

DIGEST OF THE ACTS
OF THE
GENERAL ASSEMBLY OF VIRGINIA
AT THE
1998 SESSION

which commenced at the Capitol in the City of Richmond on January 14, 1998, and adjourned
sine die March 17, 1998.

1998 SPECIAL SESSION

which commenced at the Capitol in the City of Richmond on April 23, 1998, and adjourned
sine die April 24, 1998.



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PREFACE

This Digest of Acts has been prepared to give an overview of the legislation adopted during the 1998 Regular, Reconvened, and Special Sessions of the General Assembly of Virginia, prior to publication of the 1998 Acts of Assembly. These brief notes are not detailed synopses of the acts, but are intended to point out the major features of new measures or the principal changes in existing law. Anyone desiring more detailed information about an act should obtain its full text.

The arrangement of the Digest parallels the title and section number organization of the Code of Virginia. Under each title heading is listed every section within that title which has been amended, added, or repealed, and a brief description of the effect of the General Assembly action. Some titles have a "Miscellaneous" section containing acts which usually do not have Code section numbers but are related to the subject matter of that title. For acts affecting sections in different titles, there are appropriate cross-references. There are no cross-references to sections within the same title, so the user must scrutinize the note headings within each title. Uncodified appropriation, bond, claims, and constitutional amendment measures are included at the end of the Digest.

Please note that the section numbers appearing in this Digest are those assigned to bills at the time of drafting. Due to conflicts with other numbers already assigned, or in order to effect a more logical placement, the Virginia Code Commission in its codification of the acts may change the numbers contained in an act as shown in this Digest. The final section number assignments can be determined after the Code supplements are published by consulting the "Table of Acts Codified Subsequent to 1948" in Volume 10 of the Code.

The acts of the 1998 General Assembly will become effective on July 1, 1998, unless otherwise designated in the act itself. If an act becomes effective on a different date, the note will so indicate. If sections in an act become effective on different dates, the last line of the note will refer readers to the act itself.

Several acts of the 1998 General Assembly will not become effective unless subsequent conditions, e.g., reenactment in a future session, enactment of a federal law, etc., are met. Hence, they usually are not included in the Digest. Bills passed by the General Assembly but vetoed by the Governor also are omitted.

Following the notes is a chart showing all other bills passed during the 1998 Regular, Reconvened, and Special Sessions of the General Assembly which have become law by virtue of being signed by the Governor, the chapter numbers assigned to those bills, and the pages where their summaries appear in the Digest.

The Digest has been prepared from summaries written by the staff of the Division of Legislative Services.

TABLE OF CONTENTS

TITLE 2.1.	ADMINISTRATION OF THE GOVERNMENT GENERALLY.	1
TITLE 2.1.	MISCELLANEOUS.	4
TITLE 3.1.	AGRICULTURE, HORTICULTURE AND FOOD.	4
TITLE 4.1.	ALCOHOLIC BEVERAGE CONTROL ACT.	5
TITLE 5.1.	AVIATION.	6
TITLE 6.1.	BANKING AND FINANCE.	6
TITLE 7.1.	BOUNDARIES, JURISDICTION AND EMBLEMS OF THE COMMONWEALTH.	7
TITLE 8.01.	CIVIL REMEDIES AND PROCEDURE.	8
TITLE 9.	COMMISSIONS, BOARDS AND INSTITUTIONS GENERALLY.	9
TITLE 10.1.	CONSERVATION.	11
TITLE 11.	CONTRACTS.	13
TITLE 11.	MISCELLANEOUS.	14
TITLE 12.1.	STATE CORPORATION COMMISSION.	14
TITLE 13.1.	CORPORATIONS.	14
TITLE 14.1.	COSTS, FEES, SALARIES AND ALLOWANCES.	14
TITLE 14.1.	MISCELLANEOUS.	15
TITLE 15.2.	COUNTIES, CITIES AND TOWNS.	15
TITLE 15.2.	MISCELLANEOUS.	18
	CHARTERS; AUTHORITIES	18
TITLE 16.1.	COURTS NOT OF RECORD.	19
TITLE 16.1.	MISCELLANEOUS.	21
TITLE 17.	COURTS OF RECORD.	21
TITLE 17.1.	COURTS OF RECORD.	22
TITLE 18.2.	CRIMES AND OFFENSES GENERALLY.	22
TITLE 18.2.	MISCELLANEOUS.	24
TITLE 19.2.	CRIMINAL PROCEDURE.	24
TITLE 20.	DOMESTIC RELATIONS.	26
TITLE 22.1.	EDUCATION.	27
TITLE 22.1.	MISCELLANEOUS.	35
TITLE 23.	EDUCATIONAL INSTITUTIONS.	35
TITLE 24.2.	ELECTIONS.	37
TITLE 24.2.	MISCELLANEOUS.	38
TITLE 25.	EMINENT DOMAIN.	38
TITLE 26.	FIDUCIARIES GENERALLY.	39
TITLE 27.	FIRE PROTECTION.	39
TITLE 28.2.	FISH, OYSTERS, SHELLFISH AND OTHER MARINE LIFE.	39
TITLE 29.1.	GAME, INLAND FISHERIES AND BOATING.	40
TITLE 29.1.	MISCELLANEOUS.	41
TITLE 30.	GENERAL ASSEMBLY.	41
TITLE 30.	MISCELLANEOUS.	41
TITLE 32.1.	HEALTH.	41
TITLE 33.1.	HIGHWAYS, BRIDGES AND FERRIES.	45
TITLE 33.1.	MISCELLANEOUS.	46
TITLE 34.	HOMESTEAD AND OTHER EXEMPTIONS.	46
TITLE 35.1.	HOTELS, RESTAURANTS, SUMMER CAMPS, AND CAMPGROUNDS.	46
TITLE 36.	HOUSING.	46
TITLE 37.1.	INSTITUTIONS FOR THE MENTALLY ILL; MENTAL HEALTH GENERALLY.	47
TITLE 38.2.	INSURANCE.	49
TITLE 38.2.	MISCELLANEOUS.	54

TABLE OF CONTENTS

TITLE 40.1.	LABOR AND EMPLOYMENT.	54
TITLE 41.1.	LAND OFFICE.	55
TITLE 42.1.	LIBRARIES.	55
TITLE 43.	MECHANICS' AND CERTAIN OTHER LIENS.	55
TITLE 44.	MILITARY AND EMERGENCY LAWS.	55
TITLE 45.1.	MINES AND MINING.	55
TITLE 46.2.	MOTOR VEHICLES.	56
TITLE 50.	PARTNERSHIPS.	59
TITLE 51.1.	PENSIONS, BENEFITS AND RETIREMENT.	59
TITLE 51.1.	MISCELLANEOUS.	61
TITLE 52.	POLICE (STATE).	61
TITLE 52.	MISCELLANEOUS.	61
TITLE 53.1.	PRISONS AND OTHER METHODS OF CORRECTION.	62
TITLE 54.1.	PROFESSIONS AND OCCUPATIONS.	62
TITLE 54.1.	MISCELLANEOUS.	67
TITLE 55.	PROPERTY AND CONVEYANCES.	67
TITLE 55.	MISCELLANEOUS.	69
TITLE 56.	PUBLIC SERVICE COMPANIES.	69
TITLE 56.	MISCELLANEOUS.	71
TITLE 57.	RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES.	71
TITLE 58.1.	TAXATION.	72
TITLE 58.1.	MISCELLANEOUS.	78
TITLE 59.1.	TRADE AND COMMERCE.	78
TITLE 60.2.	UNEMPLOYMENT COMPENSATION.	80
TITLE 62.1.	WATERS OF THE STATE, PORTS AND HARBORS.	80
TITLE 62.1.	MISCELLANEOUS.	81
TITLE 63.1.	WELFARE (SOCIAL SERVICES).	81
TITLE 63.1.	MISCELLANEOUS.	84
TITLE 64.1.	WILLS AND DECEDENTS' ESTATES.	84
TITLE 65.2.	WORKERS' COMPENSATION.	84
	APPROPRIATIONS AND BONDS.	85
	CLAIMS.	85
	CONSTITUTIONAL AMENDMENTS	86

**TITLE 2.1. ADMINISTRATION OF THE
GOVERNMENT GENERALLY.**

§§ 2.1-1.5 and 2.1-179. See § 23-9.2:3; HB 638.

§ 2.1-1.5. See § 56-484.8; HB 1331.

§§ 2.1-1.5 and 2.1-179. See § 23-9.2:3; SB 341.

§§ 2.1-1.6 and 2.1-20.4. See § 54.1-300; HB 930.

§ 2.1-1.6. See § 54.1-2310; HB 1077/SB 700.

§ 2.1-1.6. See § 3.1-1104; HB 1174/SB 681.

§§ 2.1-1.6, 9-6.25:1, 37.1-134.6 and 37.1-134.19 amended; §§ 2.1-373.10 through 2.1-373.14 and 37.1-134.14:1 added. **Public guardians and conservators.** Authorizes the Department for the Aging to implement, fund and manage a statewide program of local or regional public or private entities to provide services as a guardian or conservator for incapacitated persons in those cases where the incapacitated person's estate is insufficient to pay costs and compensate a guardian or fiduciary, and there is no other willing and able person to serve. SB 394; CH. 787.

§ 2.1-1.7. See § 9-6.25:2; HB 556.

§§ 2.1-1.7 and 2.1-51.21. See § 9-6.25:1; HB 851.

§ 2.1-1.7. See § 37.1-203; HB 1292.

§§ 2.1-1.7 and 2.1-51.21. See § 9-6.25:1; SB 383.

§§ 2.1-1.7, 2.1-373 and 9-6.25:1 amended; § 2.1-373.02 added. **Department for the Aging; advisory board.** Establishes the powers, duties and membership of the advisory board and changes the name to the Commonwealth Council on Aging. There are also technical amendments in this bill. SB 465; CH. 665.

§ 2.1-7.4 added. **Administration of government; electronic filing of information.** Allows agencies responsible to the executive secretariats to (i) accept the electronic filing of any information required or permitted to be filed with such agencies and (ii) prescribe the methods of executing, recording, reproducing, and certifying such filing. The bill, which excludes the Virginia Public Procurement Act, is modeled after § 13.1-604 pertaining to the State Corporation Commission, and is a recommendation of the Joint Commission on Technology and Science. SB 152; CH. 636.

§ 2.1-20.1. See § 38.2-4319; HB 542.

§ 2.1-20.1. See § 32.1-325; HB 610.

§ 2.1-20.1 amended. **Health and related insurance for state employees; managed care options.** Provides that persons covered by the state employees' health insurance benefit program be given a choice of at least two health insurance coverage plans in each planning district where available. In each planning district that does not have an available health

insurance coverage alternative, the Department of Personnel and Training shall voluntarily enter into negotiations at any time with any health insurance coverage provider who seeks to provide coverage under the plan. Agencies authorized to have their own health insurance coverage plan are exempted. HB 804; CH. 851.

§ 2.1-20.1. See § 38.2-4319; HB 915.

§ 2.1-20.1. See § 32.1-325; HB 1202.

§ 2.1-20.1 amended. **Health care plan for state employees; diabetes coverage.** Requires the health care plan for state employees to provide coverage for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, required for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and non-insulin-using diabetes if prescribed by a health care professional legally authorized to prescribe such items. To qualify for coverage under the provisions of this bill, diabetes outpatient self-management training and education must be provided by a certified, registered or licensed health care professional. HB 1399; CH. 386/SB 245; CH. 35.

§ 2.1-20.1. See § 38.2-4319; SB 679.

§ 2.1-20.1. See § 38.2-4319; SB 705.

§ 2.1-20.1:04 amended. **State health insurance; purchase of continued health insurance by surviving spouse and dependents of certain public safety employees.** Provides that the spouse and any dependents of a deceased local public safety employee (law-enforcement officer, firefighter, etc.) who purchase continued health insurance coverage shall pay the same portion of the applicable premium as active employees pay for the same class of coverage, and the local government employer that employed the deceased shall pay the remaining portion of the premium. The bill also provides that at no time shall a surviving spouse or dependent pay more for continued health insurance coverage than active employees pay under the same plan for the same class of coverage. The bill specifies that it applies to spouses and dependents of covered employees who died on or after January 1, 1994. SB 173; CH. 699.

§ 2.1-20.1:05 added. **Local government health insurance plans; purchase of continued health insurance by surviving spouse and dependents of certain public safety employees.** Defines "plan sponsor" as the local government employer which has established a plan of health insurance coverage for its employees and retirees, and provides that the spouse and any dependents of a deceased local public safety employee whose death occurs as the direct or proximate result of the performance of his duty (law-enforcement officer, firefighter, etc.) who purchase continued health insurance coverage from such plan sponsor shall pay the same portion of the applicable premium as active employees pay for the same class of coverage, and the local government employer that employed the deceased employee shall pay the remaining portion of the premium. The bill also provides that at no time shall a surviving spouse or dependent pay more for continued health insurance coverage provided by the plan sponsor than active employees pay under

the same plan for the same class of coverage. SB 172; CH. 698.

§ 2.1-20.1:2. See § 23-50.16:5; HB 227.

§§ 2.1-20.1:2, 2.1-20.1:3 and 2.1-20.1:4 amended. **Health insurance credits; retired state employees, retired teachers and retired local government employees.** Allows the Virginia Retirement System to determine the method of payment of the health insurance credits for retired state employees, retired teachers and retired local government employees. Retirees who do not participate in an employer-sponsored plan will receive a credit to the same extent as retirees who participate in the employer-sponsored plan. This replaces the reimbursement system currently in place for non-participating employees. HB 250; CH. 195.

§§ 2.1-20.1:2, 2.1-20.1:3 and 2.1-20.1:4. See § 51.1-142; HB 262.

§§ 2.1-20.2, 2.1-20.5 through 2.1-20.12, 2.1-38, 2.1-38.3, 2.1-68, 2.1-71.2 and 2.1-180. See § 17.1-100; HB 1114.

§§ 2.1-20.3, 2.1-20.4, 9-14 and 14.1-18 amended. **Compensation and expenses of members of boards, commissions, etc., establishment of Shipyard Incentive Commission & grant program.** Requires that citizen members of all boards, commissions, and other bodies who are appointed at the state level be compensated at the rate of \$50 per day, unless a different rate is specified elsewhere, plus reasonable and necessary expenses. Currently, members of certain bodies receive per diem compensation, expense reimbursement, or both. In addition, the Shipyard Incentive Commission and the grant program are created. The Commission, consisting of seven members, administers and oversees the grant program. The grant program offers an investment grant and an operations grant to any qualified shipbuilder. A qualified shipbuilder is defined as a corporation that (i) is primarily engaged in designing, constructing, overhauling, modernizing and repairing ships at its facilities in Virginia; (ii) employs more than 10,000 persons at such facilities; and (iii) makes a qualified investment of at least \$30 million in the fiscal year preceding the fiscal year in which a grant is provided, at least \$35 million in the second fiscal year a grant is provided, and at least \$50 million in each fiscal year thereafter. Total investment grants shall not exceed \$58 million and total operations grants shall not exceed \$40 million. The grant program expires June 30, 2004. SB 442; CH. 790.

