

ARTICLES

THOSE WHO NEED THE MOST, GET THE LEAST: THE CHALLENGE OF, AND OPPORTUNITY FOR HELPING RURAL VIRGINIA

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INTRODUCTION

Rural America, as has been well documented, faces many challenges. Businesses and people are migrating to more urban and suburban regions. The extraction and agricultural economies that once helped them thrive—mining, tobacco, textiles—are dying. And, as we discuss below, residents of rural communities tend to be older, poorer, less credentialed in terms of their education, less healthy, and declining in population.

On a regular basis, political leaders on both sides of the aisle, and on national and state levels, make commitments to rural areas to help improve the quality of life for residents, to listen, and to help. Even with all the attention, many challenges remain, leading policy makers to ask: How can we help our rural communities?

In this Article we try to answer that question by looking specifically at the Commonwealth of Virginia, a state whose rural residents suffer disproportionately worse life outcomes than their counterparts in other parts of the state. While it is true, as we will show, that state leaders have paid attention to these challenges, it is equally true that many of the challenges facing rural Virginians persist.

It is important to note two things at the outset. First, rather than being comprehensive, this Article is intended to be illustrative—both of the challenges and of the solutions for rural Virginia. Therefore, we, by necessity, made some choices about which topics to cover and which to exclude, however important they might be.¹ Likewise, even with the topics we chose to examine, we could not delve into every challenge and solution within each topic. Hopefully, however, by presenting the issues as we have, and offering up some policy recommendations for each, we have demonstrated the wide range of issues and challenges, and the wide range of intervention and support necessary to help our rural residents.

Second, and importantly, by examining demographic data, and detailing some of the struggles that many in rural Virginia face, we do not intend, at all, to denigrate or question the benefits of

1. For example, we do not cover the challenges associated with the opioid epidemic or transportation, though those are both undoubtedly important issues. Likewise, while the legalization of marijuana and commercial hemp production undoubtedly create economic opportunities for rural Virginia, those policy issues are receiving considerable attention and focus, as well as advocacy.

rural living, the strength of communities in many parts of rural Virginia, or the individual choices made by people who live there. We are simply trying to use the data, and illustrate the challenges, to make the case that policymakers need to do more to help rural Virginians lead the kind of lives they deserve to lead.

Our Article proceeds as follows. We first say a quick word about definitions, and what “rural” means. We then lay out demographic information about rural Virginians to illustrate some of the key challenges to serving rural communities, and to demonstrate the overlapping and related nature of the challenges facing many rural residents. We also spend time on demographic information to show that the rural population in Virginia is much more racially diverse than is commonly perceived. This racial diversity, we contend, is also critical for policymakers to understand as they craft solutions to the challenges facing rural Virginians. It is critical to understand because the problems in certain regions may have different causes and historical antecedents, and perhaps may require more creative policy solutions, than the same problems in other rural regions. Likewise, making clear that rural populations are not, as popularly conceived, a white, conservative monolith,² may also make it more possible for a bipartisan and geographically diverse group of legislators to come together to address these challenges.

After discussing demographics, we make recommendations in various policy areas that align with the needs of rural residents as outlined in the demographics Section. For each area, we explain the problem, some of the work done to address that problem to date, and the areas where we need to devote more time and resources.

With this overview, our hope is that this Article might be of value to current and future Virginia policymakers and even to policymakers in other states attempting to grapple with these persistent challenges. Indeed, part of the point of the synthesis is to demonstrate that there are issues endemic to rural life—lack of employment options, broadband access, transportation gaps, low tax bases, and an aging population—that are not as present in urban communities. In this way, rural issues are both unique and pro-

2. While it is true that many rural counties in Virginia vote Republican, several rural counties with higher concentrations of Black residents voted for President Biden in the 2020 presidential election. For a Virginia statewide map of voting by county see *Localities: Number of Registered Voters*, VA. PUB. ACCESS PROJECT, <https://www.vpap.org/visuals/vamaps/election-results/?election=10135> [<https://perma.cc/ZK8A-2AGW>].

foundly interconnected with one another. Unless and until policy makers engage in a cross-cutting comprehensive approach to the challenges and problems that rural communities face, they will persist.

In addition to exploring a range of challenges and potential problems, and to address the connectivity problem, we conclude by offering some policy recommendations. Chief among these is that Virginia create a high-level cabinet position with interagency authority to oversee rural affairs and development. Only a high-level position like this, with the authority to unify and direct efforts to improve the lives of rural Virginians, will have the ability to fully and comprehensively help rural communities in a way that they both need and deserve.

I. DEFINITIONS

What does it mean to be rural? The federal government has several ways of distinguishing rural areas from urban areas.³ The Office of Management and Budget (“OMB”) provides a commonly used scheme of classification.⁴ The OMB characterizes counties as Metropolitan Statistical Areas (“MSAs”), Micropolitan Statistical Areas (“ μ SAs”), or neither.⁵ MSAs are counties that contain an urbanized core with a population of at least 50,000 people, while μ SAs contain an urbanized area of at least 10,000 people, but not more than 50,000.⁶ Any area that is not considered metropolitan is rural.⁷

It is difficult to determine exactly what method Virginia adopts because the state does not have an office wholly devoted to rural

3. See U.S. DEP'T HEALTH & HUM. SERVS., HHS-0906-F-5148, GUIDANCE ON DEFINING RURAL POPULATION (2020), <https://www.hhs.gov/guidance/document/defining-rural-population> [<https://perma.cc/R82R-EJ66>].

4. *Id.* (providing “[g]uidance for commonly used rural definitions,” including the OMB definition).

5. *Id.*; see also 2020 Standards for Delineating Core Based Statistical Areas, 86 Fed. Reg. 37,770, 37,771 (July 16, 2021).

6. 2020 Standards for Delineating Core Based Statistical Areas, 86 Fed. Reg. at 37,777.

7. The Federal Office of Rural Health Policy (“FORHP”) accepts all nonmetropolitan areas, including micropolitan areas and certain census tracts within metropolitan areas with low population density and long distances to public services, as rural. See U.S. DEP'T OF HEALTH & HUM. SERVS., *supra* note 3; see also FED. OFF. OF RURAL HEALTH POL'Y, HEALTH RES. & SERVS. ADMIN., LIST OF RURAL COUNTIES AND DESIGNATED ELIGIBLE CENSUS TRACTS IN METROPOLITAN COUNTIES 1 (Sept. 1, 2021), https://data.hrsa.gov/Content/Documents/to_ols/rural-health/forhpeligibleareas.pdf [<https://perma.cc/6CZ8-46M8>].

issues. The state agency that seems most devoted to rural issues, however, is the Virginia State Office of Rural Health, which is housed in the Department of Health.⁸ That Office created a Virginia Rural Health Plan for the years 2022–2026, which adopts the OMB scheme of classifying areas as metropolitan and nonmetropolitan.⁹ For the sake of consistency, we adopt the same definition of rurality in this Article. Thus, in Virginia, metropolitan areas are urban, while micropolitan and nonmetropolitan areas are rural.¹⁰

The OMB scheme of classification is helpful for other reasons as well.¹¹ First, the OMB provides an economic concept of the urban-rural delineation, which “recognizes the influence of cities on labor, trade, and media markets that extend well beyond densely settled cores to include broader ‘commuting areas.’”¹² Indeed, MSAs are those that contain an urban core whose surrounding counties are highly socially and economically integrated with the county con-

8. *State Office of Rural Health*, VA. DEP’T OF HEALTH, <https://www.vdh.virginia.gov/health-equity/division-of-rural-health/> [https://perma.cc/GV2L-88F9].

9. The Virginia Department of Health’s website provides several definitions of “rural.” See *Rural Virginia Defined*, VA. DEP’T OF HEALTH, <https://www.vdh.virginia.gov/health-equity/rural-virginia-defined/> [https://perma.cc/AAJ5-AL3T]. However, the Virginia Rural Health Plan adopts the OMB classification scheme. See VA. DEP’T OF HEALTH, VIRGINIA RURAL HEALTH PLAN 2022-2026, DEFINING RURALITY IN VIRGINIA 2-6 (2022) [hereinafter VA. RURAL HEALTH PLAN], https://www.vdh.virginia.gov/content/uploads/sites/76/2022/01/Virginia-Rural-Health-Plan_Book_POST_1-24-22_LR.pdf [https://perma.cc/EDM8-TCGB] (“The 2022-2026 State Rural Health Plan uses the OMB classification for metropolitan, micropolitan, and non-metropolitan counties.”).

10. The Plan also acknowledges other methods of classification: “The Virginia State Office of Rural Health acknowledges the various definitions of rurality and wants to call attention to a definition of ‘rural’ that is required for effective targeted policy and research aimed at improving the health of rural Virginia.” VA. RURAL HEALTH PLAN, *supra* note 9, at 2-6.

11. The OMB Scheme is not perfect, however. See *id.* Metropolitan counties tend to encompass both urban centers and surrounding rural areas as well, which has the effect of categorizing some rural census tracts as urban. John Cromartie & Shawn Bucholtz, *Defining the “Rural” in Rural America*, AMBER WAVES (June 1, 2008), <https://www.ers.usda.gov/amber-waves/2008/june/defining-the-rural-in-rural-america/> [https://perma.cc/766Q-NF36]; see also *Defining Rural Population, Health Resources & Services Administration*, HEALTH RES. & SERVS. ADMIN. (Mar. 2020), <https://www.hrsa.gov/rural-health/about-us/what-is-rural> [https://perma.cc/22KS-LVC3]. The FORHP attempts to avoid the under-inclusivity of the OMB classification by classifying census tracts, rather than entire counties, as urban or rural based on urbanization, population density, and daily commuting patterns. *What is Rural?, What are RUCA Codes?*, RURAL HEALTH INFO. HUB (Jan. 17, 2022), <https://www.ruralhealthinfo.org/topics/what-is-rural#goldsmith-modification> [https://perma.cc/ZY9Q-JL6A]. Based on these characteristics, census tracts are assigned codes called Rural-Urban Commuting Area, or RUCA, codes, which describe a tract’s urban-rural status and commuting flow. *Id.*

12. Cromartie & Bucholtz, *supra* note 11.

taining the urban core.¹³ Social and economic integration are measured through commuting ties.¹⁴ Non-metropolitan areas lack this social and economic integration. Second, the metropolitan-nonmetropolitan distinction is based on a labor-market concept, which makes it a popular scheme for those studying economic and population trends.¹⁵ In these ways, the OMB classification system is useful for this Article, which seeks to identify and address social and economic characteristics and changes negatively impacting rural Virginia.¹⁶ Finally, the geographic unit of the OMB's classification is the state county, for which data is widely available.¹⁷

II. DEMOGRAPHICS

In order to help rural Virginians, we must understand who they are, in all of their diversity. For this reason, we begin this Article by examining the demographics of rural Virginia. First, we explore the regional, racial, and economic differences that shape rural populations in Virginia. Next, we consider rural Virginia's demographic trends and health and education outcomes. Our hope is that this discussion sheds light on both the diversity of the population and the overlapping and connected nature of the problems that many rural residents experience.

A. *Rural is Regional*

Regional identifiers help us visualize where rural populations are concentrated.¹⁸ Demographers divide Virginia into 8 regions based on shared demographic, social, economic, and geographic characteristics: Northern, Valley, Central, Eastern, Hampton

13. 2020 Standards for Delineating Core Based Statistical Areas, 84 Fed. Reg. 37,669, 37,770, 37,777, 37,778 (July 16, 2021).

14. *Id.*

15. "Studies designed to track and explain economic and social changes often choose to use the metro-nonmetro classification, because it reflects a regional, labor-market concept and allows the use of widely available county-level data." *What is Rural?*, ECON. RSCH. SERV. (Oct. 23, 2019), <https://www.ers.usda.gov/topics/rural-economy-population/rural-classifications/what-is-rural.aspx> [<https://perma.cc/M9DW-3WZU>].

16. *Id.* ("The key is to use a rural-urban definition that best fits the needs of a specific activity, recognizing that any simple dichotomy hides a complex rural-urban continuum, often with very gentle gradations from one level to the next.")

17. *Id.*

18. See *Virginia's Demographic Regions*, DEMOGRAPHICS RSCH. GRP., <https://demographics.coopercenter.org/virginia-regions> [<https://perma.cc/6AF8-9SFE>] (defining Virginia's regional identifiers).

Roads, Southside, West Central, and Southwest.¹⁹ Rural regions include Southside, Southwest, Eastern Virginia, and the Valley region.²⁰ Eastern Virginia, which includes the Eastern Shore, the Northern Neck, and the Middle Peninsula, has no cities and is the most rural region of the state.²¹ In contrast, Northern Virginia and Hampton Roads are the largest urban regions in Virginia, along with the Richmond metropolitan region, which is in Central Virginia.²² Approximately 70% of Virginia's population resides in those areas.²³

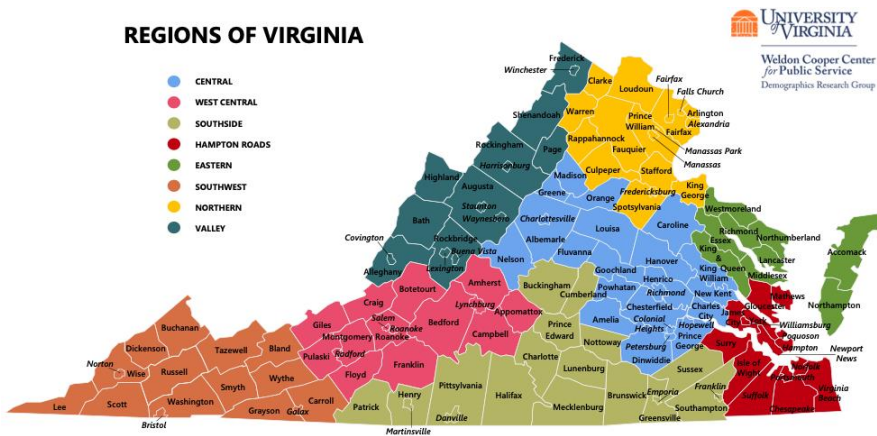
19. *Id.* For an overview of each of Virginia's regions as they existed in 2014, see DEMOGRAPHICS RSCH. GRP., UNIV. VA. WELDON COOPER CTR., VIRGINIA'S REGIONS (June 2014), https://demographics.coopercenter.org/sites/demographics/files/RegionalProfiles_28July2014_0.pdf [<https://perma.cc/ZDP2-Q9Z6>].

20. For a visualization of Virginia's rural regions, see *Virginia Rural (Non-Metropolitan Areas) as Defined by the Office of Management and Budget (OMB)*, VA. DEP'T. OF HEALTH (2006), <https://www.vdh.virginia.gov/content/uploads/sites/76/2016/06/OMBDefinedRuralAreas.pdf> [<https://perma.cc/P54T-MWP3>]. The Virginia Department of Health's ("VDH") map of rural areas in Virginia uses data from the OMB to highlight the counties and cities which have populations small enough to be designated "non-metropolitan" according to the OMB's standards. The highlighted rural localities correspond to Virginia's demographic regions. The data has not been updated since 2005, but the areas that are considered non-metropolitan on this map match the most recent map of metropolitan and non-metropolitan areas published by OMB in 2020. For that map, see POPULATION DIV., U.S. CENSUS BUREAU, VIRGINIA: 2020 CORE BASED STATISTICAL AREAS (2020), https://www2.census.gov/programs-surveys/metro-micro/reference-maps/2020/state-maps/51_Virginia_2020.pdf [<https://perma.cc/45TP-JXDF>].

