxes filled with cash all across the county.

[01:16:35] So that creates its own potential challenge that we, at the local level, will be forced to wrestle with, Mr. Chairman. Yeah, just on the immediate front, given this, what doesn't really appear to be a gray legal area, it's just gray whether the state wants to, in essence, respond to the court decision.

[01:16:55] And so where does that leave enforcement capabilities and responsibility? Because to me, and I've had this conversation with one of our legislators, to presume that our zoning enforcement is going to be the eye in the sky and do all the enforcement on this is a little bit absurd.

[01:17:14] I mean, obviously, the state has very strict ABC inspectors and others who inspect, you know, areas that they think create public safety, liability, legal issues. But I'm not aware of any state entity who has the responsibility to enforce this Virginia law.

[01:17:33] So is it left up to only the localities to bear that responsibility? So my understanding is that it's really Fairfax County Police who enforce it for us, and that's who put together the flyer that is in your packets as well where they talk about the penalties. And so I think that's who's doing the enforcement here.

[01:17:51] I'm not aware that the state is necessarily, and we can get into this more, but I'm not aware that the state is doing anything in particular, and certainly our zoning staff and things like that are not. So to me, that's a big piece of this. I mean, I understand the zoning rights and flexibility and maybe distance and all the other things that have been discussed, but I'm not aware of a very robust conversation about that.

[01:18:13] But if this is a statewide program and there's this many concerns with it, the state should have an inspection and a violations process to deal with this equitably and fairly across the state and to put that burden on top of our police department and to assume that somehow Virginia statewide that will be uniformly handled when we know there are great variations in the quality training and response time and other things of police who are dealing with a lot of things across Virginia.

[01:18:44] I mean, to me, if the state can write a perfect bill and do whatever they want, but if the state doesn't enforce these, But statewide, you're going to have all these inconsistencies from locality to locality. And it's just, we were talking about unfunded mandates earlier.

[01:19:02] This is a gigantic one to assume that our police, you know, don't assume that they have time to run around and enforce these machines. And I know they do it and they do a good job of it. We had a complaint from someone the other day. We sent it to the police.

[01:19:17] It was the first time anyone ever complained about these. And it came from a legislator because the legislator didn't know what to do with it. And so I think that's a real issue here that we need to be very outspoken about because our police shouldn't have to take on this burden. In my mind, and the state should have a statewide enforcement, just like they do with ABC, permitting, enforcement, and deal with violations that occur with it instead of just resting this on localities.

[01:19:46] So, Mr. Chairman, the one thing I wanted to clarify, and I think your comments reflect this, but I just wanted to be clear for folks who aren't experts on this. So the legislation that's being considered does have enforcement components. I think it foresees that the Lottery Board would help oversee this, that ABC would be involved, especially if there's, you know, alcohol permits and things like that.

[01:20:07] I think the issue in particular right now is that there's a state ban, so they're not allowed. And so then FCPD, for us, and I think for other localities, it's probably their law enforcement, are enforcing that ban, if that makes sense. No, it doesn't. It makes no sense to me. I mean, if these are not legal in Virginia, it seems like all the reason for the entities you just described to enforce the Virginia law.

[01:20:28] I mean, saying that they're illegal and therefore we're not going to enforce it, let somebody else do, is indirect. I mean, that makes no sense to me. I don't understand that. So I do think we have some folks from FCPD who could probably maybe speak to this a little bit more in terms of how they deal with it and enforcement.

[01:20:48] I think we understand how FCPD is dealing with it. I think the chairman is making the point that why isn't the Commonwealth dealing with it? Jennifer Vanney, Deputy Director. I was also going to point out that right now there is a committee at the state level, the GA Joint Subcommittee to survey the feasibility of establishing the Virginia Gaming Commission is looking at bringing all of this kind of stuff in-

house except for the lottery. The lottery would stay its own thing. So I definitely think maybe that could be a way that they're looking to enforce it. I don't know that for sure. They've met twice this year. They have, it's a two-year

[01:21:26] looking group. So GA 2026 is when they would actually probably deal with that at all. But they are looking at it in that way. So that's years from now. So I mean, outside of this, legislative conversation we should be having a conversation about what we can do to get some help from the state on this it just seems ludicrous to me they allowed these all over the place uh then they said no and the state law you know they went to court all these things have happened meanwhile for years these have been out there and potentially for years we could be dealing with the enforcement and to me that doesn't make any sense and i i think that's a follow-up maybe

[01:22:03] for for another meeting but it's something i think we should be very outspoken about with this Yeah, it seems like while we're, for lack of a better term, while we're in this kind of gray area, gray games, it's good, right? You know, the state needs to take a more significant role in terms of enforcement.