§ 2.1-27.10 added. **Bill of Rights Day.** Provides that December 15 of each year shall be designated and known as the "Bill of Rights Day" in recognition of the ratification of the first 10 amendments to the United States Constitution. HB 1191; CH. 383.

§§ 2.1-37.12:1 and 2.1-37.12:2 added. **Judicial Inquiry and Review Commission.** Allows the Commission to suspend a judge with pay if there is probable cause to believe that continued performance of his judicial duties constitutes both a substantial and immediate threat to the public interest in the administration of justice. The Commission is also empowered, under this bill, to order a mental or physical examination of a

judge if the Commission has probable cause to believe that he cannot perform his duties due to excessive use of alcohol or drugs or physical or mental illness. This bill is recommended by the Joint Subcommittee Studying the Judicial Inquiry and Review Commission. HB 963; CH. 862/SB 642; CH. 672.

§ 2.1-37.17:1 amended. **Judicial Inquiry and Review Commission.** Describes the content of the report to be received by the General Assembly on a judge who has been the subject of a complaint before the Commission to include the nature of the complaint, its current status, any remedial action taken, etc., and requires that the judge receive a copy. The bill also expands the reporting requirement to include all members of the House and Senate Committees for Courts of Justice and, upon request, any member of the General Assembly whose district encompasses the judge's circuit or district. Previously, the report was received only by the House and Senate Courts Committees and only upon request of the chairmen. The bill also mandates that the Commission send to the Bar District Committee any evidence it receives relating to the private practice of law by any judge or substitute judge. This bill will not become effective unless a constitutional amendment passes which specifically allows for a confidentiality exception to the proceedings and documents of the Commission allowing the General Assembly to receive confidential information. As introduced, the bill was a recommendation of the Joint Subcommittee Studying the Judicial Inquiry and Review Commission. See and compare SB 645. For effective date, see bill. HB 964; CH. 757.

§ 2.1-37.17:1 amended. **Judicial Inquiry and Review Commission.** Codifies the requirements for the report which is received by the General Assembly on a judge who has been the subject of a complaint before the Commission to include the nature of the complaint, current status, any remedial actions taken, etc., and requires that the judge receive a copy. The bill eliminates the need for a request by the chairman of the House or Senate Courts of Justice Committee before those committees can receive the report and expands the reporting requirement to include any member of the General Assembly, upon request. The bill also provides for sanctions to be imposed by the Committee on Standards of Conduct of the member's respective house for wrongful disclosure. Previously, the report was received only by the House and Senate Courts Committees upon request of the Chairmen. This bill will not become effective unless a constitutional amendment passes which specifically allows for a confidentiality exception to the proceedings and documents of the Commission allowing the General Assembly to receive confidential information. As introduced, the bill was a recommendation of the Joint Subcommittee Studying the Judicial Inquiry and Review Commission. For effective date, see bill. SB 645; CH. 804.

§§ 2.1-41.2, 2.1-342, 2.1-467, 2.1-467.2, 2.1-467.4, 2.1-467.5, 2.1-467.7 and 2.1-467.8. See § 42.1-1; HB 822.

§ 2.1-51.14 amended. **Health and Human Resources; long-term care coordination.** Provides for the Secretary of Health and Human Resources to coordinate the work of state

agencies to implement the long-term care policy of the Commonwealth. SB 464; CH. 793.

§§ 2.1-116.03 and 2.1-116.07 amended. Department of Employee Relations Counselors; state grievance procedure. Authorizes the Director of the Department of Employee Relations Counselors (DERC) to establish a process to select hearing officers, on a rotating basis, from the list maintained by the Executive Secretary of the Supreme Court. Currently, the Director of DERC, in conjunction with the Executive Secretary of the Supreme Court, establishes the selection process. The bill also clarifies the powers of hearing officers to order appropriate remedies in grievance cases. HB 1082; CH. 263.

§ 2.1-116.07 amended. State grievance procedures; award of attorneys' fees. Changes the basis for awarding attorneys' fees in suits to implement the decision of a hearing officer related to a grievance. Under the bill, if either party substantially prevails on the merits of the case and the other party's position is not substantially justified, attorneys' fees must be awarded unless special circumstances would make an award unjust. Current law allows for the award of attorneys' fees to either party in the discretion of the court. HB 1155; CH. 438.

§ 2.1-116.09 amended. State employees' grievance procedure. Exempts the Attorney General and every legislative, judicial, and independent agency from the requirement that they establish and administer a grievance procedure consistent with the state grievance procedure. These organizations must have a grievance procedure, but may develop a procedure independent of the procedure for executive branch agencies. SB 246; CH. 245.

§ 2.1-124 amended. Attorney General; prosecution of certain environmental crimes. Authorizes the Attorney General, with the concurrence of the local attorney for the Commonwealth, to prosecute violations of the Air Pollution Control law, the Virginia Waste Management Act, and the State Water Control law, as well as related offenses. HB 628; CH. 510/SB 664; CH. 507.

§§ 2.1-133.6, 2.1-133.8, 2.1-133.9 and 2.1-133.10 amended; § 2.1-133.7:1 added. Public safety employees; death benefits and continued health insurance coverage. Requires continued health care coverage to be afforded to disabled public safety employees and to the spouses and dependents of deceased public safety employees, if the employee's death or disability occurred in the course of his employment. Eff. 7/1/00. HB 324; CH. 712.

§ 2.1-155. See § 58.1-3523; SB 4005.

§ 2.1-196.2 added. Comptroller; recovery of improper payments to state employees. Provides a mechanism for an employer to recover any payment or compensation paid to a state officer or employee to which he was not entitled and which he has failed or refused to return. The bill also provides that the employee or officer who authorized the payment is liable. The bill allows the employer, if liability is admitted, to offset the amount wrongly paid against any payment or compensation due

the officer or employee while he remains in state service. However, if the officer or employee leaves state service, liability is disputed or recovery cannot be accomplished, the employer may request the Attorney General to bring an action for restitution. The bill authorizes the court to award costs and reasonable attorneys' fees to the prevailing party. The bill clarifies that it does not apply to VRS benefits. HB 1203; CH. 876.

§§ 2.1-234.5 and 2.1-360 amended; § 2.1-328.15 added; § 2.1-329 repealed. Investment of public funds. Reclassifies negotiable certificates of deposit and negotiable bank deposit notes from deposits to investments. The reclassification allows these instruments to be collateralized under the Security for Public Deposits Act. Public funds are permitted to be invested in these instruments if the instruments have certain ratings by recognized rating agencies. HB 375; CH. 21/SB 261; CH. 20.

§§ 2.1-234.11 through 2.1-234.14, 2.1-234.16, 2.1-234.20, 2.1-234.21, 2.1-234.23, 2.1-234.25, 2.1-234.27 and 53.1-82.3 amended. Virginia Public Building Authority; refunding of bonds issued by other issuers. Authorizes the Virginia Public Building Authority (VPBA) to refinance bonds issued by other state and local authorities and political subdivisions if the bonds are secured by a lease or other payment agreement with the Commonwealth. The current \$1,386 million cap on VPBA-issued bonds is reduced to \$1,140 million, exclusive of certain bonds to refinance certain obligations. The VPBA's authority to issue revenue bonds is made subject to the consent of the Governor. The Governor is authorized to designate the chairman of the VPBA. Currently, the members of the VPBA elect the chairman. The measure also provides that the format for statements of expected financing costs for the construction of jail projects is to be prescribed by the Department of the Treasury rather than by the Treasury Board. The measure clarifies requirements regarding the bidding for construction and other contracts for projects to be owned by the VPBA or any state agency. HB 449; CH. 498/SB 195; CH. 504.

§ 2.1-342. See § 32.1-5; SB 712.

§ 2.1-343.1:1 added. Meetings of boards of visitors of UVA under the Virginia Freedom of Information Act. Provides that the board of visitors of UVA may conduct meetings through audio/video communication when at least two-thirds of the membership is physically assembled at its regular meeting place and when the customary requirements of public notice, voting and recordation of the meetings are followed. The bill limits such meetings to 25 percent of all meetings held by the board. The bill has a sunset provision of July 1, 2000, and also requires records and reports of the duty and participation in and any complaints about such meetings. HB 659; CH. 839/SB 252; CH. 777.

§ 2.1-373.4 repealed. Virginia Department of the Aging. Repeals the section that designates the Virginia Department for the Aging as the state agency responsible for coordinating all long-term care efforts of state and local human services agencies. As a result, the Department is no longer required to coordinate the long-term care efforts of state and local agencies.

SB 463; CH. 453.

§§ 2.1-394, 2.1-394.1, 2.1-397.1 and 2.1-399.1 amended; § 2.1-399.2 added. **Planning and budgeting procedures.** Requires the Department of Planning and Budget to provide copies of the agency expenditure estimates for the four-year period following the succeeding biennium to the chairmen of the House Appropriations and Senate Finance Committees. The Department is also required to provide the chairmen with copies of the formats for reporting agency expenditure estimates. The measure also makes technical corrections. SB 391; CH. 467.

§ 2.1-399.1 amended. **Legislation relating to debt.** Requires the Governor to submit to the General Assembly, by the date the budget bill or amendments thereto must be submitted, copies of legislation involving the issuance of bonded indebtedness which is included in the Governor's budget. HB 352; CH. 118/SB 440; CH. 591.

§ 2.1-440.1 amended. **Division of Purchases and Supply; procurement of computer equipment.** Provides that performance-based specifications shall include, but are not limited to, certain vendor and equipment characteristics. HB 1009; CH. 536.

§ 2.1-483.1:1 amended. **Department of General Services; value engineering.** Specifies "on or before September 15 of each year" as the time the annual report submitted by the Director of General Services must be given to the Governor and the General Assembly. The bill also clarifies that the requirement for value engineering applies to public institutions of higher education. HB 1364; CH. 207.

§ 2.1-512 amended. **Department of General Services; surplus property.** Specifies that the Director of the Department of General Services, or his designee, may execute a deed or lease on behalf of the Commonwealth and that such action does not create a cloud on the title to the subject property. SB 319; CH. 466.

§ 2.1-548.32 amended. **Virginia Economic Development Partnership Authority; employee benefits.** Clarifies that employees of the Authority may participate in all health and related insurance benefits as well as other benefits, including premium conversion and flexible benefits, available to state employees by law. SB 607; CH. 359.

§ 2.1-563.31. See § 59.1-467; SB 153.

§ 2.1-639.6 amended. **Prohibited contracts by officers and employees of state government.** Exempts an employee's personal interest in a contract between a state higher education institution and a business in which the employee has a personal interest, if there is (i) disclosure to the institution, (ii) filing of an appropriate disclosure statement, (iii) nonparticipation by the employee in the institution's decision to contract, and (iv) written certification by the institution's president that the contract is for goods and services needed for quality patient care by the institution's medical center. Also provides for the institution, no later than December 31 of each year, to file an annual report with the Secretary of the Commonwealth

disclosing certain specified information. HB 658; CH. 838.

§§ 2.1-639.15, 2.1-639.41 and 2.1-786 amended. **Conflict of Interests Acts; Lobbying Disclosure and Regulation Act; disclosure forms; gifts.** Revises the requirement that government officers and employees and General Assembly members must disclose the donor of any gift or gifts with a cumulative value greater than \$50. The bill requires disclosure of any single gift with a value to the recipient greater than \$50 and of multiple gifts with a cumulative value greater than \$100. The bill provides for the disclosure by COIA filers of entertainment events with a value per person attending the event greater than \$50 and requires lobbyists to name the executive and legislative officials who attend such events. Lobbyists must notify the executive and legislative officials who are named in their disclosure reports once (rather than twice) each year by January 5 for the prior calendar year. Eff. 4/16/98. SB 22; CH. 732.

§§ 2.1-707 and 2.1-708 amended; §§ 2.1-710.1, 2.1-710.2 and 2.1-710.3 added. **Economic and Employment Improvement Program for Disadvantaged Persons.** Creates a grant program to improve the employability of, and provide assistance to, populations experiencing high rates of unemployment or underemployment through education and skill training. This is a recommendation of the Joint Subcommittee Studying the Status and Needs of African-American Males in Virginia. SB 699; CH. 808.

§ 2.1-746. See § 9-6.23; HB 1294.

§ 2.1-757 amended. **Comprehensive Services Act.** Provides that when an issue is before the court, the court may make a disposition other than the one recommended by the family assessment and planning team and that upon such a recommendation, the services ordered will qualify for funding, as appropriated by the General Assembly and the locality. HB 924; CH. 534.

TITLE 2.1. MISCELLANEOUS.

Naming of public buildings. Provides that in order to properly honor the Virginia heroes who have fought bravely for the Commonwealth and the United States, it shall be the policy of the Commonwealth to encourage the naming of public buildings or other public structures after Virginia Medal of Honor recipients. HB 1314; CH. 206.

TITLE 3.1. AGRICULTURE, HORTICULTURE AND FOOD.

§ 3.1-22.49 amended. **Virginia Horse Industry Board.** Allows certain members of the Board to designate an alternate

to attend meetings in the member's place. The member may execute a proxy allowing the alternate vote. SB 286; CH. 586.

§§ **3.1-418.1 and 35.1-14.2 amended. Donations of food to charitable organizations by certain businesses.** Clarifies the term "retailers of food" to include grocery, convenience and other types of stores selling food and food products when donating food to food banks or charitable organizations for subsequent distribution to needy persons, thereby limiting their civil liability for such donations. The bill also makes clear that the charitable organizations (food banks and others) distributing the food will likewise be exempt from civil liability except for gross negligence or intentional acts that directly result in injury or death. SB 478; CH. 641.

§§ **3.1-461.1 through 3.1-461.4 added. Southern Dairy Compact.** Establishes the compact and creates the Southern Dairy Compact Commission, to which the Governor will appoint five members. In addition to conducting studies and making recommendations on market conditions and milk pricing policy, the Commission is authorized, so long as federal milk marketing orders remain in effect in the region, to establish a compact over-order price. If such orders are terminated, the Commission may establish one or more commission marketing orders. In either case, the Commission must conduct a referendum of producers. The Commission may collect assessments from handlers to pay for administration and enforcement of the compact and administration of an over-order price or a compact marketing order, if established. The declared purpose of the compact is not to displace existing federal milk marketing orders or state dairy regulation but to supplement them. SB 683; CH. 706.