21. DEMOGRAPHICS RSCH. GRP., *supra* note 19, at 5–6 (regional profiles of "Eastern" and "Hampton Roads" regions).

22. Shonel Sen, *Population Projections Show That Virginia is Aging and Growing More Slowly*, UNIV. VA. WELDON COOPER CTR.: STATCHAT (July 1, 2019), <http://statchatva.org/2019/07/01/population-projections-show-that-virginia-is-aging-and-growing-more-slowly/> [<https://perma.cc/8HX8-33FU>].

23. *Id.*

Regions of Virginia.²⁴

B. Rural Does Not Equal “White”

Popular culture sometimes characterizes rural counties as being uniformly White (and often conservative leaning).²⁵ But this is only true in certain parts of rural Virginia. According to the 2020 Census, Virginians who identify as White alone constitute approximately 60% of Virginia’s population.²⁶ In rural areas, White Virginians constitute the majority of the Southwest and Valley regions, where the White population in many counties exceeds 95%.²⁷

24. UNIV. OF VA. WELDON COOPER CTR., REGIONS OF VIRGINIA (2017), https://demographics.coopercenter.org/sites/demographics/files/media/files/2022-05/RegionsMap_DemographicsCooperCenter.pdf [<https://perma.cc/6NR9-DNKC>].

25. See Astead W. Herndon & Shane Goldmacher, *Democrats Thought They Bottomed Out in Rural, White America. It Wasn’t the Bottom*, N.Y. TIMES (Nov. 6, 2021), <https://www.nytimes.com/2021/11/06/us/rural-vote-democrats-virginia.html> [<https://perma.cc/8N9S-FVHX>] (discussing rural counties in the Valley region of Virginia as if they are representative of rural Virginia as a whole).

26. *Virginia Adds More Than 600,000 People Since 2010*, U.S. CENSUS BUREAU (Aug. 25, 2021), <https://www.census.gov/library/stories/state-by-state/virginia-population-change-between-census-decade.html> [<https://perma.cc/9F4X-LQSY>].

27. U.S. CENSUS BUREAU, *2021 Population Estimates by Race Alone or in Combination with Other Races*, UNIV. OF VA. WELDON COOPER CTR., <https://demographics.coopercenter.org/population-estimates-age-sex-race-hispanic-towns/> [<https://perma.cc/9PGL-VC65>] (follow “2021 Population by Race” hyperlink); see also DEMOGRAPHICS RSCH. GRP., *supra* note 19, at 15–18 (regional profiles of “Southwest” and “Valley” regions).

However, nearly one in five Virginians is Black, making Black Virginians the largest racial minority in the state.²⁸ Black Virginians who live in rural areas are heavily concentrated in the Southside and Eastern regions.²⁹ This distribution follows a historical pattern of higher concentrations of slaves working on tobacco and agricultural plantations in the Piedmont and Tidewater regions.³⁰ Indeed, Black Virginians constitute over 50% of the populations of Brunswick County, Greensville County, and the City of Emporia, which are rural localities in the Southside region.³¹ In the Eastern region the Black populations of Essex County and Richmond County are nearly 40% and 31%, respectively.³²

Other racial groups are not concentrated in rural Virginia in large numbers. Hispanic³³ and Asian³⁴ populations are mostly concentrated in Northern Virginia. However, Virginia's Hispanic population has been growing over the last ten years—even in rural areas. In fact, the Hispanic population in rural areas of Virginia has increased over 20% from 2010–2020.³⁵ If this trend continues, racial diversity in rural Virginia will increase even further.

Thus, as far as racial demographics go, rural Virginia is not a singular image of Carroll County of the Southwest, or Bath County of the Allegheny Mountains, whose percentages of Black populations are in the single digits.³⁶ Rural Virginia, namely Southside

28. U.S. CENSUS BUREAU, *2021 Race and Hispanic Estimates for Virginia's Counties & Cities*, UNIV. VA. WELDON COOPER CTR., <https://demographics.coopercenter.org/population-estimates-age-sex-race-hispanic-towns/> [<https://perma.cc/9PGL-VC65>] (follow “2021 Population by Race” hyperlink).

29. See U.S. CENSUS BUREAU, *supra* note 27.

30. MICHELE P. CLAIBOURN, DEMOGRAPHICS RSCH. GRP., UNIV. OF VA. WELDON COOPER CTR., *BLACKS IN VIRGINIA: DEMOGRAPHIC TRENDS IN HISTORICAL CONTEXT 1*, 2 (Apr. 2012), https://demographics.coopercenter.org/sites/demographics/files/NC_Blacks-in-Virginia_4_30_12_r_0.pdf [<https://perma.cc/7VX4-LLNV>].

31. U.S. CENSUS BUREAU, *supra* note 27.

32. *Id.*

33. U.S. CENSUS BUREAU, *2021 Population Estimates by Hispanic Origin (Virginia Localities)*, DEMOGRAPHICS RSCH. GRP., UNIV. OF VA. WELDON COOPER CTR., <https://demographics.coopercenter.org/population-estimates-age-sex-race-hispanic-towns/> [<https://perma.cc/9HQU-C2TV>] (follow “Race and Hispanic Estimates for Virginia's Counties and Cities” hyperlink; and then click on the “2021 Population by Race” hyperlink).

34. See U.S. CENSUS BUREAU, *supra* note 27.

35. VA. DEP'T OF HOUS. & CMTY. DEV. & VA. HOUS. DEV. AUTH., *HB854 STATEWIDE HOUSING STUDY: CURRENT EFFORTS, FUTURE NEEDS, NEW STRATEGIES (CHAPTER 482, 2020)*, H.D. Doc. No. 3, at 124 fig.12.9 (2022), <https://rga.lis.virginia.gov/Published/2022/HD3/PDF> [<https://perma.cc/NC74-AD2P>].

36. See U.S. CENSUS BUREAU, *supra* note 27.

and the Eastern region, is Black, White, and may even become increasingly Hispanic if current trends continue.³⁷

Because of this diversity, and especially because the distribution of Black rural Virginians follows historical patterns of racial subjugation, we pause in the final Section of this Article to consider how race furthers our understanding of policy problems and guides policymakers to solutions for all rural Virginians.

C. *Rurality Often Equals Poverty*

What does it mean to live in a rural area in Virginia? For many, it means living below the poverty line.

Poverty is an indicator of a household's economic stability and opportunity.³⁸ Households living in poverty tend to have less access to the resources that those in higher income brackets take for granted, such as healthy food, health insurance, and stable housing.³⁹ The U.S. Census Bureau measures poverty by comparing an individual's household income to a federally-determined poverty threshold that reflects a family's basic needs.⁴⁰ In 2020, for example, a four-person household was above the poverty threshold if its income exceeded \$26,200.⁴¹ In 2022, that number was \$27,750.⁴²

Poverty persists in significant numbers across rural regions of Virginia. The Economic Research Service ("ERS") reports that in

37. *Id.*

38. *See Rural Poverty & Well-Being*, ECON. RSCH SERV. (Nov. 29, 2022), <https://www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being/> [<https://perma.cc/GU34-SN6A>].

39. *Poverty Literature Summary*, OFF. OF DISEASE PREVENTION & HEALTH PROMOTION, <https://health.gov/healthypeople/priority-areas/social-determinants-health/literature-summaries/poverty> [<https://perma.cc/N45L-DG85>].

40. *How the Census Bureau Measures Poverty*, U.S. CENSUS BUREAU (Sept. 22, 2022), <https://www.census.gov/topics/income-poverty/poverty/guidance/poverty-measures.html> [<https://perma.cc/CP77-HYNV>].

41. Annual Update of the HHS Poverty Guidelines, 85 Fed. Reg. 3,060, 3,060 (Jan. 17, 2020).

42. Annual Update of the HHS Poverty Guidelines, 87 Fed. Reg. 3,315, 3,316 (Jan. 21, 2022).

2020, the overall poverty rate⁴³ in Virginia was 9.2%.⁴⁴ However, that rate was much higher in rural areas, at 14.9%.⁴⁵ In contrast, the urban poverty rate was 8.5%.⁴⁶

Poverty tends to be highest in the Southwest region, the Southside region, and in the counties in those regions that do not border large urban areas, such as the western-most and southern-most counties in the state.⁴⁷

In Southwest, for example, the poverty rate of Lee County, the furthest-west county in the state, was 26%.⁴⁸ The poverty rates of Wise County and Buchanan County were 20.3% and 23.7%, respectively.⁴⁹ And, in most other counties in Southwest, the poverty rate was between 14% and 19%⁵⁰—lower than Lee, Buchanan and Wise, but much higher than the poverty rate of the Commonwealth as a whole. The Southside counties of Lunenburg, Mecklenburg, Halifax, and Charlotte also have poverty rates between 14% and 19%.⁵¹ Counties in Southside with even higher rates are Brunswick and Prince Edward, where 20.2% and 23.6% of their respective populations live in poverty.⁵² These rates are more than double the poverty rates of metropolitan counties like Chesterfield, Prince

43. Poverty rates refer to the portion of a population living in poverty. U.S. CENSUS BUREAU, POVERTY: 2019 AND 2021, at 11 (2022), <https://www.census.gov/content/dam/Census/library/publications/2022/demo/p60-277.pdf> [<https://perma.cc/PL9Z-ALHN>]. Poverty thresholds are determined by the U.S. Census bureau and vary by household composition. *Id.* at 2; see also JOHN CREAMER, EMILY A. SHRIDER, KALEE BURNS & FRANCES CHEN, U.S. CENSUS BUREAU, POVERTY IN THE UNITED STATES: 2021, at 1 (2022) <https://www.census.gov/content/dam/Census/library/publications/2022/demo/p60-277.pdf> [<https://perma.cc/63E3-LG98>].

44. *State Fact Sheets: Virginia*, ECON. RSCH. SERV., <https://data.ers.usda.gov/reports.aspx?StateFIPS=51&StateName=Virginia&ID=17854> [<https://perma.cc/RD6S-8VV8>] (Nov. 1, 2022).

45. *Id.*

46. *Id.*

47. *Rural-Urban Comparison Maps*, FED. RSRV. BANK OF RICHMOND, https://www.richmondfed.org/research/regional_economy/reports/rural_urban_maps [<https://perma.cc/KSJ5-4Z28>].

48. *Percent of Total Population in Poverty, 2020: Virginia*, ECON. RSCH. SERV., <https://data.ers.usda.gov/reports.aspx?ID=17826> [<https://perma.cc/55VE-PU4M>] (June 3, 2022) (click on “Virginia” hyperlink).

49. *Id.*

50. *See id.*

51. *Id.*

52. *Id.*

William, Loudon, and Bedford, which are less than, or equal to 6.8%.⁵³

Poverty also tends to fall disproportionately on Black Virginians in rural areas. In 2021, the poverty rate for Black Virginians was more than double what it was for White Virginians.⁵⁴ That disparity also holds in rural Black-majority counties like Brunswick, where 27.2% of the Black population were below the poverty line, compared to 10.9% of the White population.⁵⁵ That disparity widens drastically in some rural counties in Southwest. In Russell County, for example, the Black poverty rate is 60%—almost triple the White poverty rate of 21%.⁵⁶ The numbers are even more shocking in Buchanan, where the White poverty rate is 28.4% and the Black poverty rate is almost 85%.⁵⁷

Thus, with the exception of some rural counties,⁵⁸ disparities exist whether Black Virginians are the minority or majority racial group in the population. These numbers are disturbing not only because of the dramatic gap in the concentrations of poverty among Blacks and Whites in many rural areas, but also because both groups are experiencing poverty at sky-high percentages compared to the rest of the state. This juncture of racial and economic challenge, we will show, demands policy solutions that reflect the overlapping and intersecting nature of racial, geographic, and economic opportunity.

53. The poverty rates of these counties are as follows: Chesterfield with 6.6%, Prince William with 4.9%, Loudon with 3.2%, and Bedford with 6.8%. *Id.*

54. The White poverty rate was 6.8% and the Black poverty rate was 17.1%. See *Poverty Rate by Race/Ethnicity (CPS)*, KAISER FAM. FOUND. (2021), <https://www.kff.org/other/state-indicator/poverty-rate-by-race-ethnicity-cps/> [<https://perma.cc/JN9M-3SPA>].

55. *American Community Survey: Brunswick County, Virginia*, KNOX NEWS (2019), <https://data.knoxnews.com/american-community-survey/brunswick-county-virginia/poverty-status/two-or-more/ty/05000US51025/area/> [<https://perma.cc/82HH-Q3JC>].

56. *American Community Survey: Russell County, Virginia*, KNOX NEWS (2019), <https://data.knoxnews.com/american-community-survey/russell-county-virginia/poverty-status/population/num/05000US51167/> [<https://perma.cc/N9UK-BD5Q>].

57. *American Community Survey: Buchanan County, Virginia*, KNOX NEWS (2019), <https://data.knoxnews.com/american-community-survey/buchanan-county-virginia/poverty-status/population/num/05000US51027/> [<https://perma.cc/WLU9-LFVF>].

58. In Page County, Virginia, which sits in the Valley region of the state, the Black poverty rate is 7.1%, which is several percentage points *lower* than the White poverty rate of 15.3%. *American Community Survey: Page County, Virginia*, KNOX NEWS (2019), <https://data.knoxnews.com/american-community-survey/page-county-virginia/poverty-status/population/num/05000US51139/> [<https://perma.cc/CM2E-L4YV>].

D. Rural Populations Are Shrinking

Virginia's population has been increasing in number, but its growth has been decreasing.⁵⁹ In the last several years, almost the entire amount of Virginia's growth has been due to natural increases in population⁶⁰ and immigration, rather than in-migration from other states.⁶¹ Indeed, since 2014, more Virginians have moved to other states than other Americans have migrated into Virginia.⁶²

In rural Virginia degrowth couples with actual population loss. Indeed, Virginia's rural population has declined consistently from 2010–2020.⁶³ Southside, Southwest, and the Valley region—the Allegheny Highlands, specifically—experienced the most significant declines.⁶⁴ The population of Southside declined 5.2%, the population of the Allegheny Highlands declined 6.4%, and the population of Southwest Virginia declined 7.7%.⁶⁵ The individual Southwest counties of Russell, Tazewell, Wise, and Buchanan all saw a population decreases of over 10% between 2010 and 2020.⁶⁶ The populations of the Southside counties of Mecklenburg, Greenville, and Lunenburg declined at or just above 7%.⁶⁷

A significant qualification to rural Virginia's population loss is that pre-pandemic Internal Revenue Service ("IRS") data from 2020 shows an increase in net migration *into* rural Virginia—specifically Southside and Southwest.⁶⁸ That is, more people are moving into many rural counties than are moving out. For example, in 2020, Washington County gained 290 people, Carroll County

59. VA. DEP'T OF HOUS. & CMTY. DEV. & VA. HOUS. DEV. AUTH., *supra* note 35, at 116.

60. Births outnumber deaths, that is.

61. VA. DEP'T OF HOUS. & CMTY. DEV. & VA. HOUS. DEV. AUTH., *supra* note 35, at 119; see also Dwayne Yancey, *Urban Crescent Sees People Move Out; Rural Virginia Sees People Move In*, CARDINAL NEWS (Aug. 30, 2022), <https://cardinalnews.org/2022/08/30/urban-crescent-sees-people-move-out-rural-virginia-sees-people-move-in/> [<https://perma.cc/DXG3-AX56>].

62. VA. DEP'T OF HOUS. & CMTY. DEV. & VA. HOUS. DEV. AUTH., *supra* note 35, at 119.

63. *Id.* at 117.

64. *Id.*

65. *Id.* at 117 fig. 12.2.

66. *Census 2020*, DEMOGRAPHICS RSCH. GRP., <https://demographics.coopercenter.org/census2020> [<http://perma.cc/HFB3-UT9W>] (follow "2020 Census Data for Virginia" hyperlink; and then click "Total Populations for counties and cities | 2010 and 2020" hyperlink).