[01:22:24] You know, I would say long term, if the machines are going to exist, they should absolutely be regulated and that regulation should be enforced by the Gaming Commission. The industry will reject that because they want to assert that these machines are not gaming or gambling.

[01:22:40] It's kind of like you have to not believe your lying eyes to actually play one of these games and agree with that. But in terms of having the regulatory structure and the enforcement mechanism to regulate them, that would seem to make the most sense to me.

[01:22:58] Okay, we'll start down here. Supervisor Bierman. So in not shocking news, I don't really like skill games, and I think that it's probably a good thing for us to not have these in the county. In perhaps more shocking news, I completely agree with Attorney General Miara is that the whole idea that you could just pay somebody up front and get around the skill game span is totally off.

[01:23:20] So I also agree, though, with Chairman McKay that we need to be looking into it with respect to enforcement mechanisms, how we also engage the Virginia State Police and the Gaming Commission, the lottery, all that to actually enforce this problem.

[01:23:36] we know that these exist uh in the county we know that they're currently against the law so we need to do something about it but this could as as um to to start the point made by supervisor stork this could be yet another bill we send richmond so thank you okay anyone else on this top supervisor alcorn yeah i um yeah i appreciate the conversation i i do think that um these skill games, they're probably more analogous to sports betting in terms of the impact on society and on

[01:24:13] individuals and people with gambling addictions and things like that. I think there is an important note. I disagree with the idea that these are equal to casinos. And the reason I disagree with that is casinos are much more concentrated. So from a land use perspective, it's different when you have a casino, particularly in some of the most valuable property in the DMV that thereby creates a no-go zone for major employers going forward. That is not the case with these,

[01:24:52] Unless the General Assembly really, you know, opens it up and allows unlimited numbers at any location in a concentration basis. So I think we do have to watch out for that in particular because, you know, if these do become allowed by the state at a significant concentration, then we may have the equivalent of a casino depending upon how they do it.

[01:25:23] So that is something we should watch because it would have potentially land use-related consequences in a significant way. So thank you. Yeah, and I don't think anyone said that they're equal to casinos. I started by saying the collective impact could be as significant, if not more significant.

[01:25:44] And, you know, I remember when they were legal or de facto legal or gray, I don't remember which. And, you know, you can go to the 7-Eleven in Annandale and see folks lined up to play these machines and all around the county.

[01:26:01] And, you know, a lot of challenges that that would create if it were to proliferate. Supervisor Storkin, we'll give you the last word, and we'll wrap up. Where's the money go? I mean, I didn't, I read through here, I couldn't tell.

[01:26:17] And is this, is there a separate, you know, tax or whatever for these? And then where does it go? I mean, I'm not for or against it, to be honest, but I just, to me, that's typically the more these things are done, obviously, if they drain dollars out of Fairfax County to the state, that doesn't help us.

[01:26:39] It's on page five. Is it? Yeah. Sorry. Remarkably, they're being deposited in a pre-K through 12 priority fund. Yeah, and the House version of the legislation in the previous session did send a portion OF THE REVENUE PROBABLY NOT ENOUGH BUT A PORTION OF THE REVENUE TO UH THE LOCALITIES UM AND CERTAINLY IF THIS WERE TO MOVE FORWARD THAT'S SOMETHING I THINK WE WOULD NEED TO BE ADVOCATING FOR I I MET WITH SENATOR RAUS DIRECTLY LAST YEAR AND MADE THAT CASE UM AND WE'LL CONTINUE TO DO

[01:27:15] THAT SAME OLD STORY YEAH OKAY GOT IT THANKS OKAY ALL RIGHT UM THANK YOU EVERYONE OUR NEXT meeting is on Tuesday, October 29th, and as I mentioned, we will try to make the final edits to the program. At that point, I will be taking a red pen to it between now and then to try to reduce our word count a little bit. Thanks, everyone.

[01:27:38] MS. Thank you.