§§ **3.1-796.66, 3.1-796.67:2, 3.1-796.68, 3.1-796.72, 3.1-796.83:2, 3.1-796.92, 3.1-796.93:1, 3.1-796.94, 3.1-796.96, 3.1-796.97:1, 3.1-796.101, 3.1-796.102, 3.1-796.104 through 3.1-796.108, 3.1-796.110 through 3.1-796.119, 3.1-796.121, 3.1-796.122, 3.1-796.124, 3.1-796.126:1, 3.1-796.126:7, 3.1-796.126:8, 3.1-796.126:10, 3.1-796.126:11, 3.1-796.127 and 3.1-796.128 amended; §§ 3.1-796.104:1, 3.1-796.106:1 and 3.1-796.106:2 added; § 3.1-796.109 repealed. Comprehensive Animal Laws.** Revises the Comprehensive Animal Laws, particularly with respect to humane investigators, animal control officers, and the State Veterinarian's representatives. For humane investigators, the bill eliminates their authority to arrest, imposes new continuing education requirements, details procedures for their appointment and removal, and requires them to carry identification during the performance of their duties and keep records of investigations. For animal control officers (known under current law as animal wardens), the bill imposes new training and continuing education requirements. The bill defines "State Veterinarian's representatives" and empowers them to inspect businesses where animals are kept and enforce laws regarding the care of animals. The bill also requires humane investigators and animal control officers to consult with State Veterinarian's representatives before impounding agricultural animals and makes it a Class 1 misdemeanor to impersonate a humane investigator. HB 232; CH. 817.

§ **3.1-796.90 amended. Dog and cat licenses.** Makes it optional for localities to indicate the sex of the animal on license tags. Currently, tags must indicate sex. SB 351; CH. 394.

§ **3.1-1060 amended. Agriculture; Winegrowers Advisory Board.** Increases from 15 to 16 the number of members on the Winegrowers Advisory Board. The president of the Virginia Tourism Corporation is the new member of the Winegrowers Advisory Board. HB 1028; CH. 99.

§§ **2.1-1.6 and 9-6.25:1 amended; § 3.1-1104 and 3.1-1105 added. Virginia Charity Food Assistance Act.** Establishes the Charity Food Assistance Advisory Board. The Advisory Board will advise the Board and the Department of Agriculture and Consumer Services on hunger and nutrition issues. HB 1174; CH. 539/SB 681; CH. 524.

TITLE 4.1. ALCOHOLIC BEVERAGE CONTROL ACT.

§ **4.1-103.01 added. Alcoholic beverage control; enforcement; sale of tobacco to minors.** Requires the Tax Commissioner to provide to the ABC Board, the name, address, and other identifying information within his possession of all wholesale cigarette dealers. The bill provides that (i) all invoices, books, papers or other memoranda and records concerning the sale of cigarettes maintained by wholesale cigarette dealers shall be subject to inspection during normal business hours by special agents of the ABC Board and (ii) any person who, upon request by a special agent, unreasonably fails or refuses to allow an inspection of the records shall be guilty of a Class 2 misdemeanor. The bill provides that the ABC Board may use the information obtained from the Tax Commissioner or acquired by the authorized inspections only for the purpose of creating and maintaining a list of retail dealers to facilitate enforcement of the laws governing the sale of tobacco products to minors. The bill prohibits the disclosure of this information by the ABC Board or its special agents, and makes it a Class 2 misdemeanor for a violation of this provision. HB 1430; CH. 189/SB 716; CH. 364.

§ **4.1-111 amended. Alcoholic beverage control; auctioning of certain alcoholic beverages.** Requires the ABC Board to prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that the bottles are unopened and the manufacturers' seals are intact. HB 495; CH. 301.

§§ **4.1-206, 4.1-231 and 4.1-233 amended. Alcoholic beverage control; licenses.** Authorizes the issuance of a museum license to nonprofit museums exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, and sets forth the privileges of the license. The bill also sets out the state and local taxes on this new license. HB 939; CH. 489.

§ **4.1-207 amended. Alcoholic beverage control; wine licenses.** Grants to holders of a wholesale wine license the same

privilege currently held by beer wholesalers to sell and deliver wine to owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state. HB 458; CH. 77/SB 232; CH. 208.

§§ 4.1-210, 4.1-230, 4.1-231 and 4.1-233 amended. **Alcoholic beverage control; mixed beverage licenses.** Creates a mixed beverage club event license which authorizes the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests for club events. The bill requires a license for each day of each club event and limits the number of club events for which this license may be granted to 12 in any one calendar year. This bill incorporates HB 450. HB 945; CH. 535.

§ 4.1-324 amended. **Alcoholic beverage control; illegal acts by employees of licensees; penalty.** Clarifies that the prohibitions against illegal sales and other prohibited acts apply to agents and employees of licensees of the Alcoholic Beverage Control Board as well as to the licensees themselves. HB 967; CH. 238.

TITLE 5.1. AVIATION.

§§ 5.1-2.16, 5.1-51 and 5.1-52 amended. **Virginia Aviation Board; grants.** Requires the Board, in considering or evaluating grant applications, to take into account the capacities of all airports within the affected geographic region. HB 1108; CH. 480.

TITLE 6.1. BANKING AND FINANCE.

§ 6.1-2.19 amended. **Consumer Real Estate Settlement Protection Act; settlement services.** Provides that a licensee or his employees or independent contractors, who are not named as settlement agents in a real estate purchasing contract or on the settlement statement may perform escrow, closing, or settlement services to facilitate the settlement of the transaction so long as the licensee is otherwise authorized by law or regulation to perform such services. HB 1265; CH. 162.

§ 6.1-2.19 amended. **Consumer Real Estate Settlement Protection Act; settlement services.** Provides that a licensed realtor, his employees and independent contractors not named as settlement agents in a real estate purchasing contract or on the settlement statement may nevertheless perform escrow, closing, or settlement services to facilitate the settlement of the transaction without complying with the provisions of CRESPA, if the licensed realtor is not otherwise prohibited by law or regulation from performing such services. SB 281; CH. 736.

§§ 6.1-2.19, 6.1-2.20, 6.1-2.21, 6.1-2.23 and 6.1-330.72 amended. **Settlement agents.** Amends provisions concerning settlement agents in the Consumer Real Estate Settlement

Protection Act (CRESPA), and adds provisions concerning settlement agent fees in a statute governing subordinate mortgage loans. Principal changes in CRESPA include those which: (i) authorize licensed realtors, their employees or independent contractors not named as the settlement agents in real estate purchase contracts to nevertheless perform escrow, closing or settlement services (if such licensees are not otherwise prohibited by law or regulation from performing these functions) without complying with CRESPA; (ii) redefine "settlement agent" to mean the individual furnishing settlement services who is listed as the settlement agent in the real estate purchase contract; (iii) require settlement agents other than attorneys or title insurance companies to have analyses of their escrow accounts conducted at least once in each consecutive 12-month period; (iv) delete reference to the requirement that escrow fund disbursements be accomplished via written instructions (signed by both sellers and purchasers or borrowers) conforming to the federal Real Estate Settlement Procedures Act; as amended, written instructions signed by both sellers and purchasers or borrowers will be deemed sufficient; and (v) require all CRESPA-governed real estate settlement statements to be in writing, and identify, by name and business address, the settlement agent. An additional provision in the bill permits lenders to charge borrowers for the cost of a settlement agent's services in connection with making a loan secured by a subordinate mortgage or deed of trust. SB 554; CH. 69.

§ 6.1-2.20 amended. **Consumer Real Estate Settlement Protection Act; party to the real estate transaction.** Amends the definition of "party to the real estate transaction" to include, with respect to real estate transactions to which a corporate entity is a party, any entity which is a subsidiary of or under common ownership with that corporate entity. SB 684; CH. 598.

§ 6.1-13 amended. **Banking; certificate of authority.** Removes the requirement of establishing a separate capital account labeled "reserve for operation" prior to a bank receiving a certificate of authority from the State Corporation Commission. Financial reports do not normally provide such reserves, and including these reserves is in violation of Generally Accepted Accounting Procedures (GAAP). SB 87; CH. 18.

§ 6.1-58.2 amended. **Controlled subsidiary; transaction of insurance business.** Permits controlled subsidiary corporations, subject to conditions imposed by the State Corporation Commission, to underwrite reinsurance of mortgage guaranty insurance on real estate loans made or purchased by the controlled subsidiary's affiliates or by banks owning such controlled subsidiary. "Controlled subsidiary corporations" are defined as domestic or foreign corporations whose majority voting stock is owned directly or indirectly by (i) a bank organized under the laws of the United States, (ii) a bank organized under the laws of Virginia or any other state, or (iii) a bank holding company owning a bank in Virginia or any other state. SB 447; CH. 48.

§§ **6.1-94, 6.1-194.85 and 6.1-194.149 amended. Banking; fees for supervision, regulation, and investigations.** Permits the State Corporation Commission to reduce by order or regulation the statutory fees charged to banks, savings institutions and state savings banks for investigating various applications, including applications (i) for a certificate of authority, (ii) to establish, acquire or relocate one or more branches, (iii) for approval of a merger or consolidation, (iv) for authority to exercise trust powers, and (v) for certain conversions. The Commission may reduce such rates if the Commission concludes that there is a reasonable basis for doing so and that the reduction of the fee will not be detrimental to the effectiveness of the Bureau of Financial Institutions. SB 88; CH. 19.

§ **6.1-225.6 amended. Credit unions; electronic filing of annual reports.** Authorizes credit unions to file electronically their annual reports to the Virginia State Corporation Commission. A credit union that submits a report electronically must maintain a copy of the report with certified signatures affixed. SB 112; CH. 34.

§ **6.1-225.61:1 added. Credit unions; out-of-state credit unions.** Allows the State Corporation Commission to examine out-of-state credit unions conducting business in Virginia and to enter into cooperative agreements with other state credit union supervisors and federal agencies having concurrent jurisdiction over out-of-state credit unions regarding reports of examination and reports of investigation. This bill also permits the State Corporation Commission to assess out-of-state credit unions for supervisory and examination fees and authorizes the State Corporation Commission to enter into agreements to share such fees with other state and federal regulators. HB 599; CH. 23.

§ **6.1-249 amended. Consumer Finance Act; limitation to natural persons.** Limits the applicability of the Consumer Finance Act to loans made to natural persons for personal, family, household or other nonbusiness purposes. HB 443; CH. 9.

§§ **6.1-298 and 6.1-300 amended. Consumer finance companies; examination of accounts, books and records.** Reduces the frequency of the State Corporation Commission's examinations of finance companies from twice to once in every three-year period. The bill also permits records of consumer finance licensees to be maintained electronically. Finally, the bill permits notes pledged as security for commercial funding of a finance company to be deposited wherever the commercial lender may require. SB 313; CH. 44.

§§ **6.1-330.72 and 6.1-330.85 amended. Banking; subordinate mortgages.** Allows a lender making a subordinate mortgage loan to collect (i) a fee for having the secured property examined to determine if it is in a flood plain and (ii) a prepayment fee not to exceed two percent of the principal amount of the loan for prepayment of the loan in full. The bill prohibits a lender from collecting a prepayment penalty in the event of partial prepayment or where there is a payment of the outstanding balance on an open-end loan without demand to

release the evidence of indebtedness. HB 700; CH. 89.

§ **6.1-370 amended; § 6.1-378.2 added. Money order sales and money transmission services; acquisition of control.** Requires the State Corporation Commission to receive and review an application and other necessary information from any person seeking to acquire directly or indirectly 25 percent or more of the voting shares or ownership of a business engaged in the sale of money orders or money transmission. The State Corporation Commission will permit the acquisition if, following investigation of the application and other information, it finds that the applicant and any directors, senior officers, and principals have the financial responsibility, character, reputation, experience, and general fitness to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with the law. Persons acquiring an interest in such a business directly or indirectly by merger or consolidation (i) by or with a person already licensed, (ii) by or with a person affiliated through common ownership, or (iii) by bequest, descent, survivorship or operation of law do not have to file an application, but must send written notice to the State Corporation Commission of such acquisition. HB 444; CH. 10.

§§ **6.1-398 and 6.1-399 amended; §§ 6.1-400, 6.1-402, 6.1-405 and 6.1-407 repealed. Banking; acquisitions of Virginia banks by out-of-state bank holding companies.** Provides that acquisitions of Virginia banks by out-of-state bank holding companies are subject to the same application and review process as acquisitions of Virginia banks by other entities. This bill eliminates differences between interstate acquisitions by bank holding companies and by other entities. Any proposed acquisitions of Virginia banks and bank holding companies will continue to be subject to an application and review process. SB 243; CH. 231.

§ **6.1-416.1 amended. Mortgage lenders and brokers; acquisition of control.** Provides a technical and clarifying amendment concerning the control share acquisition threshold of 25 percent or more in the Mortgage Lender and Broker Act. SB 95; CH. 33.

TITLE 7.1. BOUNDARIES, JURISDICTION AND EMBLEMS OF THE COMMONWEALTH.

§ **7.1-10.1 amended; second enactment of Chapter 141 of the Acts of Assembly of 1993 repealed. Boundary line between Loudoun County, Virginia, and Jefferson County, West Virginia.** Provides that the boundary line between Loudoun County, Virginia, and Jefferson County, West Virginia, is the same as that established by the survey recorded in the land books in the courthouses of Loudoun County and Jefferson County. The bill directs the Virginia Boundary Commission to complete its work and record the survey which takes into account one of the property owner's homes through

which the watershed line runs. There are technical amendments. Eff. 3/13/98. HB 889; CH. 123.

§§ 7.1-28 and 7.1-29. See § 42.1-1; HB 822.

TITLE 8.01. CIVIL REMEDIES AND PROCEDURE.

§ 8.01-8 amended. Suit by minor's next friend. Allows either or both parents to sue on behalf of a minor as his next friend. Currently, Virginia practice recognizes the need for only one parent or other person to bring the suit. HB 18; CH. 402.

§ 8.01-44.5 amended. Exemplary damages for persons injured by intoxicated drivers. Provides that when a DUI defendant has unreasonably refused to submit to a test of his blood alcohol content, his conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others, sufficient to allow for recovery of exemplary damages, when the evidence proves that (i) when the incident causing the injury or death occurred, the defendant was intoxicated; (ii) at the time the defendant was drinking alcohol, he knew that he was going to operate a motor vehicle and (iii) the defendant's intoxication was a proximate cause of the injury to or death of the plaintiff or plaintiff's decedent. HB 1144; CH. 722.

§ 8.01-66.5 amended. Lien for medical services. Removes the provision which allows service of a medical bill to create a lien. The lien may only be created by service of a written notice of lien. This bill is subject to a reenactment clause. HB 791; CH. 183.

§ 8.01-129 amended. Appeals from general district court; landlord tenant. Provides that in case of appeals from a default judgment based on the nonpayment of rent, the writ of execution shall be issued immediately upon entry of the judgment for possession. Currently, a writ of execution may not be issued during the 10-day period for the filing of an appeal. HB 642; CH. 750.