67. *Id.*

68. Yancey, *supra* note 61.

gained 277, and Scott County gained 157.⁶⁹ Of note, the incoming population tended to have slightly higher incomes than the outgoing population.⁷⁰ Having populations with more disposable income in Southside and Southwest counties may positively impact future economic development in those regions.⁷¹

To the extent that rural Virginia sees out-migration, it is mainly because younger residents move away to seek higher-paying jobs and better educational opportunities.⁷² Many rural-raised college graduates have too much debt to stay in rural Virginia.⁷³

However, while out-migration of young people exists, it is not the trend driving rural Virginia's population loss.⁷⁴ In fact, rural regions tend to keep their young adults at comparable or higher numbers than some urban regions in Virginia.⁷⁵ Thus, population decline in rural Virginia is due to the fact that deaths outnumbered births.⁷⁶ As Cardinal News reporter Dwayne Yancey observed, "[r]ural areas are becoming older because their existing populations are aging in place, and few young adults are moving in – and a higher retention rate of young adults isn't enough to make up the difference."⁷⁷ In other words, Virginia must combat population loss caused by an aging population by increasing migration from young people into rural counties, increasing the birth rate among the existing population, or both.⁷⁸

69. *Id.*

70. Dwayne Yancey, *Some Rural Localities Are Seeing a Big Influx of Affluent Residents*, CARDINAL NEWS (Sep. 6, 2022), <https://cardinalnews.org/2022/08/30/urban-crescent-sees-people-move-out-rural-virginia-sees-people-move-in/> [<http://perma.cc/5YD6-D638>].

71. *Id.*

72. HOUSING VA., MEETING HOUSING NEEDS IN RURAL VIRGINIA: TRENDS IN NEEDS GAPS, SOLUTIONS 7 (2017), <https://housingforwardva.org/wp-content/uploads/2017/04/HV-RuralReport.pdf> [<https://perma.cc/MJX9-U85U>].

73. *See id.* at 7, 27.

74. Dwayne Yancey, *No, We're Not Losing Young Adults. We Have a Different Demographic Problem*, CARDINAL NEWS (Oct. 18, 2022), <https://cardinalnews.org/2022/10/18/no-were-not-losing-young-adults-we-have-a-different-demographic-problem/> [<https://perma.cc/X32B-NYG7>].

75. *Id.* The retention rates in the Fredericksburg and Winchester commuting zones are 52% and 56% respectively. *Id.* Retention rates in rural commuting zones like Big Stone Gap and Bluefield (both in Southwest Virginia) are 67% and 66%, respectively. *Id.*; *see also Young Adult Migration*, VA. PUB. ACCESS PROJECT (Sept. 5, 2022), <https://www.vpap.org/visuals/visual/youth-migration/> [<https://perma.cc/4N9T-4CTK>].

76. Yancey, *supra* note 61.

77. Yancey, *supra* note 74.

78. *Id.*

Population decline negatively impacts workforce and economic development in rural areas.⁷⁹ Because these areas have fewer young people, the median age is higher. Because the median age is higher, there are fewer working-age people to fill jobs. Indeed, the 55-and-older cohort in rural Virginia is the largest cohort in state,⁸⁰ leaving rural communities much older, on average, than metropolitan communities.⁸¹ For example, the average age of Virginians is 38 years old, but in Eastern Virginia, Southwest, and the Valley regions, it is 45 years old.⁸²

E. Rural Virginians Achieve Less Educational Advancement

Another headwind facing rural communities is the comparatively low level of educational attainment of rural Virginians, who, as a whole, are much less likely to have completed college than their urban or suburban counterparts, and are less likely to have secured other advanced degrees.⁸³ In 2020, significant percentages of Southside, Southwest, the Valley, and the Eastern Shore did not have a high school education.⁸⁴ In the Eastern region, for example, 17% of Richmond County did not possess a high school education.⁸⁵ That number increases to 20% or more of the population of Brunswick County, in Southside, and Buchanan County, in Southwest.⁸⁶ In contrast, in Virginia Beach and Loudon County, only slightly more than 5% of the population was without a high school degree.⁸⁷ The urban and suburban counties surrounding the cities of Richmond and Roanoke possess similarly low percentages of individuals without a high school education.⁸⁸

79. *See id.*

80. VA. DEP'T OF HOUS. & CMTY. DEV. & VA. HOUS. DEV. AUTH., *supra* note 35, at 34.

81. *Id.* at 128.

82. *Id.*

83. *See* FED. RSRV BANK OF RICHMOND, EDUCATIONAL ATTAINMENT IN VIRGINIA, 2019, at 2, https://www.richmondfed.org/-/media/richmondfedorg/research/regional_economy/reports/special_reports/pdf/educational_attainment_va.pdf [<https://perma.cc/CSV4-R8YJ>] (educational attainment by county).

84. *Rural-Urban Comparison Maps*, FED. RSRV. BANK OF RICHMOND, https://www.richmondfed.org/research/regional_economy/reports/rural_urban_maps [<https://perma.cc/KSJ5-4Z28>] (click the "Educational Attainment" hyperlink).

85. *Id.* (click the "Educational Attainment" hyperlink, and then scroll down for the "Share of Population Ages 25-65 with Less Than a High School Education" map).

86. *Id.*

87. *Id.*

88. *Id.*

Disparities in the percentages of rural and urban populations that have earned bachelor's degrees are less pronounced, but still exist. In most rural counties, less than 25% of the population has a bachelor's degree.⁸⁹ Some counties in Southwest and Southside have even lower percentages—in Russell County, only 11.8% of the population has a bachelor's degree, and in Greenville only 9.5% of the population has a bachelor's degree.⁹⁰ In comparison, 42.5% of the City of Richmond, 48.0% of James City County, and 63.6% of Fairfax County possess bachelor's degrees.⁹¹ Note, however, that these urban areas are not representative of all urban areas in Virginia. Many southern urban areas, such as Lynchburg, Norfolk, Portsmouth, and Sussex, and even counties in Northern Virginia, such as Culpepper and Spotsylvania, possess low percentages of bachelor's degree-carrying citizens that, at times, match the percentages of some rural counties.⁹²

F. *Rural Virginians Live Shorter Lives and are Less Healthy*

Rural health outcomes lie at the confluence of social, geographic, economic, and racial disparities. As with other outcomes discussed in this Section, Virginia's health inequities follow existing patterns of deprivation based on socioeconomic status, race, ethnicity, and, of course, geographic location.

Rural Virginians are likely to die earlier than their urban counterparts. In fact, in Virginia, rural mortality is about 30% higher than mortality rates in urban areas.⁹³ People in rural areas and those living in poverty are also more likely to lack health insurance, to have underlying conditions, and to have limited access to healthcare facilities.⁹⁴

89. *Id.*

90. *Id.*

91. *Id.*

92. *See id.*

93. Gordon Gong, Scott G. Phillips, Catherine Hudson, Debra Curti & Billy U. Philips, *Higher US Rural Mortality Rates Linked to Socioeconomic Status, Physician Shortages, and Lack of Health Insurance*, 38 HEALTH AFFS. 2003, 2006 (2019), <https://doi.org/10.1377/hlthaff.2019.00722> [<https://perma.cc/PKY4-AEAJ>].

94. Bhavini Patel Murthy et al., *Disparities in COVID-19 Vaccination Coverage Between Urban and Rural Counties—United States, December 14, 2020–April 10, 2021*, 70 MORBIDITY & MORALITY WKLY. REP. 759, 759 (2021), <https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7020e3-H.pdf> [<https://perma.cc/HEU3-PYKS>].

Moreover, Black Virginians typically have worse health outcomes than White Virginians. For example, Black women in Virginia are 3 times more likely to die from pregnancy complications than White women.⁹⁵ Additionally, Black Virginians were also more likely to contract COVID-19 and were more likely to die from it.⁹⁶ White Virginians, on average, live longer than Black Virginians.⁹⁷ Finally, Virginians who earn less than \$25,000 a year, a significant number of whom are Black, are 1.3 times more likely to be obese than those who earn \$75,000 a year.⁹⁸ Indeed, Black Virginians are about 1.5 times more likely than White Virginians to be obese.⁹⁹

The percentages of rural Virginians without access to health insurance and the rates of avoidable hospitalizations in rural areas bring into relief the effects of rural poverty and isolation on access to health services.¹⁰⁰ For example, according to the 2018 American Community Survey estimates, 16.7% of rural Virginians aged eighteen to sixty-four lack health insurance, compared to just 12.3% in urban areas.¹⁰¹ Approximately 15% of rural adults did not see a doctor in the past year due to cost.¹⁰² In 2017, there were 20.6 avoidable hospitalizations per 1,000 residents in rural areas of Virginia.¹⁰³ There were 12.2 avoidable hospitalizations for non-rural

95. Megan Pauly, *Lawmakers Act to Correct Racial Disparity in Maternal Mortality Rates*, VPM NEWS (Mar. 3, 2020), <https://vpm.org/news/articles/11186/lawmakers-act-to-correct-racial-disparity-in-maternal-mortality-rates> [<https://perma.cc/422F-D7WE>].

96. *COVID-19 in Virginia: Demographics*, VA. DEP'T OF HEALTH, <https://www.vdh.virginia.gov/coronavirus/covid-19-in-virginia-demographics/> [<https://perma.cc/4EV4-KAYP>].

97. VA. DEP'T OF HEALTH, DECREASED LIFE EXPECTANCY IN VIRGINIA, 2020, at 2 (2022), <https://www.vdh.virginia.gov/content/uploads/sites/110/2022/05/EPI-Report-Life-Expectancy-in-VA-5-4-22.pdf> [<https://perma.cc/G6FW-7W22>] (“Among the White, non-Hispanic population in Virginia, life expectancy in 2020 was 78.7 years, a decrease of 1.1 years from 79.8 in 2019. Among the Black, non-Hispanic population life expectancy in 2020 was 73.9 years, a decrease of 2.4 years”); *see also* COMM'N TO EXAMINE RACIAL INEQUITY IN VA. L., IDENTIFYING AND ADDRESSING THE VESTIGES OF INEQUITY AND INEQUALITY IN VIRGINIA'S LAWS 56 (Nov. 15, 2020), <https://www.law.virginia.edu/system/files/news/2022/2020-report.pdf> [<https://perma.cc/9PAK-NELS>].

98. COMM'N TO EXAMINE RACIAL & ECON. INEQUITY IN VA. L., IDENTIFYING VIRGINIA'S RACIALLY DISCRIMINATORY LAWS AND INEQUITABLE ECONOMIC POLICIES 41 (Jan. 6, 2022), <https://www.law.virginia.edu/system/files/news/2022/2022-report.pdf> [<https://perma.cc/4R82-NUEV>].

99. *Id.*

100. The Virginia Rural Health Plan uses these as measures of access to health care and health services. *See* VA. RURAL HEALTH PLAN, *supra* note 9, at 9-2.

101. *Id.* at 9-3.

102. *Id.*

103. *Id.* at 9-2.

residents and even fewer for residents in Northern Virginia,¹⁰⁴ where avoidable hospitalizations were just 6.8 per 1,000 residents.¹⁰⁵

* * *

Taken together, we can see that, on average, rural communities in Virginia are shrinking, aging, suffering from lower educational attainment and worse health outcomes, and are more likely to experience poverty. These outcomes are often worse in those rural communities with higher percentages of Black residents. To address these challenges, one would hope that rural communities were rich with educational and health resources and abundant with economic opportunity. Sadly, as we show below, the opposite is true. Rural communities tend to have less access to healthcare, successful and modern schools, broadband and other critical infrastructure, and robust employment opportunities.

In other words, the people who need the most, often get the least. While the good news is that state leaders are taking steps to address these challenges, the persistence of negative outcomes suggests that these actions have not been sufficient to change the life trajectory of too many people living in rural communities in the Commonwealth.

III. RURAL ECONOMIES

A. Challenges

The negative economic and workforce development associated with a disappearing population is both compounding, and compounded by, rural Virginia's disappearing monetary base.¹⁰⁶ Traditional industries like coal,¹⁰⁷ manufacturing, textile, and forestry

104. *Id.*

105. *Id.*; see also *Preventable Hospitalizations per 100,000*, VA. DEPT OF HEALTH DATA COMMONS, https://uva-bi-sdad.github.io/vdh_rural_health_site/ [https://perma.cc/46PC-U79L] (choose "Avoidable Hospitalizations" from menu on left-hand side of page; then select year "2021" in the middle of the page).

106. RURAL VA. PROSPERITY COMM'N, PROSPERITY FOR RURAL VIRGINIA: THE CONTINUING STORY OF RURAL VIRGINIA 6, 13 (2000), <https://www.virginiaplaces.org/regions/rvpc-story1.pdf> [https://perma.cc/JC6C-M3W4].

107. Sarah Vogel song, *Can Southwest Virginia Remake Itself as a Laboratory for Renewables?*, VA. MERCURY (Sept. 20, 2021, 12:02 AM), <https://www.virginiamercury.com/2021/09/20/can-southwest-virginia-remake-itself-as-a-laboratory-for-renewables/> [https://perma.cc/

are no longer sustainable bases for economic growth in rural areas.¹⁰⁸ Declining economies bring economic distress, which brings lower wages and greater brain-drain. Rural Virginia must anchor itself economically to sustain economic and population growth.

In a stark illustration of urban Virginia's economic dominance, Virginia's metropolitan areas account for all of the state's job growth over the last two decades.¹⁰⁹ Rural areas did not contribute to the growth of jobs or industry because rural markets never recovered from the Great Recession.¹¹⁰ The decline of traditional economic powerhouses, such as the coal industry in Southwest Virginia, has also contributed to economic distress.¹¹¹

Unemployment rates in rural Virginia also illustrate its economic problems. Southside, Southwest, the Allegheny Highlands, and the Eastern Shore, all have higher unemployment rates than the state average, which is 3.8%¹¹²—especially Southside, at 5.5%.¹¹³ Additionally, in 2020, Black and Hispanic unemployment rates were higher than those of other races, at 9.2% and 9.4%, respectively.¹¹⁴ And, for those who are employed, wages are low. In almost nearly every locality in Southside, Southwest, the Allegheny Highlands, and the Eastern region, the average wage did not rise above \$40,000 between 2016 and 2020.¹¹⁵

Faced with a low-income, low-wage, aging, and shrinking rural population, as well as declining rural economic growth, policymakers will need to be strategic and thoughtful when devising ways to support economic development in these areas.

FC7P-GKRJ] (reporting that Southwest is still one of the most economically distressed regions in the state).

108. RURAL VA. PROSPERITY COMM'N, *supra* note 106, at 2, 10–11.

109. VA. DEP'T OF HOUS. & CMTY. DEV. & VA. HOUS. DEV. AUTH., *supra* note 35, at 140 fig.13.1 (2022), <https://rga.lis.virginia.gov/Published/2022/HD3/PDF> [<https://perma.cc/NC74-AD2P>].

110. *Id.*

111. Vogelsong, *supra* note 107 (reporting that Southwest is still one of the most economically distressed regions in the state).

112. VA. DEP'T OF HOUS. & CMTY. DEV. & VA. HOUS. DEV. AUTH., *supra* note 35, at 142 fig.13.3.

113. *Id.*

114. *Id.* at 143 fig.13.4.

115. *Id.* at 148 (“In nearly every locality in Rural Markets, average annual wages do not exceed \$40,000”). Rural markets refer to the regions of Southside, Southwest, the Allegheny Highlands, and the Chesapeake Bay. *Id.* at 142 fig.13.3. The Chesapeake Bay region refers to the Eastern Region, which is composed of the Northern Neck/Middle Peninsula and the Eastern Shore. *Id.* at 55.

B. *State Actions*

It is important to emphasize that Virginia has taken many actions to address the challenges outlined above. Unfortunately, and as the data suggests, these actions have not been sufficient.