§ 8.01-195.3 amended. Virginia Tort Claims Act. Provides that civil actions may not be brought against the state based upon the failure of a computer, software program, database, network, or information system of a state agency or agency operating on behalf of the Commonwealth to interpret, produce, calculate, generate or account for a date which is compatible with the "Year 2000" date change. The bill is a recommendation of the Joint Commission on Technology and Science. HB 277; CH. 820.

§ 8.01-195.3 amended. Virginia Tort Claims Act; inmate claims. Eliminates the requirement that inmate grievance procedures be certified by the United States Attorney General. Currently some inmate claims are exempt from the provisions of the Tort Claims Act if they meet the standards under the institutional grievance procedures which require such

certification. Recent changes in the federal law eliminated the certification that such grievance procedures meet minimal federal standards. HB 1003; CH. 203.

§ 8.01-225 amended. Immunity for ski patrol emergency assistance. Provides that any member of a ski patrol who renders emergency care to an injured or ill person and any ski resort owner who provides a ski patroller to assist in such emergency care shall be immune from civil liability in the absence of gross negligence or willful misconduct. HB 1113; CH. 500/SB 265; CH. 493.

§ 8.01-225.2 added. Immunity for those rendering emergency care to animals. Provides that persons who in good faith provide care or treatment to animals at the scene of an accident or emergency are not liable for injuries to such animals resulting from such care or treatment. SB 629; CH. 669.

§§ 8.01-271.1 and 8.01-410 amended; §§ 8.01-243.2, 8.01-644.1 and 53.1-60.1 added. **Prisoner litigation reform.** Provides a statute of limitations of one year (or six months following exhaustion of administrative remedies, whichever is later) for actions, including mandamus and habeas corpus, brought by or on behalf of prisoners and clarifies that prisoners are subject to frivolous claims sanctions. The Director of the Department of Corrections has the duty of collecting court debt. SB 648; CH. 596.

§§ 8.01-329 and 14.1-103 amended. **Service of process on foreign defendants by service on Secretary of Commonwealth.** Requires that service of process on foreign defendants over whom the court has personal jurisdiction shall be by, at a minimum, certified mail. (The bill also makes that change for Virginia defendants who, despite a plaintiff's due diligence, cannot be found.) Current law allows such service by ordinary mail (via the Secretary of the Commonwealth); however, the Court of Appeals of Maryland (the state's highest court) in *Miserando v. Resort Properties, Inc.*, held that service by ordinary mail by a Virginia plaintiff upon a Maryland defendant did not satisfy minimum due process requirements. Current practice raises the question whether Virginia process will be given full faith and credit in Maryland; the bill would meet that court's minimum due process requirement for service (that which is now required by 48 states). The bill also raises the fee collectible by the Secretary of the Commonwealth for such service from \$15 to \$19 to account for the additional cost (\$2.45) of certified mail, return receipt requested. HB 777; CH. 259.

§ 8.01-341 amended. Jury duty. Exempts superintendents and jail officers of regional jails from jury duty. HB 560; CH. 83.

§ 8.01-360 amended. Additional jurors. Allows twice as many veniremen to be drawn as additional jurors needed to assure that a sufficient number of jurors remain after the parties utilize their peremptory challenges. Under current law, if four additional jurors are sought, six veniremen would be drawn, but if each party exercises his two peremptory challenges, only two additional jurors would be available. This bill is recommended by the Judicial Council. SB 196; CH. 279.

§ 8.01-383.1 amended. Revision of civil verdict. Provides that if either party does not agree to additur, the court shall grant a new trial. HB 961; CH. 861.

§ 8.01-399 amended. Attorney-physician communications. Creates exceptions to the statutory ban on any communication between attorneys and practitioners of the healing arts. The current ban excepts communications made in the course of discovery. The added exceptions are intended to facilitate litigation while maintaining confidentiality. The bill is recommended by the Boyd-Graves Conference. SB 414; CH. 314.

§ 8.01-413. See § 32.1-127.1:03; HB 1101/SB 632.

§ 8.01-413. See § 54.1-111; SB 560.

§ 8.01-424 amended. Approval of compromises on behalf of persons under a disability in suits or actions to which they are parties. Revises the A. M. Best rating criterion for selection of an insurance company for periodic payments in the compromise of personal injury claims involving persons under a disability from A+ (A plus) to A+ (A plus) or better to reflect the addition of that rating by Best. HB 566; CH. 607/SB 105; CH. 584.

§ 8.01-424. See § 26-12; HB 665.

§ 8.01-451 amended. Docketing judgments; name change of debtor. Makes the provision for docketing a judgment in a debtor's new name consistent, no matter what method the clerk uses in his office to docket such name changes (e.g., microphotographic process or hard copy paper notations). SB 343; CH. 639.

§ 8.01-452.1 amended. Disposal of exhibits in civil cases. Provides that the notice from a clerk of court to an owner or attorney prior to the disposal or donation of exhibits used in a concluded civil case may be made by first class mail rather than certified mail, return receipt requested. The bill also provides that the exhibits may be donated or destroyed if a contrary response to the notice is not received by the clerk within 21 days of the mailing of the notice, rather than receipt as under current law. Finally, the bill requires that the clerk wait until 60 days after the entry of judgment, unless an appeal is noted or a rehearing or a new trial is requested, before destroying or donating the exhibits. Currently, the clerk must wait until the time for filing an appeal has expired. HB 1403; CH. 886.

§ 8.01-513 amended. Service of garnishments on corporations. Allows service of process upon officers, designated employees or managing employees of the corporation. The designation of an employee to be served must be filed with the State Corporation Commission. Service may be made upon the clerk of the State Corporation Commission or registered agent of the corporation only after the judgment creditor files with the court a certificate that due diligence failed to locate an officer, designated or managing employee or other person authorized to accept service. A prohibition on service on the judgment debtor who happens to be a designated or managing employee is included. A 1997 amendment limited

service of such process upon the registered agent. Eff. 4/16/98. HB 1145; CH. 723/SB 327; CH. 737.

§§ 8.01-581.09 and 8.01-581.010 amended. Uniform Arbitration Act. Provides that a party may apply to have an award confirmed at any time after the award is made and specifies that the application to vacate be made by filing a petition or in response to a petition to confirm the award. HB 635; CH. 303.

§§ 8.01-609.1 and 8.01-618.1. See § 17.1-100; HB 1114.

§ 8.01-622.1 added. Assisted suicide. Provides that any person who intentionally and knowingly assists another to commit or attempt to commit suicide by providing the physical means or otherwise participating in a facilitating physical act may be civilly liable for compensatory and punitive damages and may be enjoined. The injunction may be sought by specified family members, by a Commonwealth's attorney or by the Attorney General. Additionally, a health care provider who is found liable or is enjoined will have his professional license suspended or revoked. HB 1378; CH. 624.

§ 8.01-654 amended. Habeas corpus. Imposes a statute of limitations on the filing of a writ in noncapital murder cases. The bill requires that a petition for writ of habeas corpus ad subjiciendum in noncapital cases, other than a petition challenging a criminal conviction or sentence, be brought within one year after the cause of action accrues. A habeas corpus petition attacking a criminal conviction or sentence in noncapital cases must be filed within two years of the date of final judgment in trial court or one year from either final disposition of the direct appeal in state court or the time for filing the appeal has expired, whichever is later. HB 1106; CH. 577.

§ 8.01-654.1 amended. Filing of habeas corpus petitions in capital cases. Provides that, notwithstanding the time restrictions otherwise applicable to the filing of a petition for a writ of habeas corpus, an indigent prisoner may file such a petition within 120 days following appointment of counsel to represent him. This corrects the problem which arises when an appointment is not timely made and counsel's period for preparation is shortened. HB 622; CH. 199.

TITLE 9. COMMISSIONS, BOARDS AND INSTITUTIONS GENERALLY.

§ 9-6.14:4.1. See § 23-9.2:3; HB 638.

§ 9-6.14:4.1. See § 23-9.2:3; SB 341.

§ 9-6.14:4.1. See § 59.1-364; HB 1276.

§§ 9-6.23 and 9-6.25:1. See § 37.1-203; HB 1292.

§§ 2.1-746, 9-6.23, 9-267, 9-268, 9-270, 9-271 and 9-272 amended. Virginia Council on Coordinating Prevention. Increases the membership of the Virginia Council on

Coordinating Prevention, expands agency participation in development of the comprehensive prevention plan, adds additional duties, and consolidates responsibility for prevention activities by eliminating responsibility for prevention from the Comprehensive Services Executive Council. This is a recommendation of the Joint Subcommittee Studying the Future Delivery of Publicly Funded Mental Health, Mental Retardation and Substance Abuse Services (HJR 240). HB 1294; CH. 622.

§§ 2.1-1.7, 2.1-51.21 and 9-6.25:1 amended; §§ 9-329.1 through 9-329.5 added. Statewide Workforce Training Council. Establishes the 25-member Statewide Workforce Training Council to assist the Commonwealth in meeting workforce training needs. Its membership includes various state officials involved in education, technology, and business, and 18 citizens representing business, industry, and proprietary schools. The Council is to (i) identify current and emerging workforce needs of the business community, (ii) assess potential markets for increasing the number of workers available to business and industry, (iii) forecast and identify training requirements for the new workforce, (iv) create strategies that will match trained workers with available jobs, and (v) certify courses and programs of training as appropriate and responding to the needs of business and industry in the Commonwealth. This measure is a recommendation of the HJR 622 Joint Subcommittee to Study Noncredit Education for Workforce Training in the Commonwealth. Also provides for the establishment of regional workforce training centers at institutions in the Community College System. In addition, the Council is required to provide an annual report to the Governor. HB 851; CH. 899.

§ 9-6.25:1. See § 3.1-1104; HB 1174/SB 681.

§§ 9-6.25:1, 9-341, 9-342, 9-343 and 9-346 amended; §§ 9-330 through 9-333 repealed. Virginia Competition Council; private enterprise. Transfers the duties of Virginia's Private Enterprise Commission to the Virginia Competition Council. The Private Enterprise Commission currently reviews the practices of government agencies and nonprofit organizations, not including public and private colleges and universities, which may constitute inappropriate competition with private enterprise, including exemption from personal property, business and license taxes; reduced postage and interest rates; and volunteer labor and financial contributions. In addition, the bill adds certain definitions to clarify the duties of the Council and increases the membership from 10 to 15. The House of Delegates and the Senate will each have an additional member on the Council. From the private sector, the Speaker of the House will now appoint two members, rather than one; the Senate Committee on Privileges and Elections two, rather than one; and the Governor three, rather than two. The bill further provides the provisions of § 9-346 shall not apply to transportation-related projects initiated under Chapter 22 (§ 56-556 et. seq.) of Title 56. HB 1301; CH. 881.

§§ 2.1-1.7, 2.1-51.21 and 9-6.25:1 amended; §§ 9-329.1 and 9-329.2 added. Statewide Workforce Training Council.

Establishes the 25-member Statewide Workforce Training Council to assist the Commonwealth in meeting workforce training needs. Its membership includes various state officials involved in education, technology, and business, and 18 citizens representing business, industry, and proprietary schools. The Council is to (i) identify current and emerging workforce needs of the business community, (ii) assess potential markets for increasing the number of workers available to business and industry, (iii) forecast and identify training requirements for the new workforce, (iv) create strategies that will match trained workers with available jobs, and (v) certify courses and programs of training as appropriate in response to the needs of business and industry in the Commonwealth. The bill provides for the Virginia Community College System to provide staff support and to serve as the fiscal agent for the Council. This measure is a recommendation of the HJR 622 Joint Subcommittee to Study Noncredit Education for Workforce Training in the Commonwealth. SB 383; CH. 701.

§ 9-6.25:1. See § 2.1-1.6; SB 394.

§ 9-6.25:1. See § 2.1-1.7; SB 465.

§§ 2.1-1.7 and 9-6.25:2 amended; §§ 9-145.21 through 9-145.29 repealed. Southside Virginia Marketing Council. Abolishes the 13-member Southside Virginia Marketing Council, established in 1992 to attract business prospects to the Southside region through regional marketing. HB 556; CH. 58.

§ 9-6.25:2. See § 54.1-300; HB 930.

§ 9-6.25:2. See § 54.1-2310; HB 1077/SB 700.

§ 9-6.25:3. See § 2.1-1.4; HB 667.

§ 9-14. See § 2.1-20.3; SB 442.

§§ 9-96 and 9-97 amended. Jamestown-Yorktown Foundation. Increases from four to five the number of members who are elected by the Board of Trustees and adds the president of the Jamestown-Yorktown Educational Trust as a member of the Board of Trustees of the Foundation. The bill also empowers the Foundation to elect any past chairman of the Board to the honorary position of chairman emeritus, and provides that the chairmen emeriti serve for life but without voting privileges. Eff. 4/15/98. SB 381; CH. 589.

§§ 9-96 through 9-99. See § 23-287; SB 382.

§ 9-97. See § 11-45; HB 139.

§ 9-97. See § 11-45; SB 445.

§§ 9-99.01 and 9-99.02 added. Jamestown-Yorktown Foundation. Requires certain agencies to designate a liaison to coordinate assistance and services to the Jamestown-Yorktown Foundation in preparation for the celebration of the 400th anniversary of the founding of Jamestown. This bill also authorizes the Foundation to (i) solicit and accept donations of materials and services to defray expenses; (ii) retain nongeneral funds for expense reimbursement, (iii) procure goods and services with minimum requirements associated with the maximum delegated authority available to agencies or

institutions in the executive branch, (iv) consider all position levels depending upon workload and funding availability, (v) receive assistance and advice from state agencies without charge, and (vi) contact elected and appointed officials at all levels. The provisions of this act will expire on July 1, 2008. SB 523; CH. 799.

§ 9-145.48 amended. Recycling Markets Development Council. Requires the Department of Environmental Quality to provide administrative staff support of up to 20 hours per quarter to the Council with the funding coming out of the Department's general fund appropriations for operations. Currently, staff support is provided by members of the Council. HB 77; CH. 7.

§ 9-151. See § 40.1-6; HB 938.

§ 9-170 amended. Law-enforcement personnel training; Alzheimer's disease. Requires the Board and Department of Criminal Justice Services to establish training standards and publish a model policy for law-enforcement personnel in communicating with and facilitating the safe return of individuals diagnosed with Alzheimer's disease. Many individuals diagnosed with Alzheimer's disease lose their way, may have limited capacity to communicate, and may wander without a destination. Law-enforcement personnel are frequently called upon to assist in looking for or in returning these individuals. HB 1360; CH. 31.

§ 9-170 amended. Community policing programs. Requires the Department of Criminal Justice to review and evaluate community policing programs in the Commonwealth, and recommend where necessary operating procedures, guidelines, and standards for such programs. This is a recommendation of the Joint Subcommittee Studying the Status and Needs of African-American Males in Virginia. SB 614; CH. 523.

§ 9-170 amended. Cultural diversity training for law-enforcement officers. Requires the Department of Criminal Justice Services to establish a minimum in-service training standard, training objective, and model lesson plan for law-enforcement officers which enable the officer to demonstrate awareness of and sensitivity to cultural diversity; and establish the time required for completion of such training. This is a recommendation of the Joint Subcommittee Studying the Status and Needs of African-American Males in Virginia. SB 615; CH. 471.

§§ 9-178.1, 9-178.2 and 9-183.13 through 9-183.21. See § 17.1-100; HB 1114.

§§ 9-182, 9-183.1, 9-183.3, 9-183.4, 9-183.6, 9-183.7, 9-183.9, 9-183.11 and 9-183.12 amended. Department of Criminal Justice Services; regulation of the private security services. Grants to the Department of Criminal Justice Services the authority to certify private security training schools and instructors, unarmed security officers and electronic security personnel. The bill also (i) authorizes the Criminal Justice Service Board to enter into reciprocal agreements with other states, (ii) clarifies the definitions of certain private security personnel, (iii) authorizes the recovery of costs of investigation

and adjudications for violations, (iv) requires bonds or insurance to protect the public for training schools as is now required for private security services businesses, and (v) specifies the penalty for certain violations. The bill also contains technical amendments. HB 865; CH. 122.

§§ 9-182, 9-183.1, 9-183.3, 9-183.4, 9-183.6, 9-183.7, 9-183.9, 9-183.11 and 9-183.12 amended. Department of Criminal Justice Services; regulation of the private security services. Grants to the Department of Criminal Justice Services the authority to certify private security training schools and instructors, unarmed security officers and electronic security personnel. The bill also (i) authorizes the Criminal Justice Service Board to enter into reciprocal agreements with other states, (ii) clarifies the definitions of certain private security personnel, (iii) authorizes the recovery of costs of investigation and adjudications for violations, (iv) requires bonds or insurance to protect the public for training schools as is now required for private security services businesses, and (v) specifies the penalty for certain violations. The bill also contains technical amendments. SB 694; CH. 807.

§ 9-183.3 amended. Electronic security contractors. Establishes minimum experience requirements for compliance agents. HB 509; CH. 53.

§ 9-310 amended. Commission on Equity in Public Education. Extends the Commission to July 1, 1999, and removes some outmoded language to update its charge. SB 563; CH. 50.

§ 9-326 amended. Advisory Council on the Virginia Business-Education Partnership Program; membership terms. Increases from two to four the number of successive two-year terms which an appointed member of the Council may serve. The bill provides that current members of the Council may be reappointed for up to a maximum of four two-year terms. HB 825; CH. 13.

§ 9-361. See § 42.1-1; HB 822.

§ 9-365 amended. Virginia Information Providers Network Authority; restrictions on release of information. Requires that the VIPNET Authority to ensure in its agreements that personal privacy of individuals is protected by not allowing the aggregation of information to reveal the identity of individuals. HB 632; CH. 715.

§ 9-365.1 added. Resource site for student employment and internship opportunities. Requires the Virginia Information Providers Network Authority to establish and maintain an Internet-based resource site to assist students and employers in exchanging information about internship and employment opportunities. HB 703; CH. 842.

TITLE 10.1. CONSERVATION.

§ 10.1-104.3 added. Clean Water Farm Award Program.

Requires the Director of the Department of Conservation and Recreation to create the Clean Water Farm Award Program. Farms fully implementing a nutrient management plan are eligible for recognition under the program. HB 807; CH. 93.

§§ 10.1-107 and 10.1-200 amended; § 10.1-200.1 added. State park planning. Requires the Department of Conservation and Recreation and the Board of Conservation and Recreation to undertake a master planning process for state parks. The process is to ensure public participation in the creation of plans for the development, utilization and management of state parks. The plans are to be developed in stages, allowing for public and legislative comment. The plans are also to include projected development costs and the operational, maintenance, staffing and other financial needs for the various stages of park development that may be proposed in a plan. Projections are also to be made for resource management needs. The Department is required to develop a standard, expressed in park acres and facilities needed on both regional and statewide bases to serve existing and projected populations, to provide an easily understandable mechanism for determining if the park system is meeting, exceeding or falling short of demands and needs. The positive economic impact of parks to the state and local economies is recognized. SB 290; CH. 780.

§ 10.1-112 amended. State park projects. Increases the maximum term of the initial lease or contract for a private enterprise project within a state park from 25 to 30 years. SB 236; CH. 168.

§ 10.1-202.1 added. State parks. Establishes a Golden Passport card that allows persons receiving social security disability benefits free admittance into any Virginia state park. SB 262; CH. 778.

§ 10.1-409 amended. Scenic river. Extends from five miles to 6.2 miles the portion of the Appomattox River designated as a component of the Virginia Scenic Rivers System. HB 547; CH. 82/SB 106; CH. 167.

§ 10.1-1011. See § 58.1-3205; HB 727.

§ 10.1-1105 amended; §§ 10.1-1150.1 through 10.1-1150.6 added. Prescribed burn managers program. Directs the State Forester to develop a certification process and training course for any person who wants to become a certified prescribed burn manager. A prescribed burning is a controlled fire that is confined to a predetermined area and is done for ecological, silvicultural or wildlife management purposes. The bill describes the elements of a prescribed burn, including the preparation of a plan (called a prescription) that details the area to be burned, the objectives of the burn, a summary of the methods to be used to start, control, and extinguish the fire, and a smoke management plan. Burning when done by a certified prescribed burn manager, according to law and in compliance with a prescription, does not constitute a public or private nuisance, and any landowner who conducts such a burn is not liable for any damage or injury caused by the smoke. HB 1110; CH. 156.

§ 10.1-1176. See § 58.1-1604; HB 657.

§§ 10.1-1181.1 and 10.1-1181.2 amended. Silvicultural activities. Requires a notice to take corrective action or any special or emergency order to correct silvicultural activities that affect water quality to be issued by the State Forester within one year after the activity has occurred. The bill also requires that the owner or operator notify the State Forester of the commercial harvesting of timber prior to or no later than three days after the beginning of such an operation. HB 1132; CH. 578.

§ 10.1-1422.03 amended. Litter Control and Recycling Fund Advisory Board; membership. Staggers the terms of the five-member Litter Control and Recycling Fund Advisory Board. Eff. 7/1/99. HB 595; CH. 86.

§ 10.1-1454.1 added. Regulation of transport of wastes on state waters. Requires the Waste Management Board to develop regulations governing the (i) transport, loading and unloading of certain types of solid and medical wastes by ship, barge or other vessel upon navigable waters of the Commonwealth and (ii) issuance of permits to facilities receiving such wastes. HB 816; CH. 717/SB 657; CH. 705.

§§ 10.1-1455 and 10.1-2500 amended. Waste Management Board special orders. Empowers the Virginia Waste Management Board to issue administrative orders called "special orders" that have a duration of not more than 12 months and contain a civil penalty of not more than \$10,000. The special orders may only be issued for violations of: (i) any law or regulation administered by the Board; (ii) any condition of a waste-related permit or certificate; or (iii) any case decision or order of the Board. The issuance of special orders by the Board is further restricted to situations where there have been at least two notices of violations related to the same violation that have not resulted in satisfactory compliance and a hearing has been held. Except in emergency situations, there is a five-day lag time before special orders become effective. The power to issue special orders in this bill is similar to, but more restrictive than, existing powers of the Air Pollution Control Board and the State Water Control Board. HB 649; CH. 837.

§ 10.1-2109 amended. Local penalty powers in Chesapeake Bay Preservation Areas; civil penalties. Authorizes local governments to incorporate certain penalty provisions into their ordinances developed to protect water quality in Chesapeake Bay Preservation Areas under the Chesapeake Bay Preservation Act. Civil penalties may be assessed by a court for up to \$5,000 per day of violation of orders, permits, regulations and the like issued under the local programs. Local governments may also, with the consent of the violator, provide for the payment of civil charges which are not to exceed \$10,000 per violation. These civil charges would be in lieu of civil penalties. The penalty provisions are in addition to any enforcement authority the local governing body may now have. HB 626; CH. 714/SB 354; CH. 700.

§ 10.1-2202.2 added. Historic preservation. Creates a special nonreverting fund, called the Preservation Easement Fund, to be administered by the Director of the Department of Historic

Resources to support and promote a historic property conservation easement program and to provide grants to those conveying perpetual easements for historical, architectural or archaeological purposes. HB 815; CH. 479.

§ 10.1-2211 amended. **Confederate graves, St. John's Episcopal, Halifax County.** Adds 31 graves to the number of Confederate graves at the St. John's Episcopal Church graveyard for purposes of receiving funds for maintenance of Confederate graves and cemeteries. HB 224; CH. 233.

§§ 10.1-2212 and 58.1-3607 amended. **Historical societies; Kenmore Association, Inc.** Substitutes Kenmore Association, Inc., for the George Washington Boyhood Foundation on the list of historical societies eligible to receive appropriations. Kenmore Association administers Ferry Farm, George Washington's boyhood home. HB 545; CH. 172.

TITLE 11. CONTRACTS.

§ 11-9.2 amended. **Powers of attorney.** Provides that an affidavit executed by the person holding the power of attorney that the power of attorney has not been revoked or terminated is conclusive proof of nonrevocation or nontermination in an action by or against a third party, unless the third party had actual knowledge to the contrary. Under current law, a third party may not rely on such an affidavit if fraud is involved, but the statute is unclear as to whose fraud and when such fraud would have to be discovered. HB 532; CH. 225.

§ 11-14 amended. **Gaming contracts.** Provides that a contract governing the distribution of state lottery proceeds is valid and enforceable as between the parties. SB 542; CH. 400.

§ 11-35. See § 23-76.1; HB 678/SB 606.

§ 11-41.2:3 amended. **Public Procurement Act; Design-Build/Construction Management Review Board; membership.** Adds the requirement that appointees to the Design-Build/Construction Management Review Board are actively engaged in the design-build construction management business. The bill clarifies that it does not affect existing appointments whose terms have not expired. SB 454; CH. 357.

§§ 11-42, 11-63, 11-65 and 11-70 amended. **Public Procurement Act; ineligibility to participate in public contracts; legal actions.** Requires a public body to announce its bid estimate at the opening of bid. The bill also (i) places conditions on a public body's ability to reject all bids, (ii) requires a public body to notify a bidder when the public body proposes to declare a bidder ineligible and allows the bidder to submit rebuttal information (this process mirrors the requirements for determination of nonresponsibility), and (iii) makes the remedy for determinations of nonresponsibility and determinations of ineligibility of a bidder to participate in public contracts the same. HB 850; CH. 753.

§§ 9-97 and 11-45 amended. **Public Procurement Act;**

exemptions. Exempts the Jamestown-Yorktown Foundation from the Public procurement Act. The bill authorizes the Jamestown-Yorktown Foundation to enter into contracts without competitive sealed bidding or competitive negotiation for the promotion of tourism through marketing, provided a demonstrable cost savings can be realized by the Foundation and such contracts are based on competitive principles. HB 139; CH. 222.

§ 11-45. See § 59.1-364; HB 1276.

§§ 9-97 and 11-45 amended. **Public Procurement Act; exemptions.** Authorizes the Jamestown-Yorktown Foundation, with the consent of the Governor, to enter into contracts with private entities without competitive sealed bidding or competitive negotiation for the promotion of tourism through marketing, provided a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such contracts are based on competitive principles. SB 445; CH. 791.

§ 11-45 and Chapter 271 of the Acts of Assembly of 1966 amended. **Certain hospital authorities.** Changes the terms of member appointments to the Chesapeake Hospital Authority to achieve the staggered terms contemplated by current law. For terms which commence in 1999, four members are to be appointed for four-year terms and two members for five-year terms; and for terms which commence in 2001, four members are to be appointed for four-year terms and one member for a three-year term. The maximum amount of member compensation is increased from \$2,000 to \$3,000. The bill also exempts the Chesapeake Hospital Authority and Hospital Authority of Norfolk from the provisions of the Public Procurement Act, and provides that they shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services. HB 1335; CH. 697.

§ 11-45 and Chapter 271 of the Acts of Assembly of 1966 amended. **Public Procurement Act; Chesapeake Hospital Authority.** Exempts the Chesapeake Hospital Authority from the requirements of the Public Procurement Act. The bill provides that the Authority shall not discriminate on the basis of race, color, religion, national origin, sex, pregnancy, child birth or related medical conditions, age, marital status, or disability in the procurement of goods and services. SB 469; CH. 666.

§ 11-70 amended. **Contracts; Public Procurement Act.** Prohibits the Comptroller from being named as a defendant in an action brought under the Public Procurement Act unless the dispute involves a contract of the Comptroller or the Office of Accounts. HB 1236; CH. 205.

TITLE 11. MISCELLANEOUS.

Procurement; information technology. Encourages public bodies to strive to solicit goods and nonprofessional services of responsible bidders or offerors located in Virginia to remediate computer problems associated with the "Year 2000" date change. The bill is a recommendation of the Joint Commission on Technology and Science. This bill has a sunset of January 1, 2001. Eff. 4/7/98. HB 276; CH. 250.

TITLE 12.1. STATE CORPORATION COMMISSION.

§ 12.1-12. See § 17.1-100; HB 1114.

TITLE 13.1. CORPORATIONS.

§§ 13.1-400.1, 13.1-400.3, 13.1-400.4, 13.1-400.4:1 and 13.1-400.5. See § 38.2-1800; SB 41.

§§ 13.1-501 and 13.1-504 amended. **Securities; investment advisors and representatives.** Revises and clarifies the definitions of "broker-dealer," "federal covered advisor" and "investment advisor representative" within the Virginia Securities Act. The bill also provides that a federal covered advisor must file documents and pay applicable fees as required by rules and orders of the Commission in order to lawfully transact business in the Commonwealth. HB 439; CH. 22.

§ 13.1-504 amended. **Securities; registration of investment advisor representatives.** Prohibits investment advisor representatives from working for more than one investment advisor, except pursuant to Senate rules and regulations as the Virginia State Corporation Commission may prescribe. The bill also requires an investment advisor representative to notify the Commission whenever he changes his connection from one investment advisor or federal covered advisor to another. HB 592; CH. 255.

§§ 13.1-549 and 13.1-1111. See § 54.1-300; HB 930.

§§ 13.1-1005, 13.1-1010.1, 13.1-1022, 13.1-1024, 13.1-1039, 13.1-1046, 58.1-1813 and 63.1-325 amended; §§ 13.1-1011.1, 13.1-1040.1 and 13.1-1050.1 added. **Limited Liability Company Act.** Amends the Limited Liability Company Act by (i) providing for certificates of correction to correct a limited liability company's articles of organization, (ii) adding provisions permitting designations of officers and other agents and voting by proxy and unanimous consent, (iii) providing for events which cause disassociation of a member of a limited liability company, (iv) eliminating disassociation of a member

as a cause for dissolution of a limited liability company, and (vi) permitting reinstatement of a limited liability company after cancellation of a certificate of organization. The bill also subjects members and managers of limited liability companies to the same penalties for willfully failing to pay, collect, or truthfully account for tax payments as those imposed on corporate and partnership officers, and grants the same tax credits for donations of professional services as those granted to sole proprietors and partnerships. HB 906; CH. 432.