For example, the state has funded targeted regional investments aimed at incentivizing job creation and economic investment in rural and distressed communities.¹¹⁶ As we will show, these initiatives have had mixed results.¹¹⁷

One regional investment program that has enjoyed success is the Virginia Tobacco Region Revitalization Commission's Talent Attraction Program.¹¹⁸ This program encourages recent college graduates to work in hard-to-fill occupations in the Tobacco Region of Virginia¹¹⁹ for 24 months.¹²⁰ Hard-to-fill occupations include public school STEM teachers, speech-language pathologists, industrial and electrical engineers, and physical therapists.¹²¹ In exchange for work in these occupations, the Commission provides up to \$12,000 annually in student-loan repayment.¹²²

During the 2022 cycle, the Commission received 104 applications and offered loan repayments to 77 applicants, which

116. S. FIN. & APPROPRIATIONS COMM., RURAL ECONOMIC DEVELOPMENT: RETHINKING STRATEGIES FOR RURAL AND ECONOMICALLY DISTRESSED COMMUNITIES 5–6 (2021), https://sfac.virginia.gov/pdf/retreat/2021%20Roanoke/111921_No7a_Rural_Economic_Development_SFAC.pdf [<https://perma.cc/WEE5-LY9X>].

117. *Id.* at 2.

118. *Talent Attraction Program: Student Loan Repayment*, VA. TOBACCO REGION REVITALIZATION COMM'N, <https://www.revitalizeva.org/grant-loan-program/student-loan-repayment/> [<https://perma.cc/62J4-VLZB>]; Jordan Butler, *Tobacco Commission Launches Second Round of Student Loan Repayment Talent Attraction Program*, VA. TOBACCO REGION REVITALIZATION COMM'N (Jan. 29, 2020, 11:22 AM), <https://www.revitalizeva.org/2020/01/09/12320-tobacco-commission-launches-second-round-of-student-loan-repayment-talent-attraction-program/> [<https://perma.cc/HE4G-XLMH>].

119. *Counties & Cities Eligible for Tobacco Commission Funding*, VA. TOBACCO REGION REVITALIZATION COMM'N, <https://www.revitalizeva.org/about-the-commission/areas-served/> [<https://perma.cc/V5WW-MBW8>]. The Tobacco Region of Virginia includes the counties of Lee, Wise, Dickenson, Buchanan, Scott, Russell, Washington, Tazewell, Smyth, Grayson, Wythe, Bland, Carroll, Floyd, Patrick, Henry, Franklin, Bedford, Pittsylvania, Campbell, Appomattox, Buckingham, Halifax, Charlotte, Prince Edward, Cumberland, Amelia, Nottoway, Lunenburg, Mecklenburg, Brunswick, Dinwiddie, Greensville, and Sussex, and the cities of Norton, Bristol, Galax, Martinsville, Danville, and Emporia. *Id.*

120. *Id.*; *Talent Attraction Program: Student Loan Repayment*, *supra* note 118.

121. *Counties & Cities Eligible for Tobacco Commission Funding*, *supra* note 119.

122. *Id.*

amounted to nearly \$1.4 million in loan repayments.¹²³ Since 2019, 200 college graduates have received \$4 million to work in a hard-to-fill job in the Tobacco Region.¹²⁴ One downside to this program is its limited scope—it does not reach rural areas that are not part of the Tobacco Region and only forgives debt for certain professions.¹²⁵ However, the program is only in its fourth year,¹²⁶ so there is room for growth.

Virginia also has implemented Coal Tax Credits—the Coalfield Employment Enhancement Tax Credit and the Coal Employment and Production Incentive Tax Credit.¹²⁷ Both were intended to encourage coal production and coal use.¹²⁸ However, they were not effective—natural gas is overtaking coal as an energy source, so the tax credits, now irrelevant, generated economic losses.¹²⁹ The General Assembly passed a bill eliminating them in 2021.¹³⁰

Another program that Virginia has implemented, with little success, is the Job Creation Grant.¹³¹ Job Creation Grants are awarded to manufacturers operating in “enterprise zones,” or economically distressed zones, for the purpose of funding the creation of at least 5 new positions.¹³² In 2020, “[t]he award [was] \$800 per job for jobs paying \$14.50 or more per hour or \$500 per job for jobs paying \$12.69 to \$14.49 per hour.”¹³³ The grant had little effect on

123. Sydney Jaxtheimer, *Danville Native One of Dozens Awarded Student Loan Repayment from Virginia Tobacco Commission*, WLSL (May 26, 2022, 11:36 PM), <https://www.wsls.com/news/local/2022/05/27/danville-native-one-of-dozens-awarded-student-loan-repayment-from-virginia-tobacco-commission/> [<https://perma.cc/W6DM-QPBL>].

124. Amy Trent, *How the Tobacco Commission is Paying Off Student Loans*, CARDINAL NEWS (Oct. 19, 2021), <https://cardinalnews.org/2021/10/19/how-the-tobacco-commission-is-paying-off-student-loans/> [<https://perma.cc/L2Z7-4FCT>].

125. See *Talent Attraction Program: Student Loan Repayment*, *supra* note 118.

126. Jaxtheimer, *supra* note 123.

127. VA. CODE ANN. §§ 58.1-439.2, -2626.1 (Cum. Supp. 2021), *repealed by* 2021 Va. Acts, Spec. Sess. I, chs. 553 & 554.

128. JOINT LEGIS. AUDIT & REV. COMM’N, JLARC REP. 536, INFRASTRUCTURE AND REGIONAL INCENTIVES: ECONOMIC DEVELOPMENT INCENTIVES EVALUATION SERIES 3 (2020) [hereinafter INFRASTRUCTURE AND REGIONAL INCENTIVES], <http://jlarc.virginia.gov/pdfs/reports/Rpt536.pdf> [<https://perma.cc/P9K4-L9JY>].

129. *Id.* at 9; see also Sarah Vogelsong, *Audit Commission Recommends Eliminating Virginia’s Coal Tax Credits*, VA. MERCURY (Sept. 14, 2020, 4:53 PM), <https://www.virginiamercury.com/2020/09/14/audit-commission-recommends-eliminating-virginias-coal-tax-credits/> [<https://perma.cc/SDA5-DB3S>].

130. See 2021 Va. Acts, Spec. Sess. I, chs. 553 & 554 (codified as amended at VA. CODE ANN. §§58.1-439.2, -2626.1 (Cum. Supp. 2022)).

131. INFRASTRUCTURE AND REGIONAL INCENTIVES, *supra* note 128, at 15–30.

132. *Id.*

133. *Id.*

employment and economic revitalization in part because the economic activity generated by additional jobs was outweighed by the fact that the businesses who received the grant used it to create temporary positions rather than permanent positions, and many businesses failed to use the grant for the full 5 years of the program.¹³⁴

Last, and perhaps more successfully, Virginia has successfully encouraged businesses from a range of sectors to establish local operations in rural parts of the Commonwealth.¹³⁵

C. Recommendations

1. Keep Industry Here

Over the last several years, Virginia has supported initiatives that bring more jobs to rural areas. Another way that Virginia can increase job growth is to fund initiatives that ensure rural communities know how to prepare and develop project-ready industrial sites. Counties lose out on manufacturing and supply chain projects when they do not have competitive sites available.¹³⁶ According to a recent report from the Joint Legislative Audit and Review Commission (“JLARC”), “[the Virginia Economic Development Partnership] estimated that Virginia lost as many as 65 projects—which were expected to result in 19,000 jobs and \$5 billion in capital investment—between FY17 and FY19.”¹³⁷

Therefore, we suggest that Virginia fund the Virginia Economic Development Partnership’s (“VEDP’s”) Business Ready Sites Program.¹³⁸ Funds would help the program “target future grant awards and . . . help localities understand their market potential for commercial and industrial sites.”¹³⁹ The Program may also help to ensure that counties and cities have the “technical knowledge to develop and market their [business] sites.”¹⁴⁰ In this way, the

134. *Id.* at 21–22, 25.

135. For examples of the businesses locating operations in rural Virginia over the last two years, see *id.* at 1–2.

136. Robyn Sidersky, *Northam Proposes \$150M for Site Readiness*, VA. BUS. (Dec. 16, 2021), <https://www.virginiabusiness.com/article/northam-proposes-150m-for-site-readiness/> [https://perma.cc/64KA-WQUL].

137. INFRASTRUCTURE AND REGIONAL INCENTIVES, *supra* note 128, at 47.

138. See generally *id.* at 46–55.

139. *Id.* at 53.

140. *Id.*

Business Ready Sites Program may help pivot Southwest Virginia from a coal-driven economy to an economy that supports many different manufacturing projects.¹⁴¹

Virginia should couple project-ready site development with long-term job creation by modifying the Job Creation Grant to incentivize the creation of more permanent jobs.¹⁴² JLARC found that the Job Creation Grant stimulated moderate economic activity, but that those gains were overtaken by the short-term nature of the new positions grant recipients created.¹⁴³ Modifying the grant to require, for example, five-year participation, may protect the economic gains from erosion.¹⁴⁴

2. Retain Workers¹⁴⁵

While economic decline has contributed to rural population decline, population decline has also reinforced economic decline by causing workforce shortages.¹⁴⁶ While promoting the growth of industry indirectly promotes population retention, Virginia should also consider policies aimed specifically at retaining a sustainable workforce.

First, Virginia should reimagine existing investment programs aimed at addressing worker shortages. The 2022 General Assembly panel discussion on Rethinking Strategies for Rural and Economically Distressed Communities concluded that targeted regional investment programs which address economic challenges resulting from population decline, such as programs operated by the Tobacco Region Revitalization Commission, were not sufficient to counteract population outmigration and job losses in rural areas.¹⁴⁷

Reimagining programs that address population decline in Virginia may require policymakers to explore successful programs in other states. For example, Virginia may consider replicating initia-

141. VA. DEP'T OF ENERGY, REENERGIZE SOUTHWEST FINAL REPORT 5 (2021) [hereinafter REENERGIZE SOUTHWEST], <https://www.energy.virginia.gov/environmental/documents/Reenergize%20Southwest%20FINAL%20REPORT.pdf> [<https://perma.cc/4G7M-DFEN>].

142. INFRASTRUCTURE AND REGIONAL INCENTIVES, *supra* note 128, at 28.

143. *Id.* at 28–29.

144. *Id.* at 29.

145. See *infra* Part V for strategies to specifically address teacher shortages.

146. See Yancey, *supra* note 74.

147. S. FIN. & APPROPRIATIONS COMM., *supra* note 116, at 2, 11.

tives such as Ascend West Virginia, which is a program that pays remote workers to move to West Virginia.¹⁴⁸ So far, that program seems to have been successful; its 33 applicants were accepted in 2022 and entered West Virginia with an average annual salary of \$125,937.¹⁴⁹

Virginia may also consider expanding existing worker retention programs. The Virginia Department of Energy recommended in its 2021 Reenergize Southwest Final Report that Virginia consider expanding the Virginia Tobacco Region Revitalization Commission's Talent Attraction Program to combat population decline in the coalfield region.¹⁵⁰ Virginia can be flexible in implementing this expansion. For example, one option is to expand the list of eligible occupations to include agriculture, energy, and food and beverage manufacturing.¹⁵¹

The Reenergize Southwest Report also suggested that Virginia implement a "Simulated Workplace" Pilot Program.¹⁵² In 2016, hundreds of high school graduates in Southwest Virginia did not go on to enroll in higher education programs nor enter the workforce.¹⁵³ A "Simulated Workplace" Pilot Program would retain youth in Southwest Virginia by ensuring that high school graduates are prepared to enter the workforce.¹⁵⁴ The program is modeled off of a similar program run by West Virginia's Department of Education that demonstrated a 95% success rate—that is 95% of the program participants went on to enter the workforce or enroll in a higher education program.¹⁵⁵

3. Develop Virginia's Outdoor Economy

While rurality poses significant challenges to rural communities, it also offers economic advantages, for example, in the outdoor

148. *Program Overview*, ASCEND W. VA., <https://ascendwv.com/the-offer/program-overview/> [<https://perma.cc/Q9QQ-HFMH>].

149. Matt Young, *Ascend WV Welcomes Newest Class to the Greenbrier Valley*, THE REGISTER~HERALD (June 14, 2022), https://www.register-herald.com/news/state_region/ascend-wv-welcomes-newest-class-to-the-greenbrier-valley/article_5a7619ec-bad1-5017-bfab-7f31e01e07ec.html [<https://perma.cc/6RFW-KP87>].

150. REENERGIZE SOUTHWEST, *supra* note 141, at 11–12.

151. *Id.* at 12.

152. *Id.*

153. *Id.* at 12.

154. *Id.* at 13.

155. *Id.* at 12–13.

economy. Virginia should use the natural beauty of rural areas—Spearhead Trails, Appalachian Trail, New River Trail, Shenandoah National Park, Luray Caverns, and Chincoteague, to name a few—to its strength. One way to do that is to increase revenue generated from the outdoors economy. While Virginia’s outdoor recreation capacity is similar to other states on the East Coast, Virginia’s outdoor economy constitutes a lesser percentage of Virginia’s GDP.¹⁵⁶ For example, Virginia’s outdoor economy accounts for only 1.7% of the Commonwealth’s total economy; in Florida it accounts for 4.4% and in Vermont, 5.2%.¹⁵⁷ Virginia also lags behind several of its neighbors, although not by as much. West Virginia’s outdoor economy accounts for 1.9% of its total economy.¹⁵⁸ In North Carolina, Tennessee, and South Carolina, the outdoor industry accounts for 2.0%, 2.4% and 2.9% of their respective economies.¹⁵⁹

Virginia should treat its rural beauty as an economic asset. First, the state should consider investing in new trails and recreational activities to generate tourism. Creeper Trail, for example, which traverses the Southwest towns of Abingdon and Damascus, attracts new and veteran walkers and bikers each year who patronize local businesses, and has introduced new industries to surrounding areas, such as rafting.¹⁶⁰ The success of Creeper Trail suggests that recreational tourism could bring growth and revitalization to struggling localities.¹⁶¹

Second, Virginia should institute programs that give rural leaders in the recreation industry the tools to develop economic growth initiatives. An example of such a program is the Appalachian Gateways Community Initiative, a federally- and state-funded program that helps local leaders gain the skills and marshal the resources

156. *See id.* at 5.

157. BUREAU OF ECON. ANALYSIS, OUTDOOR RECREATION SATELLITE ACCOUNT, U.S. AND STATES, 2019, at 1, tbl. 1 (2020), https://www.bea.gov/sites/default/files/2020-11/orsa1120_1.pdf [<https://perma.cc/2CLR-FDRY>]; *see also* Dwayne Yancey, *How the Outdoors Drives an Economy*, CARDINAL NEWS (June 15, 2022), <https://cardinalnews.org/2022/06/15/how-the-outdoors-drives-an-economy/> [<https://perma.cc/T3LT-8AFP>].

158. *Id.*

159. *Id.*

160. Kim Kobersmith, *How Appalachia Is Growing Its Outdoor Economy Through Collaborations and Capacity Building*, DAILY YONDER (June 29, 2022), <https://dailyyonder.com/how-appalachia-is-growing-its-outdoor-economy-through-collaborations-and-capacity-building/2022/06/29/> [<https://perma.cc/2NU3-7SER>].

161. *Id.*

they need to preserve their region's economy.¹⁶² Other programs might include teaching learners how to grow the local economy and increase recreational revenue while addressing the environmental costs of tourism.¹⁶³

IV. BROADBAND

A. Challenges

If population retention and industry growth and expansion are the gears in the engine of rural economic growth, broadband is the grease that allows the gears to run smoothly. Broadband, or high-speed internet access, drives the modern economy in the way that it connects us to goods, services, and one another.¹⁶⁴ Internet access is necessary for population retention, job growth, and business formation.¹⁶⁵ Communities without broadband may struggle to facilitate telework, telehealth, and online banking, and to disseminate and enroll individuals in public benefits.¹⁶⁶ Economic revitalization, therefore, must prioritize internet infrastructure.

The low density of rural counties is the reason broadband companies haven't expanded broadband infrastructure into rural regions in the same way they have expanded it into urban regions. Broadband is not provided by public utility companies which are required to serve all customers in a given geographic area; broadband is provided by private companies.¹⁶⁷ Since rural counties have relatively few customers compared to counties in metropolitan

162. *Appalachian Gateway Communities Initiative*, CONSERVATION FUND, <https://www.conservationfund.org/projects/appalachian-gateway-communities-initiative> [<https://perma.cc/7DEM-7RKA>].

163. Kobersmith, *supra* note 160.

164. See generally Alexander Marré, *Bringing Broadband to Rural America*, 8 CMTY. SCOPE 1, 2 (2020), https://www.richmondfed.org/-/media/RichmondFedOrg/publications/community_development/community_scope/2020/community_scope_2020_no1.pdf [<https://perma.cc/XS6R-28NM>].

165. *Id.* (“Broadband access and adoption in rural areas is linked to increased job and population growth, higher rates of new business formation and home values, and lower unemployment rates.”).

166. Caius Z. Willingham & Areeba Haider, *Rural Broadband Investments Promote an Inclusive Economy*, CTR. FOR AM. PROGRESS (July 12, 2021), <https://www.americanprogress.org/article/rural-broadband-investments-promote-inclusive-economy/> [<https://perma.cc/VSF4-8WDQ>].

167. COMMONWEALTH CONNECT, BRINGING BROADBAND TO YOUR COMMUNITY: A COMPLETE GUIDE FOR VIRGINIA'S LOCAL LEADERS 8 (2021), <https://www.commonwealthconnect.virginia.gov/sites/default/files/Broadband%20Toolkit%20May%202021.pdf> [<https://perma.cc/3GJZ-H9WR>].

areas, companies are less likely to expend their capital in rural areas for fear of not recouping the high costs of installation.¹⁶⁸ Thus, rural communities must secure funding from state and federal grants and programs to implement the infrastructure that will allow them to expand broadband to their residents.

Access to broadband is also a matter of affordability. The Virginia Office of Rural Health reports that in America, less than half of families, urban and rural, with an income under \$20,000 per year have internet access, at least in part because they cannot afford their monthly bill.¹⁶⁹

It makes sense, therefore, that in Virginia, rural areas do not enjoy the same access to broadband as urban areas. In fact, in 2018, 9 out of 10 nonrural Virginians enjoyed access compared to only 7 out of 10 rural Virginians.¹⁷⁰ At the county and city level, disparities between urban and rural areas are even wider. In many urban areas, almost every address has broadband access; in some rural counties, fewer than half do.¹⁷¹ For example, in Arlington, Manassas City, Richmond, and Newport News, 96% to 100% of addresses have access to broadband.¹⁷² In Bath County, that percentage is 36%; in Brunswick, it is 39%; in Northumberland, it is 46%; and in Carrol, it is 58%.¹⁷³

B. *State Actions*¹⁷⁴

Virginia has made broadband expansion a priority in recent years through several legislative- and executive-led programs. First, Virginia has created Commonwealth Connection, a mapping

168. *Id.*

169. VA. RURAL HEALTH PLAN, *supra* note 9, at 4-2.

170. *Id.*

171. *Id.*

172. *Virginia Broadband Map*, COMMONWEALTH CONNECTION, <https://commonwealth-connection.com> [<https://perma.cc/S38E-5UXN>] (filter the search function to “Cities and Counties”; and then type in search bar “Arlington County,” “Manassas City,” “Richmond City,” and “Newport News City”).

173. *Id.* (filter the search function to “Cities and Counties”; and then type in search bar “Bath County,” “Brunswick County,” “Northumberland County,” and “Carroll County”). The authors gathered this information prior to December 2022; percentages may be different in 2023.

174. *See generally Virginia Taps Electric Companies to Help Expand Rural Broadband Access*, PEW TRS. (Oct. 11, 2022), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2022/10/virginia-taps-electric-companies-to-help-expand-rural-broadband-access> [<https://perma.cc/4QFV-DMDL>].

tool that tracks how many residents have access to broadband.¹⁷⁵ Second, Virginia has created the Telecommunication Initiative (“VATI”), through which the Virginia Department of Housing and Community Development (“VDHCD”) provides grants to local government units who pair with an internet service provider to extend broadband to underserved areas of Virginia, including rural areas.¹⁷⁶ Additionally, the Appalachian Regional Commission, an economic partnership between state and federal governments working with the people of Appalachia, provides grants to localities in Appalachia to update computer systems, lay fiber, and educate citizens in digital literacy.¹⁷⁷ Finally, broadband expansion enjoys support from Governor Youngkin, who announced \$5 million in broadband investment in March 2022.¹⁷⁸

At the state legislative level, Virginia is similarly motivated to expand access to broadband. In 2020, the General Assembly passed Senate Bill 794, which made it easier for utility companies to possess easements to expand broadband services to rural areas.¹⁷⁹ Importantly, the American Rescue Plan provided Virginia with coronavirus relief funding, \$700 million of which the General Assembly approved for investment in broadband expansion in rural and underserved areas.¹⁸⁰

C. Recommendations

Virginia has made great strides in funding the expansion of broadband to rural and underserved areas. However, as the numbers show, internet access remains an urgent issue in rural areas. Indeed, “[r]ural communities have less internet yet, in some ways,

175. COMMONWEALTH CONNECTION, *supra* note 172 (select “About” in upper right corner of webpage).

176. *Virginia Telecommunication Initiative (VATI)*, VA. DEP’T OF HOUS. & CMTY. DEV., <https://www.dhcd.virginia.gov/vati> [<https://perma.cc/KS27-3L3G>].

177. VA. RURAL HEALTH PLAN, *supra* note 9, at 4-4.

178. Press Release, Governor of Virginia, Governor Youngkin Announces Over \$5.4 Million in Growth and Opportunity Virginia Grants to Accelerate Economic Growth and Job Creation Efforts (Mar. 17, 2022), <https://www.governor.virginia.gov/newsroom/news-releases/2022/march/name-930187-en.html> [<https://perma.cc/KL24-RKR9>].

179. S.B. 794, Va. Gen. Assembly (Reg. Sess. 2020) (enacted as 2020 Va. Acts ch. 1131).

180. Ned Oliver, *How Virginia Plans to Spend \$700 Million on Broadband Expansion*, VA. MERCURY (Aug. 16, 2021, 12:02 AM), <https://www.virginiamercury.com/2021/08/16/how-virginia-plans-to-spend-700-million-on-broadband-expansion/> [<https://perma.cc/WK9J-WYNZ>].

need it more.”¹⁸¹ Businesses use online storefronts; many rural patients can only see medical providers through telehealth appointments due to longer travel times to the nearest physical doctor’s office; and some students may only be able to communicate with teachers through online classrooms.¹⁸² Thus, Virginia should continue to prioritize providing broadband to rural areas as quickly, efficiently, and affordably, as possible.

One aspect of Virginia’s broadband expansion process that deserves attention is the method by which local leaders can initiate and manage the process of securing broadband for their communities. Commonwealth Connect has created a four-phase guide with approximately thirty steps that leaders should follow.¹⁸³ A potential problem with this guide is that the steps are lengthy and are likely to be expensive. For example, one of the first steps is to “establish [a] Broadband Team,” which may include grant-writers, local government officials, and local board members, and to establish a “Broadband Management Team,” which may include economic development staff.¹⁸⁴

There is not much data on the ability of localities to manage broadband expansion. Nevertheless, it is not a secret that rural localities are understaffed and under-resourced. Virginia may wish to consider ways to streamline the broadband initiation process for rural communities whose local leaders have too much on their plate to facilitate a complex process of expansion. Rural communities are already economically distressed—it might be counterproductive to ask them to spend time and money to follow the steps in a broadband expansion guide in order to receive money for broadband infrastructure.

Finally, in order to increase internet affordability, Virginia should consider promoting the Federal Communication Commission’s Affordable Connectivity Program, which provides a monthly

181. COMM’N TO EXAMINE RACIAL & ECON. INEQUITY IN VA. L., *supra* note 98, at 39; Onyi Lam, Brian Broderick & Skye Toor, *How Far Americans Live From the Closest Hospitals Differs by Communities*, PEW RSCH. CTR. (Dec. 12, 2018), <https://www.pewresearch.org/fact-tank/2018/12/12/how-far-americans-live-from-the-closest-hospital-differs-by-community-type/> [https://perma.cc/K5MK-ZU8L].

182. *Id.*

183. *See* COMMONWEALTH CONNECT, BRINGING BROADBAND TO YOUR COMMUNITY: A COMPLETE GUIDE FOR VIRGINIA’S LOCAL LEADERS 1, 11–21 (May 2021), <https://www.commonwealthconnect.virginia.gov/sites/default/files/Broadband%20Toolkit%20May%202021.pdf> [https://perma.cc/B7W4-EXJT].

184. *Id.* at 13–14.

subsidy of \$30 to low-income households who could not afford it otherwise.¹⁸⁵ Virginia may also wish to develop a comparable state program that addresses internet affordability.

V. EDUCATION

A. Challenges

Rural areas also face unique obstacles to creating an optimal educational environment for rural students. Many of these obstacles are similar to ones discussed in previous Sections. For example, aging residents and population migration contribute to teacher shortages, and a lack of broadband prevents schools from teaching technological competence and from becoming technologically competent themselves.¹⁸⁶ Some obstacles are different—school buildings in rural Virginia are old and distressed, and localities lack the capacity to raise funds to build new ones.¹⁸⁷

Part of the reason that these problems continue to plague rural communities is that rural localities often lack the financial capacity to address their challenges.¹⁸⁸ Schools in Virginia are financed through a combination of state, local, and federal funds.¹⁸⁹ However, local governments have picked up a larger share of the costs over time.¹⁹⁰ Rural counties, which tend to have lower property tax

185. VIRGINIA FUNDER'S NETWORK, VIRGINIA'S CONNECTED FUTURE: Fall 22, at 23 <https://vafunders.org/wp-content/uploads/2022/10/VFN-Broadband-Paper-Published-Version6.pdf> [<https://perma.cc/2LKQ-CHUN>].

186. See *supra* Part II, IV; *infra* Part V.A.2.

187. See Mara Casey Tieken & MK Montgomery, *Challenges Facing Schools in Rural America*, STATE EDUC. STANDARD, Jan. 2021, at 6, 9, https://nasbe.nyc3.digitaloceanspace.com/2021/01/Standard_Jan-2021.pdf [<https://perma.cc/E43E-DHKF>].

188. See *id.* (“These kinds of disparities in outcomes tend to reflect disparities in resources, and, for many rural schools—especially those serving rural communities with high rates of poverty and rural communities of color—resources are scarce.”).

189. See COMMW. INST., RURAL VIRGINIA PUBLIC SCHOOLS (2019), <https://www.thecommonwealthinstitute.org/wp-content/uploads/2019/09/2019-Rural-Virginia-Public-Schools.pdf> [<https://perma.cc/QH2B-3MAM>].

190. *Id.* (explaining that in 2008–2009, the state’s share of funding was nearly 5% greater than in 2017–2018); see Briana Jones & Chad Stewart, *High Capacity, Low Effort: Virginia’s School Funding Is Low Compared to Most Rich States*, COMMW. INST. (Sept. 8, 2021), <https://thecommonwealthinstitute.org/the-half-sheet/high-capacity-low-effort-virginias-school-funding-is-low-compared-to-most-rich-states/> [<https://perma.cc/E3J6-72R4>] (“Virginia places a relatively high burden out of all states on localities to pay for a majority of K-12 costs, and the local share is primarily funded through property taxes.”); see also Jackie Llanos Hernandez, *Virginia Lags Many States in State Education Funding*, Analysis Says, VA. MERCURY (Oct. 12, 2021, 12:02 AM), <https://www.virginiamercury.com/2021/10/12/>

bases than metropolitan counties, struggle to raise the funds that are necessary to meet the needs of their students.¹⁹¹

1. Infrastructure

One of the most significant problems facing rural Virginia schools is building distress.¹⁹² Virginia's schools are old, dilapidated, and in need of renovation. Of the 2,005 school buildings owned by school divisions in 2021,¹⁹³ more than half are over 50 years old¹⁹⁴ and about 28% were built before World War II.¹⁹⁵ The oldest buildings in Virginia have a median age of fifty-eight years and are located in Western Virginia (Region 6), Southwest Virginia (Region 7), and Southside Virginia (Region 8).¹⁹⁶ Those three regions also experienced the fewest renovation projects since 2015.¹⁹⁷

Rickety buildings and dilapidated classrooms jeopardize student health and education. Crumbling buildings release asbestos and

2/virginia-lags-many-states-in-state-education-funding-analysis-says/ [https://perma.cc/4SP3-A9VC].

191. See Tieken & Montgomery, *supra* note 187, at 9; Jones & Stewart, *supra* note 190.

192. See Gordon C. Morse, Opinion, *Virginia Must Repair Its Crumbling Public School Buildings*, THE VIRGINIAN-PILOT (June 26, 2021, 6:05 PM), <https://www.pilotonline.com/opinion/columns/vp-ed-column-morse-0627-20210626-7n2sk6bws5dn5ju2d5v3t566jy-story.html> [https://perma.cc/HB2F-48HW].

193. VA. DEPT OF EDUC., NEEDS AND CONDITIONS OF VIRGINIA SCHOOL BUILDINGS 13 (2021) [hereinafter NEEDS AND CONDITIONS OF VIRGINIA SCHOOL BUILDINGS], https://studiesviriniageneralassembly.s3.amazonaws.com/meeting_docs/documents/000/000/979/original/Needs_and_Conditions_of_Virginia_School_Buildings_6.3.21.pdf?1622733329 [https://perma.cc/5ARJ-KMU3] (presentation prepared by the Virginia Department of Education for the Commission on School Construction and Modernization). This number is a composite of numbers reported by Virginia's school divisions.

194. *Id.* at 3 (reporting the "Summary of Primary Findings"); see also Markus Schmidt, *Is This the End of Crumbling Schools?*, CARDINAL NEWS (Jan. 3, 2022), <https://cardinal-news.org/2022/01/03/is-this-the-end-of-crumbling-schools/> [https://perma.cc/D3F5-M6BC]; COAL. OF SMALL & RURAL SCHOOLS OF VA., VIRGINIA SCHOOL INFRASTRUCTURE FACTS, <https://drive.google.com/file/d/1CY7AaSES-03rvn1w826icsKOBcZ7v8LF/view> [https://perma.cc/9DK6-HY4T].

195. Morse, *supra* note 192.

196. See NEEDS AND CONDITIONS OF VIRGINIA SCHOOL BUILDINGS, *supra* note 193, at 16 (reporting the "Age of School Building by Region"). For a complete list of counties and cities in each Region, see *Virginia Public School Listing—By Region*, VA. DEPT OF EDUC., <https://www.doe.virginia.gov/about-vdoe/virginia-school-directories/virginia-public-school-listing-by-region> [https://perma.cc/ZN2H-TXPE].