TITLE 14.1. COSTS, FEES, SALARIES AND ALLOWANCES.

§§ 2.1-20.2, 2.1-38, 2.1-68, 2.1-180, 12.1-12, 22.1-32, 22.1-296, 37.1-39 amended; §§ 2.1-20.5 through 2.1-20.12, 2.1-38.3, 2.1-71.2, 8.01-609.1, 8.01-618.1, 9-178.1, 9-178.2, 9-183.13 through 9-183.21, 15.2-1414.1 through 15.2-1414.7, 15.2-1508.1 through 15.2-1508.4, 15.2-1537.1, 15.2-1605.1; 15.2-1608.1, 15.2-1608.2, 15.2-1609.1 through 15.2-1609.9, 15.2-1612.1, 15.2-1614.1, 15.2-1615.1, 15.2-1627.1, 15.2-1627.2, 15.2-1627.3, 15.2-1635.1, 15.2-1636.1 through 15.2-1636.19, 16.1-69.48:1 through 16.1-69.48:4, 17.1-100 through 17.1-806, 19.2-46.1, 19.2-46.2, 19.2-47.1, 30-14.01; 30-19.11 through 30-19.20, and 37.1-42.3 added; §§ 14.1-1 through 14.1-201 and 17-1 through 17-238, Chapter 71 of the 1966 Acts of Assembly (carried by reference as § 17-117.1), and Chapter 83 of the 1954 Acts of Assembly (carried by reference as § 17-118.1) repealed. **Revision of Titles 14.1 and 17.** Revises and recodifies the laws pertaining to courts of record and costs, fees, salaries, allowances, and the collection of those by certain officials. The bill preserves the provisions of Title 14.1 by distributing those sections into the more appropriate titles of the Code. For effective date, see bill. HB1114; CH. 872

§ 14.1-18. See § 2.1-20.3; SB 442.

§ 14.1-70 amended. **Funding for deputy sheriffs.** Increases the minimum number of deputies funded by the compensation board from one per 2,000 persons to one per 1,500 persons. This measure applies to counties without a police force. HB 808; CH. 305/HB 949; CH. 307/HB 1040; CH. 327/SB 170; CH. 276/SB 604; CH. 290.

§ 14.1-82.1 added. **Compensation Board; salary increases for constitutional officers.** Prohibits localities from using reimbursements from the Compensation Board for any purpose other than salary when the Compensation Board provides salary increases for constitutional officers and their assistants or deputies. HB 561; CH. 647.

§ 14.1-103. See § 8.01-329; HB 777.

§§ 14.1-112 and 14.1-134.1. See § 18.2-251; HB 664/SB 317.

§ 14.1-118.1 amended. **Electronic access to certain court records.** Allows, instead of mandates, the clerk to charge a fee

for electronic access to nonconfidential court records. The fee, if any, is to be established by the clerk or, as under current law, the local government agency that is providing computer support for such access. The fee is limited to an amount to cover the operational costs of providing access (e.g., maintenance, support, enhancements of the system used to provide access). The fee, if charged, is to be charged each user and paid into a special local nonreverting fund to be used for operating the system. HB 792; CH. 650.

TITLE 14.1. MISCELLANEOUS.

Land records management. Continues the Task Force on Land Records Management through June 30, 1999, for the purpose of implementing the strategic and tactical plans consistent with the Final Report of the Task Force issued January 1, 1998. The membership shall remain the same. The bill also extends the sunset applicable to the Task Force to July 1, 2000. Eff. 3/8/98. HB 1141; CH. 14.

TITLE 15.2. COUNTIES, CITIES AND TOWNS.

§ 15.2-106 amended. Banking and finance and local government; recovery of costs for bad checks and failure to pay accounts due. Increases from \$20 to \$25 the amount a local government may collect from a person using a bad check to pay taxes or other sums due. SB 36; CH. 502.

§ 15.2-705 amended. County manager plan of government (Arlington County); election of board; filling vacancies. Provides that the local electoral board shall set and announce the candidate filing deadline for a special election to fill a vacancy in the county board promptly after the circuit court sets the date for the special election. HB 396; CH. 369/SB 61; CH. 345.

§ 15.2-903 amended. Screening of automobile graveyards and junkyards. Allows Shenandoah County (described by population) by ordinance to require the screening of automobile graveyards and junkyards. HB 491; CH. 180.

§ 15.2-912.1 added. Professions and occupations; martial arts instructors. Allows the Cities of Norfolk and Chesapeake (described by population) to require martial arts instruction businesses to have a person who is trained in first aid on the premises. Any person who fails to comply with such an ordinance may be subject to civil penalties not to exceed \$50 for the first violation and \$100 for the second. SB 94; CH. 583.

§ 15.2-926 amended. Curfew violations. Clarifies that juveniles who are found to have violated a curfew ordinance are subject to the dispositions available to the juvenile and domestic

relations district court as those authorized for children in need of services (e.g., impose terms and conditions, order parent to participate in programs, order the child to perform community service, etc.). The bill also provides that the curfew imposed on minors by a local governing body shall not begin earlier than 10 p.m. nor last later than 6 a.m. HB 1064; CH. 760.

§ 15.2-953 amended. Donations to charitable organizations; Salvation Army. Clarifies that localities may make donations of gifts or property to the Salvation Army. HB 677; CH. 376.

§ 15.2-963 amended. Local offices of consumer affairs. Provides that local offices of consumer affairs have authority to investigate complaints regardless of whether the complainant is a citizen of the locality. HB 218; CH. 194.

§ 15.2-1215 amended. Authority to cut grass; Henry County. Adds Henry County (described by population) to the list of those counties which may by ordinance require that the owner of occupied residential real property cut the grass on such property when growth exceeds 12 inches in height. HB 950; CH. 756.

§ 15.2-1215 amended. Authority to cut grass; certain counties. Adds the Counties of Augusta, Henry and Rockingham (described by population) to the list of those counties which may by ordinance require that the owner of occupied residential real property cut the grass on such property when growth exceeds 12 inches in height. SB 367; CH. 640.

§ 15.2-1412. See § 42.1-1; HB 822.

§§ 15.2-1414.1 through 15.2-1414.7, 15.2-1508.1 through 15.2-1508.4, 15.2-1537.1, 15.2-1605.1, 15.2-1608.1, 15.2-1608.2, 15.2-1609.1 through 15.2-1609.9, 15.2-1612.1, 15.2-1614.1, 15.2-1615.1, 15.2-1627.1, 15.2-1627.2, 15.2-1627.3, 15.2-1635.1 and 15.2-1636.1 through 15.2-1636.19. See § 17.1-100; HB 1114.

§ 15.2-1427 amended. Adoption of ordinances and resolutions. Provides that a governing body may adopt an ordinance or resolution by a recorded voice vote unless otherwise provided by law. Also, the bill validates previously adopted resolutions unless a constitutional provision has been violated and states that the act is declarative of existing law. HB 341; CH. 823.

§ 15.2-1500 amended. Organization of local government. Clarifies the existing law which gives localities authority to organize their departments by expanding such authority to offices, boards, commissions and agencies and the organizational structure thereof. The bill also provides that, notwithstanding any other provision of law, general or special, no locality shall establish any governmental entity which has authority to offer telecommunications equipment, infrastructure or services. Exceptions are provided for certain intragovernmental uses and for the Town of Abingdon (described by proximity to Interstate 81). Localities are permitted to sell their existing telecommunications infrastructure and equipment. The act contains a sunset clause of July 1, 2000. HB 335; CH. 906.

§ 15.2-1535. See § 16.1-316; HB 728.

§ 15.2-1541.1 added. **Authority of county administrator to maintain centralized system of accounting.** Authorizes a county administrator to maintain a centralized system of accounting for the county. This bill restores a portion of § 15.1-117 (7) which was deleted as part of the Title 15.1 recodification. HB 943; CH. 380.

§ 15.2-1610 amended. **Sheriff's motor vehicles.** Allows marked motor vehicles used by sheriffs' offices, with the concurrence of the governing body and the sheriff, to be either brown or white. HB 533; CH. 413.

§ 15.2-1636.20. See § 58.1-3523; SB 4005.

§ 15.2-1704 amended. **Service of civil papers by towns.** Allows town police officers, with the concurrence of the local sheriff, to serve civil papers, and make return thereof, only when the town is the plaintiff and the defendant can be found within the corporate limits of the town. HB 783; CH. 425.

§ 15.2-1800 amended. **Local governments.** Provides that local government law relating to buildings, monuments and lands control the acquisition of telecommunications facilities for the operation of wireless enhanced public safety telephone service systems. HB 1237; CH. 696.

§ 15.2-1802 amended. **Acquisition of land by towns for development of business and industry.** Makes section, which currently applies to all localities, applicable to towns only. This amendment is not intended to affect the authority of counties and cities to acquire land for such purposes but reinstates the section as it existed prior to the Title 15.1 recodification. The Code Commission recommended this bill in order to eliminate a possible conflict created by the recodification amendment. Eff. 4/2/98. HB 619; CH. 198.

§ 15.2-1812 amended. **Memorials for war veterans.** Replaces a cross-reference to wars for which localities may erect monuments with a listing of such wars and clarifies that localities may appropriate money to permanently care for monuments and memorials for war veterans. Also, it shall be unlawful to place Union monuments on previously designated Confederate memorials or to place Confederate monuments on previously designated Union memorials. HB 845; CH. 752.

§ 15.2-2108 amended. **Cable television; use of rights-of-way.** Provides that if a franchised cable television operator has been authorized to use the public rights-of-way in a locality and is obligated to pay a franchise fee to such locality, such cable television operator shall not be subject to any permit, occupancy, inspection or similar fee with respect to its use of such rights-of-way, by the locality or the Commonwealth Transportation Board. However, localities and the Board may charge certain fees to recover costs incurred for the issuance of a permit to perform work within the rights-of-way and for certain inspections. There are some technical amendments. HB 1148; CH. 762.

§ 15.2-2108.1 added. **Open video systems.** Allows localities to regulate an open video system to the maximum extent permitted

by federal law. HB 1079; CH. 652/SB 578; CH. 643.

§ 15.2-2114 amended. **Stormwater management; cemeteries may be exempt from fees.** Allows localities to exempt cemeteries from local stormwater management fees. HB 648; CH. 182.

§ 15.2-2118 amended. **Liens for water and sewer charges.** Adds Orange County and any towns located within Orange County to the list of counties allowed to enact an ordinance to provide that taxes or charges imposed for water or sewer service shall be a lien on the real estate served by such water line or sewer. Certain restrictions apply to residential rental real estate. HB 339; CH. 568.

§ 15.2-2118 amended. **Lien for water and sewer charges and taxes; City of Fairfax.** Adds the City of Fairfax to those localities granted authority to provide by ordinance that charges for water or sewer service shall be a lien on the real estate served. Also, such liens will apply for service provided outside of the locality. SB 249; CH. 313.

§ 15.2-2119 amended. **Provision of sewer services; Town of Front Royal.** Provides that the Town of Front Royal (described by population) may provide sewer services to industrial and commercial users outside its boundaries and collect such compensation therefor as may be contracted for between the town and such user. Front Royal shall not thereby be obligated to provide sewer services to any other users outside its boundaries. HB 501; CH. 223.

§ 15.2-2119.1 added. **Credit for excessive water or sewer charges.** Allows a locality to provide a partial credit for excessive water and sewer charges where high water usage is caused by damaged pipes, leaks, accidents or other unintentional causes. HB 448; CH. 178.

§ 15.2-2143 amended. **Provision of water; Town of Front Royal.** Provides that the Town of Front Royal (described by population) may provide water supplies to industrial and commercial users outside its boundaries and collect such compensation therefor as may be contracted for between the town and such user. Front Royal shall not thereby be obligated to provide water supplies to any other users outside its boundaries. HB 502; CH. 224.

§ 15.2-2143 amended. **Local water supply systems.** Provides that local water rates shall be fair and reasonable and payable as directed by the locality. HB 1042; CH. 328.

§ 15.2-2230.1 added. **Local planning commission studies.** Allows local planning commissions to conduct an analysis of the public facilities that would be needed to support full implementation of the locality's comprehensive plan. "Public facilities" includes but is not limited to water and sewer treatment plants, roads, schools, and public safety facilities. HB 650; CH. 609.

§ 15.2-2232 amended. **Local planning commissions; approval of telecommunications facilities.** Requires local planning commissions' determinations concerning proposed telecommunications facilities to comply with the requirements

of the Federal Telecommunications Act of 1996. The bill further stipulates that a telecommunications facility application shall be deemed approved if a commission fails to act on it within 90 days of its submission unless the governing body or the applicant has authorized an extension of time. A governing body may not grant an extension that is longer than 60 days. If the commission has not acted on the application by the end of the extension, the application is deemed approved. HB 568; CH. 683.

§ 15.2-2244 amended. Provisions for subdivision of a lot for conveyance to a family member. Allows localities to define "immediate family" to include aunts, uncles, nieces and nephews for purposes of family subdivision provisions. HB 852; CH. 457.

§ 15.2-2245.1 added. Subdivision ordinances; tree preservation. Provides that a locality shall not require, but may permit, the removal of trees to create stormwater management facilities if certain requirements can otherwise be met. HB 113; CH. 221.

§ 15.2-2257. See § 55-508; HB 1356.

§ 15.2-2286 amended. Decisions of zoning administrator. Requires the zoning administrator to make a decision or determination on zoning matters within 90 days of a request unless the requester has agreed to a longer period. HB 1396; CH. 385.

§ 15.2-2291 amended. Group homes for aged, infirm or disabled persons. Requires Henry County (described by population) to consider a residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. Similar provisions are also added for the City of Lynchburg (described by population) with regard to four such residents. Eff. 4/15/98. SB 273; CH. 585.

§ 15.2-2293.1 added. Placement of amateur radio antennas. Requires local ordinances involving the placement, screening or height of antennas to reasonably accommodate amateur radio antennas and to impose the minimum regulation necessary to accomplish the locality's legitimate purpose. No local ordinance shall (i) restrict amateur radio antenna height to less than 200 feet above ground level less (in less densely populated localities) or 75 feet above ground level (in more densely populated localities) as permitted by the Federal Communications Commission or (ii) restrict the number of support structures. Localities may continue to regulate amateur radio antennas with regard to certain screening, setback, placement, and health and safety requirements. SB 480; CH. 642.

§ 15.2-2307 amended. Vested rights. Provides that a landowner's rights shall be deemed vested in his zoning and not affected by a subsequent amendment to a zoning ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act allowing development of a specific project, (ii) relies in good faith on the affirmative governmental act, and (iii) incurs extensive obligations or

expenses in diligent pursuit of the specific project which is the subject of the affirmative governmental act. Actions deemed to be "significant affirmative governmental acts" are listed. SB 570; CH. 801.