197. In Western Virginia, 9.85% of buildings were associated with major renovation projects since 2015. In Southwest and Southside, those percentages are 4.5% and 1.59%, respectively. In comparison, 22.93% of buildings in Northern Virginia were associated with major renovations since 2015. NEEDS AND CONDITIONS OF VIRGINIA SCHOOL BUILDINGS, *supra* note 193, at 19 (reporting "Percent of Buildings with Major Renovation Projects since 2015, by Region").

provide a habitat for water-infiltration and mold.¹⁹⁸ Decades-old buildings lack the technology necessary to provide children with a 21st century education.¹⁹⁹ Moreover, building deterioration creates accessibility problems. In Bristol, Virginia, for example, in 2019, none of the locality's six schools were completely handicap accessible, and three of the six were completely handicap inaccessible.²⁰⁰

Updating Virginia's educational infrastructure is expensive. The Virginia Department of Education ("VDOE") estimates that the cost of replacing every school building over 50 years old in every region of Virginia is approximately \$25 billion.²⁰¹ In order to tackle this issue, the Commonwealth must generate revenue creatively. Raising taxes is not a neat fix for poor counties with a low tax base²⁰² who are already suffering from population loss and low enrollment. Indeed, localities with lesser capacities to generate local revenue are the same ones who experience higher fiscal stress.²⁰³

2. Teacher Shortages

Teacher shortages are another major obstacle to education equity in rural Virginia. According to JLARC's 2020 audit of VDOE, in 2018–2019, 1% of teaching positions went unfilled statewide,²⁰⁴ but shortages were concentrated in higher proportions in rural and

198. Schmidt, *supra* note 194.

199. *Id.*

200. VACo County Pulse Podcast, *K-12 Public Education: Small and Rural Schools*, VA. ASSOC. OF COUNTIES, at 13:05 (Sept. 25, 2019), <https://vacocountypulse.buzzsprout.com/180233/1766185-k-12-public-education-small-and-rural-schools> [<https://perma.cc/MA68-LLAZ>].

201. NEEDS AND CONDITIONS OF VIRGINIA SCHOOL BUILDINGS, *supra* note 193, at 17 (reporting "Replacement Costs for School Buildings over 50 Years Old"); see also COAL. OF SMALL & RURAL SCHOOLS OF VA., *supra* note 194.

202. "Between Loudon County and Dickenson County, there is a difference of \$112,000 in income. To think they have the same capacity to raise the local resources needed is just not realistic." Schmidt, *supra* note 193 (statement by Bristol City Schools Superintendent Keith Perrigan).

203. NEEDS AND CONDITIONS OF VIRGINIA SCHOOL BUILDINGS, *supra* note 193, at 67 (reporting "Higher fiscal stress among localities with lower ability to pay (Composite Index)").

204. JOINT LEGIS. AUDIT & REV. COMM'N, JLARC REP. 538, OPERATIONS AND PERFORMANCE OF THE VIRGINIA DEPARTMENT OF EDUCATION 39 (Oct. 5, 2020) [hereinafter OPERATIONS AND PERFORMANCE OF VDOE], <http://jlarc.virginia.gov/pdfs/reports/Rpt538.pdf> [<https://perma.cc/JQM9-BVF8>]. After this Article was submitted for publication, JLARC published another report related to education in Virginia. JOINT LEGIS. AUDIT & REV. COMM'N, JLARC REP. 568, PANDEMIC IMPACT ON PUBLIC K–12 EDUCATION (Nov. 7, 2022), <http://jlarc.virginia.gov/pdfs/reports/Rpt568.pdf> [<https://perma.cc/H3NP-YVQ2>]. This Section of the Article does not include data from the newest report.

high-poverty areas.²⁰⁵ For example, Bland County in Southwest Virginia had the highest percentage of unfilled teaching positions, at 15%.²⁰⁶ Brunswick County in the Southside region had the second-highest percentage of unfilled positions, at 8%.²⁰⁷ Given that shortages increased during the pandemic,²⁰⁸ these percentages may be even greater in 2023.

When teachers disappear, education suffers. Indeed, an unfilled position means that “there are thousands of children who should have been taught by full-time permanent teaching staff, but were instead taught by long-term substitute teachers or allocated across existing teachers (resulting in larger classes).”²⁰⁹

Funding challenges account for teacher shortages. Rural schools have a lower tax base and, therefore, may spend less money on teacher salaries than wealthier jurisdictions.²¹⁰ This makes it more difficult for rural areas to compete with other school divisions to attract talent.²¹¹ Teachers with high student loans, for example, may opt for a higher-paying teaching job in another region, or opt for an entirely different higher-paying job.²¹²

Funding challenges also prevent some rural jurisdictions from furnishing students with a robust and diverse curriculum. For example, in 2021, Dickenson County schools did not have enough money to provide arts and music classes.²¹³ Funding also impacts the availability of other specialty courses like foreign languages

205. OPERATIONS AND PERFORMANCE OF VDOE, *supra* note 204, at 39–40; *see also* Kate Masters, *Years of Understaffing Have Taken a Toll on How Virginia Oversees Struggling Local School Divisions*, VA. MERCURY (Oct. 7, 2022, 12:03 AM), <https://www.virginiamercury.com/2020/10/07/years-of-understaffing-have-taken-a-toll-on-how-virginia-assists-local-school-divisions/> [https://perma.cc/QGT2-ABGA].

206. OPERATIONS AND PERFORMANCE OF VDOE, *supra* note 204, at 40 tbl.4-2.

207. *Id.* at 40.

208. VCU Cap. News Serv., *Virginia Schools Look to Fill over a Thousand Teacher Vacancies*, ROYAL EXAM’R (Apr. 28, 2022), <https://royalexaminer.com/virginia-schools-look-to-fill-over-a-thousand-teacher-vacancies/> [https://perma.cc/WA8N-STGY].

209. OPERATIONS AND PERFORMANCE OF VDOE, *supra* note 204, at 39.

210. *See* Joe Dashiell, *Kaine Introduces Bill to Address Teacher Shortages in Rural Areas*, WDBJ (May 8, 2019, 4:01 PM), <https://www.wdbj7.com/content/news/Kaine-introduces-bill-to-address-teacher-shortages-in-rural-areas-509653811.html> [https://perma.cc/JH9Y-HVAN].

211. Amie Knowles, *‘We Need Help’: Teachers from Rural Virginia Share Their Challenges*, DOGWOOD, <https://vadogwood.com/2021/03/09/rural-virginia-education-roundtable-with-sam-rasoul/> [https://perma.cc/2MRB-DVLE] (Mar. 10, 2021, 1:06 PM).

212. Dashiell, *supra* note 210; *see* OPERATIONS AND PERFORMANCE OF VDOE, *supra* note 204, at 44.

213. Knowles, *supra* note 211.

and hands-on learning opportunities.²¹⁴ Indeed, Buchanan County had two Spanish teachers and offered no other foreign language options.²¹⁵ Even STEM courses were impacted—the entirety of Buchanan shared one chemistry teacher and one physics teacher.²¹⁶

B. *State Actions*

1. Infrastructure

Over the last few years, the General Assembly has taken steps to address the issue of rural school infrastructure by creating a commission to address school renovation and proposing a number of laws that would assist rural and underserved localities in funding such projects. Virginia should revisit these proposals in its next legislative session.

In 2020, Virginia established the Commission on School Construction and Modernization, whose purpose is to guide local school divisions in their efforts to modernize and update the infrastructure of Virginia's public schools.²¹⁷ The Commission has made several recommendations to the General Assembly on raising money to pay for school renovations.²¹⁸

For example, the Commission recommended that the General Assembly pass Senate Bill 471 in the 2022 Session.²¹⁹ Senate Bill 471 allocates money to support Literary Fund loans, which are loans used to finance the construction and renovation of public school buildings.²²⁰ The bill would increase the amount of funds in the Literary Fund and lower interest rates on the loans.²²¹ The bill enjoyed bipartisan support in the Virginia House and Senate, and eventually became law during the 2022 Special Session I.²²² The

214. *Id.*

215. *Id.*

216. *Id.*

217. VA. CODE ANN. § 30-384 (Cum. Supp. 2022).

218. *Commission on School Construction and Modernizations Endorses VACo Legislative Priority and Other Recommendations to Improve K-12 Infrastructure*, VA. ASS'N OF COUNTIES (Dec. 3, 2021), <https://www.vaco.org/county-connections/commission-on-school-construction-and-modernizations-endorse-vaco-legislative-priority-and-other-recommendations-to-improve-k-12-infrastructure/> [<https://perma.cc/RLZ5-64W3>].

219. *See id.*; S.B. 471, Va. Gen. Assembly (Reg. Sess. 2022).

220. S.B. 471, *supra* note 219.

221. *Id.*

222. 2022 Va. Acts, Spec. Sess. I, ch. 20 (codified as amended at VA. CODE ANN. §§ 22.1-147, -148, -150 (Cum. Supp. 2022)).

Commission also recommended that Virginia create a new fund, separate from the Literary Fund, which would finance public school infrastructure renovations.²²³

The General Assembly has also proposed laws that would assist rural communities in their efforts to modernize school buildings.²²⁴ During the 2022 Session, for example, Senator McClellan proposed Senate Bill 473, which would create a school construction fund financed in part by tax revenue from casinos.²²⁵ That bill was continued to the 2022 Special Session I, where it eventually passed both houses.²²⁶ Additionally, in the 2022 budget, Virginia set aside \$1.25 billion for public school construction and modernization in the form of loans and grants.²²⁷ In 2022, the General Assembly also passed Senate Bill 238, which requires VDOE to develop and maintain a data collection tool to assist each school board in determining the relative age of each public school building and the amount of maintenance reserve funds that are necessary to restore it.²²⁸ The budget allocates \$130,000 per year to go toward that initiative.²²⁹

2. Teacher Shortages

The pandemic spurred some of Virginia's efforts to ensure that the state has enough teachers to educate its students. One of those efforts was to raise teacher pay.²³⁰ However, the General Assembly

223. *Commission on School Construction and Modernizations Endorses VACo Legislative Priority and Other Recommendations to Improve K-12 Infrastructure*, *supra* note 218.

224. *See, e.g.*, S.B. 473, Va. Gen. Assembly (Reg. Sess. 2022).

225. *Id.*

226. S.B. 473, Va. Gen. Assembly (Spec. Sess. I 2022) (enacted as 2022 Va. Acts, Spec. Sess. I, ch. 9).

227. Markus Schmidt, 'A Gigantic Stride': *An Inventory of the School Construction Measures in the State's Budget Compromise (and a Look at the Unusual Coalition That Made Some of Them Happen)*, CARDINAL NEWS (June 9, 2022), <https://cardinalnews.org/2022/06/09/a-gigantic-stride/> [<https://perma.cc/KAK6-L4AU>].

228. S.B. 238, Va. Gen. Assembly (Reg. Sess. 2022) (enacted as 2022 Va. Acts ch. 650).

229. Schmidt, *supra* note 227.

230. Kelsey Childress, 'We Need Our Teachers:' *Schools Praise Pay Raises for Virginia Teachers*, ABC13 NEWS, (June 1, 2022), <https://wset.com/news/local/we-need-our-teachers-school-officials-praise-teacher-pay-raise-in-state-budget> [<https://perma.cc/GW6Q-V7PF>]; *see also* Mechelle Hankerson, *What's the Average Teacher Salary in Virginia? Depends Who Does the Math, Lawmakers Find*, VA. MERCURY (Nov. 20, 2019, 11:00 AM), <https://www.virginiamercury.com/blog-va/whats-the-average-teacher-salary-in-virginia-depends-who-does-the-math-lawmakers-find/> [<https://perma.cc/8QR5-ZMRH>]; VCU Cap. News Serv., *supra* note 208.

has not raised salaries enough to make an impact.²³¹ On the national stage, Senator Kaine has introduced legislation to provide scholarships to those who commit themselves to teaching at least three years in a rural school.²³² That legislation did not become law.

C. Recommendations

Members of the General Assembly proposed several bills in 2022 aimed at directing and incentivizing spending on school building renovation. These bills provide a framework for lawmakers to build on in future sessions. While these bills did not pass, they may be useful to those who would like to build on, or improve, prior legislative work. Specifically, Virginia should consider the following:

- Senate Bill 481 would incentivize localities and school boards to set aside unspent education funding for capital projects.²³³
- Senate Bill 603 would require the Board of Education to make recommendations to the General Assembly for amendments to the Standards of Quality to establish standards for the maintenance and renovations of public elementary and secondary school buildings.²³⁴
- Senate Bill 298 would allow localities to impose an additional 1% local sales and use tax and would earmark the revenue for capital projects for the construction or renovation of schools.²³⁵
- Senate Bill 276 would permit school boards to finance capital projects with funds appropriated to it by the local governing body that were unspent by the school board that year.²³⁶

The 2020 JLARC report provides detailed recommendations for increasing the supply of teachers in Virginia. For example, the report suggests that VDOE publicly report shortage data by division

231. Kate Masters, *Virginia Teacher Shortages Spiked During the Pandemic. Experts Are Worried About What's to Come*, VA. MERCURY (Dec. 6, 2021, 12:05 AM), <https://www.virginiamercury.com/2021/12/06/virginia-teacher-shortages-spiked-during-the-pandemic-experts-are-worried-about-whats-to-come/> [<https://perma.cc/9CM9-A2ZR>] (“Lawmakers have approved pay increases over the last several years, including the most recent budget cycle. But there’s broad consensus that it hasn’t been enough to close the gap between teacher salaries offered in many parts of the state and the national average, said Joan Johnson, the assistant superintendent for VDOE’s Department of Teacher Education and Licensure.”). For a comparison of teacher salaries in Virginia with the national average, see Hankerson, *supra* note 230.

232. Dashiell, *supra* note 210.

233. S.B. 481, Va. Gen. Assembly (Reg. Sess. 2022).

234. S.B. 603, Va. Gen. Assembly (Reg. Sess. 2022).

235. S.B. 298, Va. Gen. Assembly (Reg. Sess. 2022).

236. S.B. 276, Va. Gen. Assembly (Reg. Sess. 2022).

and region in order to identify clusters of shortages.²³⁷ The report also suggests that VDOE “develop and implement a methodology to allocate teacher mentorship funds to school divisions with the largest teacher shortages.” This would ensure that rural communities facing the most acute shortages do not have to rely on local funds to support their teaching staff. Virginia should consider these recommendations, and the others in the report, to identify and address teacher shortages in rural areas.

Teacher shortages in rural Virginia may also demand similar solutions to broader workforce challenges facing Virginia’s rural economy. The state may consider, for example, the Tobacco Region’s Talent Attraction Program referenced above, or other workforce retention and training programs aimed at keeping and attracting young residents.

Finally, Virginia should consider modifying the funding scheme for rural and disadvantaged schools. Advocacy organizations like the Coalition of Small and Rural Schools of Virginia do not recommend blaming school divisions for their educational outcomes, teacher shortages, and distressed infrastructure.²³⁸ Instead, they emphasize that localities cannot solve a \$25 billion problem alone.²³⁹ Combining federal, state, and local resources in a way that decreases the share paid by localities, while increasing the federal and state share, is one way to increase rural capacity to improve school infrastructure.

VI. CRIMINAL JUSTICE

A. *Challenges*

In Virginia, and perhaps counterintuitively, rural communities are essential to discussions of criminal justice reform. More specifically, criminal defendants in these rural communities in Virginia (a state which has the fourth highest rate of pretrial jail admission

237. OPERATIONS AND PERFORMANCE OF VDOE, *supra* note 204, at 41.

238. COAL. OF SMALL & RURAL SCHOOLS OF VA., CRUMBLING SCHOOLS TOUR (2021), <https://drive.google.com/file/d/133rtHeKKGp5aCflbgF6PkUtyuUYqEt7m/view> [https://perma.cc/S9UB-7EAT].

239. *Id.*; see NEEDS AND CONDITIONS OF VIRGINIA SCHOOL BUILDINGS, *supra* note 193.

in the United States)²⁴⁰ face pretrial confinement at rates higher than their counterparts in suburban and urban counties.²⁴¹ At the same time, individuals who are incarcerated prior to trial are disproportionately Black.²⁴² Thus, discussions about skyrocketing pretrial incarceration rates and high Black incarceration rates are inseparable from one another.

For example, since 2000, the pretrial incarceration rate has increased 99% in rural counties.²⁴³ In contrast, it has decreased 40% in the state's most urban counties.²⁴⁴ In 2015, 403 individuals per 100,000 were members of a given rural county's pretrial jail population, compared to 183 in urban counties.²⁴⁵ Strikingly, the Vera Institute reports that Black Virginians were detained pretrial at a rate of more than three times the rate of White Virginians.²⁴⁶ Of note, as Governor Northam's Commission to Examine Racial and Economic Inequity in Virginia Law highlighted, "[t]he highest increase in pretrial incarceration [from 2005 to 2015] was in Brunswick County, which is predominantly Black."²⁴⁷

Additionally, the Prison Policy Initiative's ("PPI") *and* state correctional facility incarceration rates using 2020 census data and found that rates of incarceration in some rural counties were startlingly high.²⁴⁸ PPI reported that four of the least populous counties in Virginia have the highest incarceration rates: Buchanan, Brunswick, Lee, and Dickenson have fewer than 25,000 residents, but average 1,175 incarcerated persons per 100,000 residents.²⁴⁹ In

240. VERA INST. OF JUST., INCARCERATION TRENDS IN VIRGINIA (2019), <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-virginia.pdf> [https://perma.cc/EFA6-T4KS].

241. *Id.*

242. *Id.*

243. *Id.*

244. *Id.* Note that the Vera Institute uses a version of the National Center for Health Statistics Urban-Rural Classification Scheme for Counties, not the metropolitan/nonmetropolitan distinction.

245. *Id.*

246. *Id.* at 2 (reporting statistics on "Race and Ethnicity").

247. COMM'N TO EXAMINE RACIAL & ECON. INEQUITY IN VA. L., *supra* note 98, at 45 (citing VERA INST. OF JUST., *supra* note 240).

248. Press Release, Emily Widra & Kenneth Gilliam, Prison Pol'y Initiative, Where People in Prison Come From: The Geography of Mass Incarceration in Virginia (July 2022), <https://www.prisonpolicy.org/origin/va/2020/report.html#appendix> [https://perma.cc/E5CW-EB42]. Note that the Prison Policy Initiative pulled data on state correctional facility incarceration rates, not simply jail admission rates. *Id.* ("[T]his report's incarceration rate is based on the number of people in state prison and local jails who were reallocated to individual communities as part of the state's law ending prison gerrymandering.")

249. *Id.*

contrast, the populous Fairfax County has an incarceration rate of just 80 per 100,000.²⁵⁰

High incarceration rates are associated with a host of poor social, health, and economic outcomes.²⁵¹ Research demonstrates that residents of communities in tracts with high rates of imprisonment have a shorter average life expectancy and increased morbidity, and are more likely to be screened as having mental health disorders.²⁵² Additionally, increased rates of rural incarceration are connected to population loss and economic decline in rural areas. When hospitals and treatment centers close due to staff shortages and lack of resources, for example, jails become the “first-line response to a whole range of social problems.”²⁵³ In contrast, if localities possessed adequate pretrial resources, they may instead defer to alternatives to jail and avoid incarceration altogether.

B. *State Actions*

The state actively funds a range of criminal justice and public safety programs in communities across Virginia, primarily via state and federally funded grants administered by the Virginia Department of Criminal Justice Services.²⁵⁴ For example, in May 2021, Governor Northam announced more than \$135 million would be allocated to local criminal justice initiatives.²⁵⁵ While some of these funds paid for programs that facilitated mental health treatment and substance abuse recovery, most of these funds were intended to support crime victims.²⁵⁶

250. *Id.*

251. *Id.*

252. *Id.*

253. Michael Pope, *Urban-Rural Divide: Examining Incarceration Rates at Rural Jails Across Virginia*, RADIO IQ-WVTF (July 2, 2020, 4:40 PM), <https://www.wvtf.org/news/2020-07-02/urban-rural-divide-examining-incarceration-rates-at-rural-jails-across-virginia> [<https://perma.cc/H68H-AJAJ>].

254. *See, e.g., Grants*, VA. DEP'T OF CRIM. JUST. SERVS., <https://www.dcjs.virginia.gov/grants> [<https://perma.cc/5DTR-X79U>] (Feb. 1, 2023).

255. Press Release, Off. of the Governor of Va., Governor Northam Announces More Than \$135.8 Million in Grants to State and Local Criminal Justice Programs (May 20, 2021), <https://www.governor.virginia.gov/newsroom/all-releases/2021/may/headline-895432-en.html> [<https://perma.cc/B8PY-WJJP>].

256. *Governor Northam Announces More Than \$135 Million in Grants to State and Local Criminal Justice Programs*, VA. DEP'T OF CRIM. JUST. SERVS. (May 20, 2021), <https://www.dcjs.virginia.gov/news/governor-northam-announces-more-135-million-grants-state-and-local> [<https://perma.cc/J8TK-4L7P>].

Beyond budget action, and grants, Virginia has enacted a range of other criminal justice reforms in recent years. Virginia has abolished the death penalty,²⁵⁷ decriminalized marijuana possession,²⁵⁸ established local authority to create police civilian review boards,²⁵⁹ and allowed criminal defendants to introduce evidence of developmental disabilities or mental illness to challenge their ability to form the intent necessary for specific criminal charges.²⁶⁰

While the funding and reforms are indeed impactful, it is unclear what effects, if any, these and other measures will actually have on the high rates of rural residents who end up in carceral settings.

C. *Recommendation*

1. Ensure That Rural Communities Have the Resources to Fund Pretrial Services

The purpose of pretrial services is to help judges determine whether to send accused persons to jail, or whether to release them during pretrial phases of adjudication. Pretrial agencies employ pretrial risk assessments which provide the court with information about the defendant's risk of flight and whether the defendant poses a danger to the community.²⁶¹ As the 2021 Report on Pretrial Service Agencies states, “[t]he availability of pretrial services and use of a pretrial risk assessment instrument was intended to provide judicial officers with information to make release decisions at earlier decision points, to provide alternatives to jail where appropriate, to alleviate jail overcrowding, and to improve public safety.”²⁶² In this way, pretrial services were intended to fight mass incarceration in Virginia.²⁶³

In Virginia, localities may, but are not required to, establish pretrial services agencies.²⁶⁴ Agencies are funded either in whole or in

257. 2021 Va. Acts, Spec. Sess. I, ch. 345.

258. 2021 Va. Acts, Spec. Sess. I, ch. 550.

259. 2020 Va. Acts, Spec. Sess. I, ch. 29 (codified at VA. CODE ANN. § 9.1-601 (Cum. Supp. 2020)).

260. 2021 Va. Acts, Spec. Sess. I, ch. 523 (codified at VA. CODE ANN. § 19.2-271.6 (2022)).

261. VA. DEP'T OF CRIM. JUST. SERVS., REPORT ON PRETRIAL SERVICES AGENCIES: FY2021, at 1 (2022), <https://rga.lis.virginia.gov/Published/2022/RD173/PDF35> [<https://perma.cc/44UX-QDLK>].

262. *Id.*

263. *Id.*

264. VA. CODE ANN. § 19.2-152.2 (2022).

part by the Virginia Department of Criminal Justice Services, and, with the exception of Arlington County, they sit within the locality's community-based probation agency.²⁶⁵ However, smaller communities that would like to establish pretrial services may not have the capacity to contribute local funds to establish pretrial services agencies or to staff those agencies.²⁶⁶ This is especially true in rural areas that are hamstrung by distressed economies and out-migration. In fact, several rural localities altogether lack,²⁶⁷ or only recently established, pretrial services.²⁶⁸ Even some urban areas of Virginia lack pretrial services.²⁶⁹ In response to scarce resources, communities may see jail as a substitute for interventions, such as mental health counseling and substance abuse programs, which are intended to address the issues that may lead individuals to commit crimes, such as mental health counseling and substance abuse programs.²⁷⁰

In the words of the Commission to Examine Racial and Economic Inequity in Virginia Law “[t]he Commonwealth should step in to provide these resources when localities are not able to.”²⁷¹ Rural populations are as in need, if not in greater need, of criminal justice infrastructure to support the needs of criminal defendants than other citizens who interact with the criminal system in urban communities. The Commonwealth should focus on rural capacity to fund supportive programs and on rural capacity to staff those programs. As we have demonstrated in earlier Sections, staffing short-

265. VA. DEP'T OF CRIM. JUST. SERVS., *supra* note 261, at 2.

266. Megan Russo & Marina Duane, *Is Jail Growth Only a Plight in Cities? How Small and Rural Counties Are Tackling Reform*, URB. INST. (Sept. 8, 2017), <https://www.urban.org/urban-wire/jail-growth-only-plight-cities-how-small-and-rural-counties-are-tackling-jail-reform> [<https://perma.cc/YLK6-4C78>].

267. According to Virginia Department of Criminal Justice Services, thirty-five pretrial services agencies serve only 115 of Virginia's 133 cities and counties. VA. DEP'T OF CRIM. JUST. SERVS., *supra* note 261, at 2.

268. Charles Paullin, *Court Pre-Trial Services Expand to Warren, Shenandoah Counties*, N. VA. DAILY (Apr. 23, 2022), https://www.nvdaily.com/nvdaily/court-pre-trial-services-expand-to-warren-shenandoah-counties/article_8780e083-ddd1-5aa3-8474-d1e5221ff7b3.html [<https://perma.cc/KH7Y-NQXX>].

269. Jimmy LaRoue, *New Suffolk Commonwealth's Attorney Looking to Make Her Mark with New Initiatives, but Don't Call Her a Progressive*, SUFFOLK NEWS-HERALD (Feb. 22, 2022, 6:20 PM), <https://www.suffolknewsherald.com/2022/02/22/new-suffolk-commonwealths-attorney-looking-to-make-her-mark-with-new-initiatives-but-dont-call-her-a-progressive/> [<https://perma.cc/N943-HRCH>].

270. Pope, *supra* note 253.

271. COMM'N TO EXAMINE RACIAL & ECON. INEQUITY IN VA. L., *supra* note 98, at 45.

ages sometimes demand creative policy solutions, rather than mere injections of capital.

VII. HEALTH

A. *Challenges*

Perhaps more than any other set of issues, rural health issues demonstrate the interconnectedness of the problems that rural communities face. That is because health outcomes are determined both by individual characteristics and behaviors, such as genetics, and by one's social and physical environment, such as where one lives and works.²⁷² Where one lives and works encompasses a broad category of characteristics that affect health outcomes called "social determinants of health."²⁷³ Social determinants of health include social and economic characteristics, such as geography, access to health care, access to internet, job availability, and income.²⁷⁴ They also include environmental factors such as pollution.²⁷⁵ Social determinants of health are the mechanism by which aspects of rural life—such as lack of broadband and economic distress—informs rural health.

Although rural health outcomes are a product of numerous interlocking social, economic, and environmental influences, this Section of the Article will zero in on one social determinant: access to health care and health services. We emphasize access to care because it is consistent with this Article's emphasis on rural access to goods and services—like broadband and education. Additionally, Virginia's Rural Health Plan highlights access to care as a significant contributor to disparities in rural health.²⁷⁶

272. *Questions and Answers: Determinants of Health*, WORLD HEALTH ORG. (Feb. 3, 2017), <https://www.who.int/news-room/questions-and-answers/item/determinants-of-health> [<https://perma.cc/6W2W-3Y4C>].

273. *About Social Determinants of Health*, CTR. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/socialdeterminants/about.html> [<https://perma.cc/5ULB-XWGB>] (Mar. 10, 2021).

274. *Id.*

275. *Id.*

276. VA. RURAL HEALTH PLAN, *supra* note 9, at 9-2 to 9-8.

1. Access to Care

According to the Virginia Rural Health Plan, “[a]ccess to healthcare refers to both the availability and obtainability of health care services.”²⁷⁷ In rural Virginia, individuals who lack access to healthcare typically cannot pay for such services or cannot find a provider in their vicinity who can serve them.²⁷⁸

Staffing shortages are one reason rural citizens lack timely access to health care and health services.²⁷⁹ Many areas of rural Virginia are federally designated Health Professional Shortage Areas (“HPSAs”) for dental health, mental health, and primary care.²⁸⁰ The Rural Health Plan states that the shortage is due to “a lack of opportunities for families in rural areas, the quality of schools, and low pay in the face of high debt upon graduation [from medical school].”²⁸¹ Another factor that may contribute to staffing shortages is that medical schools tend to train students toward “urban centric and specialty-focused experiences.”²⁸²

The understaffing of hospitals poses immediate physical risks to patients who require timely, thorough care. The understaffing of local health districts and departments also poses serious problems because both affect a health district’s ability to respond to population health issues, such as airborne viruses.²⁸³ For example, health districts who are inadequately staffed may not be able to send local health workers out into the community to engage with citizens and collect data.²⁸⁴

Other barriers to health care and health services in rural Virginia intersect with issues discussed in prior Sections. These barriers include the lack of available jobs that allow time off from work to attend appointments, the high cost of health insurance, and the lack of broadband access, which negatively impacts rural Virginians’ ability to conduct telehealth visits.²⁸⁵

277. *Id.* at 9-2.

278. *Id.*

279. *Id.*

280. *Id.*

281. *Id.* at 9-3.

282. *Id.*

283. *Id.* at 9-2.

284. *Id.* at 9-3.

285. *See generally id.* at 9-2.

B. *State Actions*

In August 2022, the federal government awarded Virginia over \$5 million to address workforce shortages and to increase access to health care in rural communities through the Rural Public Health Workforce Training Network Program.²⁸⁶ The Program funds four grant recipients for three years to help rural areas develop the workforce supply they need to meet their residents' health care needs.²⁸⁷ The money will be used to train workers to fill community health support roles, telehealth technical support roles, community para-medicine roles, and case management or respiratory therapist roles.²⁸⁸

Virginia has also established incentive programs to attract health care workers to rural areas. The Virginia State Loan Repayment Program, for example, is a federal grant from the Health Resources and Services Administration that repays the loans of participants in exchange for at least two years of service in a Health Professional Shortage Area in Virginia.²⁸⁹ Additionally, Virginia created the nursing preceptor incentive in 2021.²⁹⁰ That program is a General Assembly-funded initiative that pays practitioners to serve as instructors to advanced practice registered nurses, to help those nurses increase access to care in eligible areas of Virginia.²⁹¹

Furthermore, many community organizations across Virginia, and the State Office of Rural Health, are actively fighting against rural health inequity. The State Office of Rural Health has published a Rural Health Plan that provides comprehensive coverage of rural health problems and recommendations for state and local

286. *HHS Invests Nearly \$60 Million to Address Workforce Shortages and Increase Access to Health Care in Rural Communities*, HEALTH RES. & SERVS. ADMIN., <https://www.hrsa.gov/rural-health/grants/rural-community/fy2022-awards#va> [<https://perma.cc/RDL2-YMTM>] (Aug. 2022).

287. *Rural Public Health Workforce Training Network Program*, HEALTH RES. & SERVS. ADMIN., <https://www.hrsa.gov/rural-health/grants/rural-community/public-health-workforce> [<https://perma.cc/44KP-AA9W>] (Sept. 2022).

288. *Id.*; see also Dina Weinstein, *Federal Government Invests over \$5.5 Million for Rural Health Care Workforce and Access in Virginia*, ABC 8 NEWS (Aug. 8, 2022, 1:44 PM), <https://www.wric.com/news/virginia-news/federal-government-invests-over-5-5-million-for-rural-health-care-workforce-and-access-in-virginia/> [<https://perma.cc/V54Y-QGS3>].