§ 15.2-2308 amended. Board of zoning appeals. Clarifies that in the nineteenth judicial circuit the chief judge of the circuit court or his designated judge shall make appointments to the board. HB 368; CH. 528/SB 309; CH. 520.

§ 15.2-2308 amended. Boards of zoning appeals. Allows the circuit court, at the request of a locality, to appoint up to three alternates to the board of zoning appeals. SB 62; CH. 346.

§ 15.2-2404 amended. Assessments for local road improvements. Adds the City of Hopewell (described by population) to those cities with the authority to impose taxes or assessments upon the abutting property owners for the initial improving and paving of an existing street. Not less than 50 percent of such abutting property owners who own not less than 50 percent of the property abutting such street must first request the improvement or paving. HB 897; CH. 324.

§ 15.2-2404 amended. Local assessments for relocation of utility lines. Allows the City of Williamsburg (described by population) to impose assessments on owners of abutting property for underground relocation of utility distribution lines, only upon landowner petition or agreement between the landowners and local governing body. HB 1019; CH. 864.

§§ 15.2-4203 and 15.2-4207 through 15.2-4210 amended. Regional Cooperation Act. Allows planning district commissions to use the name "regional commission" or "regional council." Other changes (i) emphasize that planning district commissions serve state governments as well as local governments, (ii) clarify that localities are not required to adopt the regional strategic plan, and (iii) remove the requirement that a locality shall act in conformity with any regional strategic plan that it adopts. HB 641; CH. 686/SB 616; CH. 668.

§§ 15.2-4305, 15.2-4307, 15.2-4308, 15.2-4309 and 15.2-4313 amended. Agricultural and forestal districts. Modifies the procedures required for (i) district creation and expansion and (ii) local review of agency and public service corporation proposals to acquire interests in land within a district. Time periods assigned to various steps in the creation and expansion process are eliminated, but the overall period during which a locality must act on applications (six months) has not been changed. Agencies and public service corporations are currently required to notify the locality 30 days before acquiring interest in land within a district. Under the bill, the notice period is 90 days, notice must also be given to district landowners, and the notice to the locality must include detailed information about the proposal. For the second stage of the local review process, the vote required for the locality to allow the proposal to proceed is increased. This is a recommendation of the Joint Subcommittee Studying Agricultural and Forestal Districts. HB 563; CH. 833.

§§ 15.2-4905, 15.2-4907 and 15.2-4917 amended. Industrial Development and Revenue Bond Act. Provides for the

payment of real estate brokerage fees and modifies the form required to be submitted to a local governing body for an industrial development facility financing request. The form must indicate the goods and services which will be purchased from companies inside Virginia and outside Virginia. HB 1405; CH. 728.

§ 15.2-5002. See § 23-9.2.3; HB 638.

§ 15.2-5002. See § 23-9.2.3; SB 341.

§ 15.2-5136 amended. **Water and waste authorities.** Reduces the notice and publication requirement for authorities setting fees or charges for refuse collection. Under current law, a preliminary schedule of fees or charges must be published twice, and a public hearing must be held no sooner than 60 days after the second publication. This bill will allow a single publication with a hearing to be held no sooner than 15 days after publication. The notice and publication requirements for fees related to sewage disposal and stormwater control facilities are unchanged. There are technical corrections. HB 1100; CH. 869.

§ 15.2-5156 amended. **Community development authorities; service districts.** Allows a local governing body to adopt the ordinance or resolution creating a community development authority in an expedited manner if all the petitioning landowners waive the right to withdraw their signatures from the petition. Eff. 4/1/98. HB 1298; CH. 188.

TITLE 15.2. MISCELLANEOUS.

Property of Henrico County in the City of Richmond. Repeals special acts of 1898 and 1912 which recognized the Henrico courthouse property located in the City of Richmond. Eff. 1/1/98. SB 218; CH. 348.

Municipal or recreational purpose restrictions. Provides that any municipal or recreational purpose restriction placed on real property acquired by the Commonwealth or by any locality from the Commonwealth shall be satisfied if the property is used for tourism purposes which benefit the locality's tourism industry. SB 707; CH. 673.

CHARTERS; AUTHORITIES

Castlewood, Town. Repeals the charter for the Town of Castlewood, which was incorporated in 1991. HB 401; CH. 177.

Chesapeake Bay Bridge and Tunnel Commission. Changes composition, turn, and method of appointment of all members of the Chesapeake Bay Bridge and Tunnel Commission appointed or reappointed on or after July 1, 1998. SB 335; CH. 548.

Chesapeake, City. Changes the annual deadlines for submission and adoption of the city's capital improvement program so that they coincide with the deadlines for submission and adoption of the operating budget. This bill is identical to Senate Bill 52, except that Senate Bill 52 has an emergency clause. HB 219; CH. 561.

Chesapeake, City. Changes the annual deadlines for submission and adoption of the City's capital improvement program so that they coincide with the deadlines for submission and adoption of the operating budget. This bill is identical to HB 219, except that House Bill 219 does not have an emergency clause. Eff. 4/15/98. SB 52; CH. 626.

Covington, City. Updates the city boundary description. Other changes (i) incorporate a 1988 court decree regarding composition of council, (ii) move from one section of the charter to another a provision regulating appointment of a council member to an office of profit, (iii) delete provisions regarding council salaries, thereby defaulting to general law provisions, and (iv) delete outdated provisions regarding justices of the peace, city sergeants and employee residence requirements. HB 85; CH. 139.

Drakes Branch, Town. Provides that the mayor and council are to serve four-year terms. The bill also makes technical changes and deletes obsolete provisions. Eff. 4/8/98. SB 111; CH. 275.

Edinburg, Town. Increases the mayor's term from two to four years. Also, the maximum penalty for violating a town ordinance is increased from \$500 to \$1,000, and various outdated provisions are deleted. Eff. 4/1/98. HB 798; CH. 184.

Fredericksburg, City. Allows members of council to serve in various unpaid positions of trust upon expiration of their terms. HB 266; CH. 527/SB 72; CH. 517.

Herndon, Town. Updates the town's legal description. Also, outdated references to Title 15.1 are changed to Title 15.2 in the descriptions of the town's general powers and condemnation power, and the town manager is authorized to settle certain claims against the town. Eff. 3/16/98. HB 37; CH. 137.

Keysville, Town. Extends the terms of the council and mayor from two to four years. Eff. 3/27/98. HB 225; CH. 170.

Martinsville, City. Allows the City to establish design overlay districts to encourage compatible development in areas identified on a comprehensive plan as having historic value or unique architectural value and located within an area designated for conservation, rehabilitation or redevelopment. In such areas, the Council shall adopt specific standards as to new construction or rehabilitation within view from public streets and provide for a design review process. City Council may establish a fee which shall not exceed the actual cost of such review process. SB 143; CH. 635.

Onancock, Town. Changes the starting date of council terms from September 1 to July 1. This conforms with general law. HB 20; CH. 136.

Portsmouth, City. Authorizes the city to acquire, but not by condemnation, land for the purpose of encouraging economic development. HB 51; CH. 138/SB 32; CH. 344.

Pulaski, Town. Grants power to the town manager, rather than town council, to appoint and remove all department heads. HB 244; CH. 171.

Richmond, City. Makes the first comprehensive revision of the city charter since its enactment in 1948 for the primary purposes of simplifying the charter, deleting archaic provisions, providing greater flexibility to city council to change the structure of departments and eliminating many detailed descriptions and procedures from the charter. Specific amendments in the bill (i) update the city's boundary description; (ii) eliminate the current prohibition on privatization of correctional facilities; (iii) allow the city to call a special election to fill a council vacancy if the vacancy occurs more than one year prior to the expiration of the term; (iv) give city management greater flexibility in determining the number of needed employment positions within the council-approved budget; (v) eliminate the requirement to publish certain notices in a daily newspaper, but instead require publication in a paper of general circulation; (vi) eliminate a hearing requirement for removal of a department head and clarify that department heads that are appointed by the city manager serve at the pleasure of the city manager; (vii) require the city manager to submit financial and activity reports as required by council rather than at each council meeting; (viii) delete the provision which prevents the city manager from attending and participating in personnel board meetings; (ix) eliminate from the charter the listing of administrative departments and their components and grant general authority to establish departments, bureaus, divisions and offices; (x) authorize the city manager to submit recommendations to the council for its adoption of a personnel system and establishes broad parameters for adoption of such a system; (xi) change the narrow phrase "general fund budget" to the broader term "budget" in numerous places; (xii) eliminate the requirement to itemize the appropriation ordinance by units within a department; (xiii) alter the procedure for budget transfers between departments; (xiv) broaden the council's ability to amend the capital budget so long as funds are available to finance the cost of the amendment, regardless of the funding source; (xv) broaden the city manager's authority to transfer the balance of any completed capital project to an approved incomplete capital project; (xvi) broaden the council's authority to assign revenue from any source and for any amount to the reserve fund for capital projects; (xvii) update the city's borrowing authority by replacing detailed provisions with reference to the general law; (xviii) conform certain zoning notices to general law; (xix) clarify that the posting of a bond is not necessary for any employee to whom liability coverage has been granted by the city, regardless of whether the employee is sued in his official capacity or in his individual capacity; and (xx) make numerous updating and technical changes. HB 306; CH. 711.

Scottsville, Town. Provides a new charter for the Town of Scottsville and repeals the existing charter. The new charter grants general powers available to all Virginia towns and updates many outdated provisions from the original charter. SB 37; CH. 243.

Tazewell, Town. Allows the town to prescribe penalties for the violation of ordinances not to exceed penalties established by the Commonwealth for similar offenses. HB 116; CH. 366.

Vinton, Town. Provides that if a vacancy in the office of mayor or councilman occurs with more than two years remaining in the four-year term, the person appointed by council shall serve only until the next councilmanic election, at which time the voters shall fill the vacancy. The mayor shall always be elected for a four-year term, even though he is filling an unexpired term. Currently, the town council fills the vacancy for the unexpired portion of the term. HB 94; CH. 249.

Capital Region Airport Commission. Allows the Commission to (i) enforce motor vehicle moving violations, rather than merely speed limits, (ii) deposit its moneys in banks having their principal offices outside Virginia and (iii) relating to the issuance of bonds, enter into swap agreements or other contracts or arrangements that the Commission determines to be necessary or appropriate. SB 340; CH. 588.

Chesapeake Hospital Authority. Changes the terms of member appointments to the Chesapeake Hospital Authority to achieve the staggered terms contemplated by the current act. For terms which commence in 1999, four members are to be appointed for four-year terms and two members for five-year terms; and for terms which commence in 2001, four members are to be appointed for four-year terms and one member for a three-year term. The maximum amount of member compensation is increased from \$2,000 to \$3,000. SB 53; CH. 659.

Hampton Roads Sanitation District Commission. Provides that the Counties of King William, Mathews and Middlesex and the Town of Urbanna may be represented on the Commission. The bill also removes outdated language. SB 449; CH. 210.

Metropolitan Washington Airports Authority. Gives the Authority's police officers powers granted Virginia police officers under Title 19.2, updates other Code references, and clarifies that amended versions of the Virginia Code apply to the Authority's police. HB 351; CH. 824.

Peninsula Ports Authority. Adds additional localities to the Authority and adds representation of those localities to the Authority's Commission. SB 621; CH. 211.

TITLE 16.1. COURTS NOT OF RECORD.

§ 16.1-69.6:1 amended. District court judges. Adds one general district court judge to the second district (Virginia

Beach) and one new juvenile court judge in the third (Portsmouth), fourth (Norfolk) and thirteenth (Richmond) districts. HB 173; CH. 2.

§§ 16.1-69.25:1, 16.1-77, 16.1-88.01, 16.1-92 and 16.1-122 amended. Courts not of record; exclusive jurisdiction of district court. Increases from \$1,000 to \$3,000 the amount in controversy for exclusive civil jurisdiction of general district courts. Tort Claims Act cases are excluded. The bill also specifies that the court may order a filing of a written bill of particulars upon the request of either party. HB 512; CH. 482/SB 540; CH. 495.

§ 16.1-69.40:1 amended. Disabled parking fines; prepayment. Authorizes the prepayment of disabled parking fines. SB 410; CH. 209.

§§ 16.1-69.48:1 through 16.1-69.48:4. See § 17.1-100; HB 1114.

§ 16.1-107 amended. Appeal from judgment of general district court. Provides that a local public transportation district is not required to post an appeal bond when it appeals a decision of a district court to a circuit court. HB 1267; CH. 266.

§ 16.1-122.1 and second enactment of Chapter 253 of the 1997 Acts of Assembly. Small claims courts. Requires the establishment of small claims divisions within every general district court throughout the Commonwealth by July 1, 1999. HB 1354; CH. 656/SB 276; CH. 779.

§ 16.1-241 amended; §§ 16.1-349 through 16.1-355 added. Standby guardianship. Allows a parent who is seriously ill to designate, either by obtaining prior court approval or by a more informal written designation, a standby guardian. The other parent and specified family members are to be given notice of the appointment. The standby guardian will be authorized to act for the parent with respect to a minor child of the parent upon the occurrence of a "triggering event," which must be specified by the court or the parent (e.g., the parent's incompetence or debilitation and consent). Provisions are included for reviewing continuation of an ongoing standby guardianship and for revoking or otherwise terminating the authority of the standby guardian. Responsibility is placed on the standby guardian to ensure that permanent arrangements for the care of the child are made when the parent is no longer able to do so. HB 511; CH. 829.

§ 16.1-241.3. See § 63.1-248.3; HB 803/SB 557.

§ 16.1-248.2 amended. Juveniles; mental health screening. Makes community services boards responsible for conducting mental health assessments of juveniles in secure facilities who are identified as needing such an assessment. The community services boards shall be reimbursed out of funds appropriated to the Department of Juvenile Justice, according to a compensation plan the Department is to develop. HB 940; CH. 434.

§ 16.1-249 amended. Confinement of juveniles. Changes the number of hours a juvenile may be housed in a separate room in a jail or other adult detention facility to six hours before and six

more hours after the court hearing when the court orders a longer period. Currently, the juvenile may be held for a maximum of six hours. Eff. 4/22/98. HB 519; CH. 830.

§ 16.1-249 amended. Placement of juveniles. Grants the Board of Juvenile Justice the authority to certify juvenile detention facilities located upon the site of an adult regional jail facility. Currently, that authority rests with the Department of Corrections. HB 1081; CH. 576.