289. *Virginia Loan Repayment Programs*, VA. DEP'T OF HEALTH, <https://www.vdh.virginia.gov/health-equity/virginia-loan-repayment-programs-2/> [<https://perma.cc/YY48-TDZN>] (Dec. 27, 2022).

290. *Nursing Preceptor Incentive Program*, VA. DEP'T OF HEALTH, <https://www.vdh.virginia.gov/health-equity/nursing-preceptor-incentive-program/> [<https://perma.cc/6EJ7-AJV3>].

291. *Id.*

leaders to make positive change.²⁹² The Plan is a valuable resource for localities as they attempt to address longstanding health challenges. Besides creating a plan to address rural health, Virginia's State Office of Rural Health also sponsors Innovative Programming Awards.²⁹³ These awards are given to grantees whose projects aim to address long-term health disparities.

Additionally, as the Plan highlights, several organizations in rural Virginia provide affordable services to fill gaps in access in rural regions, namely Central Virginia Health Services, Stone Mountain Health Services, and Central Appalachia Health Wagon.²⁹⁴ These organizations are important because they support citizens when local governments lack the capacity to provide necessary health services.

Finally, the Virginia Department of Health tracks, analyzes, and presents data on social determinants of health across Virginia, including metrics such as broadband access, food insecurity, avoidable hospitalizations, earnings per job, and employment rate.²⁹⁵ Interactive maps and downloadable data are available to inform the public about the health issues facing all Virginians.

Despite all of these efforts, however, the statistics discussed above show that more work is needed.

C. *Recommendations*

Reducing health inequity in rural Virginia requires sustainable and creative solutions. Governor Northam's Commission to Examine Racial and Economic Inequity in Virginia Law made a number of recommendations to improve access to health care in rural areas in January of 2022.²⁹⁶ The recommendations also summarize the

292. *VA-SORH Projects*, VA. STATE OFF. OF RURAL HEALTH, <https://www.vdh.virginia.gov/health-equity/state-office-of-rural-health-7/> [https://perma.cc/4JFN-ACHC].

293. *State and Federal Programs*, VA. STATE OFF. OF RURAL HEALTH, <https://www.vdh.virginia.gov/health-equity/division-of-rural-health/announcements/> [https://perma.cc/GV2L-88F9].

294. VA. RURAL HEALTH PLAN, *supra* note 9, at 9-6 to 9-8.

295. *See Virginia Department of Health Data Commons: Priority Metrics*, VA. STATE OFF. OF RURAL HEALTH, https://uva-bi-sdad.github.io/vdh_rural_health_site/ [https://perma.cc/46PC-U79L].

296. COMM'N TO EXAMINE RACIAL & ECON. INEQUITY IN VA. L., *supra* note 98, at 41-45.

broad policy goals of the Virginia Rural Health Plan.²⁹⁷ The Commission recommends that Virginia:

- Ask the Virginia Department of Health to issue annual reports on local health department staffing;
- Employ an “at-risk add-on” funding model for Virginia’s health districts;
- Provide health districts with policy staff;
- Provide additional financial incentives for health providers to work in rural communities, such as by increasing the amount of funding allotted to the Virginia State Loan Repayment Program;
- Create state-supported pipelines for medical students and medical residents to work in rural areas; and
- Fully fund the Virginia Healthcare Workforce Development Authority and the Area Health Education Centers it supports.²⁹⁸

Virginia should not stop there, however. The Commonwealth should consider additional policy recommendations provided by the Virginia Rural Health Plan.

First, Virginia should consider revamping its efforts to develop a Community Paramedicine/Mobile Integrated Healthcare (“CP-MIH” or “MIH-CP”) program. In several areas of Virginia, namely Bedford, Farmville, and Lynchburg, many who cannot pay for healthcare may make 911 calls that are for non-emergencies in order to receive healthcare.²⁹⁹ These calls burden EMS personnel and prevent Emergency Medical Services (“EMS”) vehicles from being used for actual emergencies.³⁰⁰ CP-MIH allows paramedic-level EMS providers to assist with public health and primary healthcare and address the lack of access to health care in underserved areas.³⁰¹ A fully funded CP-MIH program would permit paramedics and Emergency Medical Technicians (“EMTs”) to assist not only with EMS, but also provide public health, primary healthcare, and preventative services to underserved populations.

The MIH-CP Workgroup is a state workgroup providing guidance to the Office of EMS Advisory Board and the Virginia Healthcare System in setting up appropriate standards of quality

297. *Id.*

298. *Id.*; see also VA. RURAL HEALTH PLAN, *supra* note 9, at 9-8.

299. VA. RURAL HEALTH PLAN, *supra* note 9, at 9-7.

300. *Community Paramedicine/Mobile Integrated Healthcare*, VA. DEP’T OF HEALTH, <https://www.vdh.virginia.gov/emergency-medical-services/community-paramedicine-mobile-integrated-healthcare/> [https://perma.cc/NBE7-374G].

301. MOBILE INTEGRATED HEALTHCARE / COMMUNITY PARAMEDICINE (MIH-CP) IN VIRGINIA, OFF. OF EMS, VA. DEP’T OF HEALTH 1, <https://www.vdh.virginia.gov/content/uploads/sites/23/2022/08/MIHCP-in-VA-White-Paper.pdf> [https://perma.cc/2T7S-CNLL].

and educating stakeholders on MIH-CP.³⁰² The working group made some headway in 2019 but failed to meet consistently after the pandemic hit.³⁰³ Virginia should encourage the reformation of the Workgroup and support their legislative efforts. For example, in 2019, Delegate Chase introduced Senate Bill 1226, which would have required the Commonwealth to adopt regulations governing community paramedics.³⁰⁴ Virginia should revisit this bill to ensure that EMTs and paramedics adhere to a set of standards whenever they venture outside of their emergency domain.

Second, Virginia should look into the policy actions taken by states with similar rural issues. California, for example, faces massive rural healthcare worker shortages. The University of California Programs in Medical Education (“UC PRIME”) is a promising medical school program designed to supplement the traditional curriculum with specialized coursework, clinic experiences, mentoring, and independent study conducted for the purpose of learning how to aid an underserved area.³⁰⁵ UC PRIME’s Rural-PRIME program educates healthcare professionals and medical students about the best ways to serve rural populations.³⁰⁶ A program that prepares students to work in rural areas may increase the likelihood that medical students actually work in rural Virginia once they graduate.

Finally, the Commonwealth should ensure that Virginians are aware of the government health benefits to which they are entitled.³⁰⁷ The State Rural Health Plan provided this recommendation in order to keep Virginia’s rural mothers and babies healthy, but this recommendation is relevant for all rural and underserved populations.³⁰⁸ The State Office of Rural Health suggests that community members, such as social workers, are best situated to explain what kinds of programs and benefits are available to the rural populations they serve.³⁰⁹ Community actors should collaborate with Virginia’s public benefits providers to ensure that Virginians are receiving their health benefits, thereby reducing the number of

302. *Id.* at 2.

303. *See Community Paramedicine/Mobile Integrated Healthcare*, *supra* note 300.

304. S.B. 1226, Va. Gen. Assembly (Reg. Sess. 2019).

305. *See* VA. RURAL HEALTH PLAN, *supra* note 9, at 9-6.

306. *Id.*

307. *Id.* at 8-6.

308. *Id.*

309. *Id.*

community members who avoid seeking health care due to cost restrictions.

VIII. GLOBAL RECOMMENDATIONS

In addition to considering specific policy recommendations to target specific challenges of living in rural Virginia, it is also important to consider what efforts the state could or should take to more effectively tackle the problems outlined above and elsewhere, and to ensure that state actions are coordinated and effective.

As we have hopefully made clear, one of the challenges of serving rural Virginians is that rural Virginians need more support in almost every aspect of daily life—from education to healthcare to economic opportunity to transportation to broadband to access to substance abuse counseling and other services. This challenge is compounded when one considers that different agencies, secretariats, and legislative bodies have the ability and the responsibility to tackle these different needs. However, as the data we have shared makes clear, the piecemeal, fragmented approach employed thus far has largely been unsuccessful.

Put another way, when vast areas of Virginia have populations that continue to have worse health, educational, and economic outcomes; when that population is declining and aging; and when those same areas lack resources, job opportunities, and critical infrastructure for their residents, it is unrealistic to think that a state government working through separate secretariats, agency heads, and legislative efforts can create the kind of comprehensive, multifaceted, policy and support package necessary to improve life opportunities and outcomes for all rural Virginians.

Accordingly, if Virginia truly wants to tackle these challenges, and improve the lives of everyone living in rural Virginia, it needs to create a government entity with enough cross-cutting authority to coordinate and direct a range of initiatives across a broad spectrum of substantive and policy areas. In other words, it needs to create a cabinet level position dedicated to rural issues that has enumerated authority to direct agencies across a range of secretariats to pursue those actions necessary to comprehensively and effectively respond to the needs of rural Virginians and the communities in which they live.

This is not to say that state government does not have agency positions dedicated to addressing various parts of rural life in Virginia; rather, it is to say that these various efforts need to be unified and coordinated to be more effective.

Another challenge, pointed out by the Commission to Examine Racial and Economic Inequity in Virginia Law, is the funding structure for many of Virginia's core services, which often relies on local contributions or matches to fund a range of services and initiatives—from public health to education.³¹⁰ To respond to this issue, the Commission recommended that JLARC conduct a study of this funding structure and the impact it has on the ability of rural communities, and other low tax base jurisdictions, to deliver necessary and core services to their residents.³¹¹ We affirm the wisdom of that recommendation.

Returning to the issue of race, when implementing many of these recommendations, as well as others, state and local government officials need to remember that the origins of negative outcomes in different communities vary by region and race. Likewise, the historical barriers to support, the biases in service provision, and the negative reactions to suspicion of services and interventions by rural residents, may also vary by region and race. In other words, when delivering necessary supports and services to rural residents, one size will certainly not fit all and differentiation in service delivery will be critical.

310.

From education to health to the Virginia Juvenile Community Crime Control Act to a range of other services, Virginia delivers a number of state services to local communities through a combination of state and local funding. Formulas for the ratio of state to local funding varies across service areas. Likewise, the delivery of such services and the ability to provide local funds, or to supplement these often baseline services, ranges greatly across communities.

COMM'N TO EXAMINE RACIAL & ECON. INEQUITY IN VA. L., *supra* note 98, at 40.

311. *Id.*

Given the many service gaps in rural Virginia, and the service disparities between rural communities and wealthier urban and suburban areas, the Governor and the General Assembly should direct the JLARC to conduct a wide-ranging study on the impact of these funding approaches to actual service delivery in rural communities and to make accompanying recommendations for necessary improvements.

Id.

CONCLUSION

Residents of rural communities in Virginia face a number of challenges, both as a group of people with disproportionately higher rates of negative life outcomes such as poverty and mortality; and as a group of people who often live in regions of the state that lack adequate infrastructure, economic opportunity, and human service support to respond to, and alleviate, these undesirable conditions. All of these factors have conspired to make it difficult for policy makers to address these challenges truly and effectively. While Virginia has made real efforts and improved many lives, the various initiatives appear to have not substantially changed the overall negative situation on the ground in many communities.

To truly address the many challenges facing rural Virginia, the Commonwealth must establish a state leadership structure with the scope of authority and capacity to direct an integrated, sustained, and comprehensive approach to improving life outcomes for rural Virginians. Simultaneously, the state should also study and reform the way it funds critical services in parts of the state that lack a local tax base sufficient to fund those services at levels adequate to meet community needs. Due to the fact that these communities are not racially or politically monolithic, as we have shown, our hope is that such initiatives could attract bipartisan and statewide support.

APPENDIX

A. *Examples of Two Years of Business Openings in Rural Virginia*

- News Release, Governor of Va., Governor Youngkin Announces New Custom Crush Winery Incubator in Virginia [Waynesboro] (Oct. 19, 2022), <https://www.governor.virginia.gov/newsroom/news-releases/2022/october/name-941424-en.html> [<https://perma.cc/89NR-CLK7>].
- News Release, Governor of Va., Governor Youngkin and Congressman Morgan Griffith Announce Eight Economic Development Projects in Southwest Virginia (Oct. 14, 2022), <https://www.governor.virginia.gov/newsroom/news-releases/2022/october/name-941278-en.html> [<https://perma.cc/R47X-64SS>].
- News Release, Governor of Va., Hitachi Energy to Expand in Virginia, Creating 165 New Jobs in Halifax County (Oct. 12, 2022), <https://www.governor.virginia.gov/newsroom/news-releases/2022/october/name-940967-en.html> [<https://perma.cc/7HRU-XSBZ>].
- News Release, Governor of Va., IperionX Selects Virginia for first U.S. 100% Recycled Titanium Metal Powder Facility (Sept. 27, 2022), <https://www.governor.virginia.gov/newsroom/news-releases/2022/september/name-940343-en.html> [<https://perma.cc/ZBG4-ZR63>].
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- News Release, Governor of Va., Governor Glenn Youngkin Announces New Tourist Attraction in Prince Edward County (March 31, 2022), <https://www.governor.virginia.gov/newsroom/news-releases/2022/march/name-930716-en.html> [<https://perma.cc/5865-4JFM>].
- News Release, Governor of Va., Governor Youngkin Announces Amazon to Create 500 New Jobs in Augusta County (Feb. 23, 2022), <https://www.governor.virginia.gov/newsroom/news-releases/2022/february/name-929407-en.html> [<https://perma.cc/L47F-KLET>].

- News Release, Governor of Va., Governor Glenn Youngkin Announces AutoZone to Establish Major East Coast Distribution Center and Direct Import Facility in New Kent County, Creating 352 New Jobs (Feb. 18, 2022), <https://www.governor.virginia.gov/newsroom/news-releases/2022/february/name-928922-en.html> [<https://perma.cc/MS2W-9Z45>].
- Press Release, Va. Econ. Dev. P'ship, Poultry Processor to Establish First East Coast Operation in Winchester (Dec. 2, 2021), <https://www.vedp.org/press-release/2021-12/tfc-poultry-winchester> [<https://perma.cc/H338-4MMH>].
- Press Release, Va. Econ. Dev. P'ship, Leading Nuclear Manufacturer to Establish Innovation Center in Campbell County (Nov. 19, 2021), <https://www.vedp.org/press-release/2021-11/bwx-technologies-campbell-county> [<https://perma.cc/FR5X-CU4T>].
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- Press Release, The Shenandoah Valley, Governor Northam Announces Italian Cured Meats Producer to Establish First U.S. Operation in Virginia (Sept. 30, 2021), <https://theshenandoahvalley.com/office-of-governor-ralph-s-northam-press-release/governor-northam-announces-italian-cured-meats-producer-to-establish-first-u-s-operation-in-virginia/> [<https://perma.cc/CWA4-RTTJ>].
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- Press Release, The Shenandoah Valley, Governor Northam Announces CAVA to Establish Production and Packaging Operation in Augusta County (Sept. 9, 2021), <https://theshenandoahvalley.com/office-of-governor-ralph-s-northam-press-release/governor-northam-announces-cava-to-establish-production-and-packaging-operation-in-augusta-county/> [<https://perma.cc/G5HG-WRYK>].
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- Press Release, Va. Econ. Dev. P'ship, Crown Holdings to Create 126 Jobs in Henry County (Jan. 28, 2021), <https://www.vedp.org/press-release/2021-01/crown-holdings-henry-county> [https://perma.cc/JCW2-NHJV].
- Press Release, The Shenandoah Valley, Governor Northam Announces Industrial Hemp Company to Locate in Rockingham County (Dec. 28, 2020), <https://theshenandoahvalley.com/office-of-governor-ralph-s-northam-press-release/governor-northam-announces-industrial-hemp-company-to-locate-in-rockingham-county/> [https://perma.cc/WVN8-BPG7].
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