§§ 16.1-253, 16.1-281, 16.1-282, 16.1-282.1, 16.1-283, 16.1-296 and 16.1-298 amended; § 16.1-242.1 added. Foster care; adoption; termination of parental rights; appeals. Specifies that protective orders may be issued, on motion, whether ex parte or sua sponte, in the course of proceedings pending before the court. If an ex parte preliminary protective order is issued, the court must include an affidavit or a summary of the allegations and findings in its order. In cases of abuse and neglect, the bill requires an adjudicatory hearing to be held prior to the court making its findings within 30 days of the date of the initial preliminary protective order hearing; currently the 30-day period runs from the date of the first preliminary removal hearing. As required by federal law, a provision is added stating that the health and safety of the child are the paramount concern during development and implementation of the foster care plan. The court is authorized to hear and decide a petition for termination of parental rights in the same proceeding in which a foster care plan is approved. Additional grounds for termination of parental rights are added. Termination of parental rights is authorized upon finding that a parent was convicted of murder or voluntary manslaughter or any felony attempt, conspiracy or solicitation to commit such offense, if the victim was a child of the parent or a child with whom the parent resided at the time the offense occurred or the other parent of the child. Termination is also authorized if the parent is convicted of felony sexual assault or felony assault or bodily wounding resulting in serious bodily injury if the victim was a child of the parent or a child with whom the parent resided at the time of the offense. A definition of bodily injury is added. The time frame for failing to maintain continuing contact with a child in foster care as a basis for terminating parental rights is reduced from 12 months to six months. Foster parents are entitled to notice of the proceedings without regard to the length of time the child has been with them. Residual parental rights may be terminated upon finding that such rights with respect to a sibling of the child have previously been involuntarily terminated.

The local board or agency having authority to place a child for adoption following termination of parental rights is required to file a report with the court every six months until a final order of adoption is entered. Appeals of termination cases to the Court of Appeals are given priority on the court's docket. Finally, the bill clarifies that when an appeal is pending, the juvenile court retains jurisdiction to hear petitions involving foster care review and permanency planning hearings for children in foster care. The bill is recommended by the Judicial Council. SB 388; CH. 550.

§§ 16.1-253.1, 16.1-253.4, 16.1-279.1, 18.2-119, 19.2-81, 19.2-152.8, 19.2-152.9 and 19.2-152.10 amended. **Protective orders.** Makes primarily technical changes in the provisions governing protective orders in cases of family abuse or stalking.

The provision governing expiration of an emergency order is clarified to ensure that the order remains effective beyond 72 hours only if the court is not in session at that time, and continues to be effective until 5 p.m. of the next day that the issuing court is in session. Electronic transfer of information from the courts to VCIN is authorized, but not required. A reference to the provisions governing return of service by a private process service is added to the section on preliminary protective orders. Language is added to clarify that references in the statutes to service of a "copy" includes a facsimile copy. The definition of "law-enforcement officer" is amended to include auxiliary police officers having the power of arrest. The bill adds emergency protective orders issued in family abuse and stalking cases to the list of court-ordered prohibitions included in the criminal trespass statute. Finally, the bill includes authority for law-enforcement officers to make a warrantless arrest in cases of brandishing a firearm. Because brandishing is a misdemeanor, a warrantless arrest under current law would require that the offense be committed in the officer's presence. In domestic violence situations, this would rarely be the case. This bill is recommended by the Commission on Family Violence Prevention. HB 583; CH. 684.

§ 16.1-253.4 amended. **Protective orders.** Allows a law-enforcement officer to petition for an extension of an emergency protective order for an additional 72-hour period on behalf of a person who is physically or mentally incapable of filing for a preliminary or permanent protective order (e.g., a person who is comatose). HB 291; CH. 677.

§ 16.1-273. See § 18.2-251; HB 664/SB 317.

§ 16.1-286. See § 2.1-1.4; HB 667.

§ 16.1-299.1. See § 19.2-310.2; SB 208.

§ 16.1-305 amended. **Juvenile records.** Allows the Department of Juvenile Justice to obtain access to records electronically, if the record is maintained by the court in that form, and specifies that when so transferred those records become subject to the confidentiality provisions otherwise applicable to the Department's records. This bill is recommended by the Committee on District Courts. SB 185; CH. 278.

§ 16.1-305 amended. **Juvenile records; access.** Allows Commonwealth's attorneys and probation officers to receive copies of juvenile records for preparation of the guidelines worksheets. This bill is recommended by the Sentencing Commission. SB 364; CH. 521.

§ 16.1-309.6 amended. **Juvenile Community Crime Control Act.** Clarifies the required local funding level for operating costs under the Act to be at least equal to, rather than equal to, total 1995 expenditures for child care day placements and adds

that funding shall not include placements made pursuant to § 2.1-757 (state pool of funds for troubled youth and family services). HB 660; CH. 54.

§ 16.1-309.8 amended. **Juvenile Community Crime Control Act; costs of maintenance of juveniles.** Adjusts the maximum amount a program may charge other localities using the program to ensure that the daily rate charged by the localities operating the program meets, but does not exceed, the costs of providing services. HB 1041; CH. 538.

§§ 15.2-1535 and 16.1-316 amended. **Juvenile detention or residential care facilities commissions; appointment of alternate members.** Allows appointment by localities of alternate members to such commissions. The alternate members may participate in all meetings of the commission and may vote in the absence of their respective principals. HB 728; CH. 488.

§ 16.1-322.4 amended. **Payments for children from other counties or cities in secure detention facilities.** Provides that cost of capital construction debt service less any state reimbursement is included in the cost which a locality may charge another locality which places a child in its secure detention facility. Currently only the cost of feeding, clothing, caring for, and furnishing medicine and medical attention for such child may be charged. HB 888; CH. 856.

TITLE 16.1. MISCELLANEOUS.

Second enactment of Chapter 833 of the Acts of Assembly of 1993 amended. Regional juvenile detention commissions. Allows the Blue Ridge Juvenile Detention Commission, serving parts of the Sixteenth Judicial District, the Highland Juvenile Detention Commission serving the Twenty-eighth District, and the Roanoke Valley Detention Commission which serves parts of the Twenty-second, Twenty-third and Twenty-fifth Judicial Districts to borrow funds and issue revenue bonds as provided under § 16.1-318. HB 670; CH. 893.

TITLE 17. COURTS OF RECORD.

§§ 17-1 through 17-238. See § 17.1-100; HB 1114.

§ 17-79.3 amended. **Courts of record; indexing by tax map reference.** Adds Augusta and Rockingham Counties and the Cities of Richmond and Roanoke to the list of localities whose clerks may require deeds submitted for recordation to reference in the left margin the tax map reference number or parcel identification number of the affected parcel. HB 208; CH. 75.

§§ 17-83.1:1 through 17-83.1:4 and second enactment of Chapter 674 of the Acts of Assembly of 1996 amended. **Electronic filing of documents; sunset.** Allows any circuit

court clerk to establish a system for electronic filing of documents after submitting an implementation plan to the Council on Information Management; the clerk may use a system authorized by the Supreme Court. The Supreme Court may by rule allow for the electronic filing of any papers in civil or criminal actions. The bill also amends the sunset attached to this article of the Code by providing that it will expire on July 1, 2004, instead of July 1, 1998. HB 794; CH. 651.

§§ 17-95.1 and 17-116.01:1 amended. **Judges; senior status.** Increases the maximum number of retired Court of Appeals judges who may serve as senior judges from three to five and increases the number of retired Supreme Court Justices who may similarly serve from four to five. This bill is recommended by the Judicial Council. HB 338; CH. 190.

§ 17-119.1:2 amended. **Circuit court judges.** Adds one new judge in the seventh (Newport News) and twentieth (Loudoun, Fauquier and Rappahannock) circuits. The bill is recommended by the Judicial Council. HB 174; CH. 3.

§ 17-228 amended. **Judicial Conference; membership.** Adds the dean of the Regent University Law School to the list of law school deans who are honorary members of the Judicial Conference. HB 623; CH. 38.

§ 17-234 amended. **Virginia Sentencing Commission; membership.** Staggers the terms of the members of the Commission appointed during the year 2000 and allows any current member to be reappointed for a staggered term to ensure that there will not be a complete turn-over of the Commission upon expiration of the current members' second terms. The bill increases the terms of members appointed after 2000 from three years to four and authorizes a vice chairman for the Commission, to be appointed by the chairman. Finally the members are authorized to serve no more than three consecutive terms. The bill is recommended by the Sentencing Commission. HB 694; CH. 226.

§ 17-237 amended. **Sentencing guidelines.** Eliminates the 16-year look-back period applicable to prior felony convictions for purposes of applying enhancements to the guideline midpoint sentence. The Sentencing Commission has found that few criminal history records include the date of conviction, making it difficult, if not impossible, to equitably apply the enhancements. This bill is recommended by the Sentencing Commission. SB 180; CH. 277.

TITLE 17.1. COURTS OF RECORD.

§§ 2.1-20.2, 2.1-38, 2.1-68, 2.1-180, 12.1-12, 22.1-32, 22.1-296, 37.1-39 amended; §§ 2.1-20.5 through 2.1-20.12, 2.1-38.3, 2.1-71.2, 8.01-609.1, 8.01-618.1, 9-178.1, 9-178.2, 9-183.13 through 9-183.21, 15.2-1414.1 through 15.2-1414.7, 15.2-1508.1 through 15.2-1508.4, 15.2-1537.1, 15.2-1605.1; 15.2-1608.1, 15.2-1608.2, 15.2-1609.1 through 15.2-1609.9, 15.2-1612.1, 15.2-1614.1, 15.2-1615.1,

15.2-1627.1, 15.2-1627.2, 15.2-1627.3, 15.2-1635.1, 15.2-1636.1 through 15.2-1636.19, 16.1-69.48:1 through 16.1-69.48:4, 17.1-100 through 17.1-806, 19.2-46.1, 19.2-46.2, 19.2-47.1, 30-14.01; 30-19.11 through 30-19.20, and 37.1-42.3 added; §§ 14.1-1 through 14.1-201 and 17-1 through 17-238, Chapter 71 of the 1966 Acts of Assembly (carried by reference as § 17-117.1), and Chapter 83 of the 1954 Acts of Assembly (carried by reference as § 17-118.1) repealed. **Revision of Titles 14.1 and 17.** Revises and recodifies the laws pertaining to courts of record and costs, fees, salaries, allowances, and the collection of those by certain officials. The bill preserves the provisions of Title 14.1 by distributing those sections into the more appropriate titles of the Code. For effective date, see bill. HB1114; CH. 872.

TITLE 18.2. CRIMES AND OFFENSES GENERALLY.

§ 18.2-31 amended. **Capital murder.** Expands capital murder to include the willful, deliberate and premeditated killing of any person under the age of 14 by a person 21 or older. HB 1420; CH. 887.

§ 18.2-32 amended. **Crimes; murder.** Makes clear that animate object penetration is a predicate crime for first degree felony murder. SB 222; CH. 281.

§ 18.2-60 amended. **Written threats communicated to people.** Provides that if any person writes or composes or sends any form of electronic communication producing a visual or electronic message, containing a threat to kill or do bodily injury to a person, he shall be guilty of a Class 6 felony. The law formerly only included written communication. Now an e-mail message will be specifically included. HB 651; CH. 687/SB 426; CH. 788.

§ 18.2-60.3 amended. **Crimes; stalking.** Increases the penalties for the first offense of stalking from a Class 2 misdemeanor to a Class 1 misdemeanor. The enhanced penalty for such an offense committed while a protective order was in effect is eliminated. HB 392; CH. 570.

§ 18.2-74.2 added. **Partial birth abortion.** Prohibits partial birth abortions. The bill defines "partial birth abortion" as an abortion in which the person performing the abortion deliberately and intentionally delivers a living fetus or a substantial portion thereof into the vagina for the purpose of performing a procedure the person knows will kill the fetus, performs the procedure, kills the fetus and completes the delivery. The bill also provides for review, at the request of the physician, by a three-member physician committee to be known as the medical necessity advisory committee, of the doctor's actions, with the results to be available as evidence at his trial. The offense is punishable as a Class 1 misdemeanor. HB 1154; CH. 579/SB 552; CH. 448.

§§ 18.2-95 and 18.2-108.1 amended. **Larceny; firearms.**

Reconciles §§ 18.2-95 and 18.2-108.1, which both make larceny of a firearm not from the person of another a felony but have different penalties. Currently, under § 18.2-95 the penalty is not less than one year nor more than 20 years of state imprisonment and under § 18.2-108.1, the penalty is a Class 6 felony (not less than one year nor more than five years imprisonment). This bill eliminates the § 18.1-108.1 provision, thereby making the penalty be not less than one year nor more than 20 years of state imprisonment. HB 288; CH. 821.

§§ 18.2-119, 18.2-308.1:4, 19.2-81.3, 19.2-152.8, 19.2-152.9 and 19.2-152.10 amended; § 18.2-60.4 added. Stalking and stalking protective orders. Provides that the violation of a stalking protective order (SPO) is a Class 1 misdemeanor and that prosecution of such violation bars a finding of contempt for the same act. The bill also allows warrantless arrest for stalking, makes violation of a stalking protective order a trespass, prohibits those subject to SPOs from purchasing or transporting firearms, clarifies the term of effectiveness of an emergency SPO, allows a fax copy of an SPO to be served, clarifies that only electronically issued SPOs need be verified by a court, and adds auxiliary police officers to those who may request SPOs. Technical amendments, similar to those included in HB 593 for protective orders in cases of family abuse, are included in this bill. HB 391; CH. 569.

§ 18.2-119. See § 16.1-253.1; HB 583.

§ 18.2-122 repealed. Trespassing upon grass in Capitol Square. Repeals the "crime" and five-dollar fine for walking on the grass in Capitol Square without permission. HB 42; CH. 6.

§ 18.2-140 amended. Destruction of trees and shrubs in parks maintained by park authorities. Adds parks maintained by park authorities to those areas of the Commonwealth where it is a Class 3 misdemeanor to injure or destroy a tree, shrub, etc., without appropriate permission. HB 510; CH. 81.

§ 18.2-144.1 amended. Police dogs. Provides that injuring an animal owned, used or trained by a regional jail while the animal is engaged in his duties or while off-duty and penned or caged is a Class 5 felony and requires that the defendant pay restitution. These provisions currently apply to animals owned, used or trained by law-enforcement agencies and the Department of Corrections. HB 104; CH. 8.

§ 18.2-152.4 amended. Computer trespass. Adds halting or otherwise disabling any computer data, computer programs, or computer software from a computer or computer network to the crime of computer trespass, and reduces the penalty from a Class 1 to a Class 3 misdemeanor. If such act is done recklessly and causes \$2500 or more in damages, it is punishable as a Class 1 misdemeanor; if done maliciously and the damages are \$2,500 or more, it is punishable as a Class 6 felony. The bill also preserves the ability to include terms or conditions in a contract or license relating to computers, data, networks, operations, programs, services, or software. HB 275; CH. 892.

§§ 18.2-190.1 through 18.2-190.4 amended. Crimes; offenses involving telecommunications devices. Makes it illegal (Class

6 felony) to possess an unlawful telecommunications device (cloned phone) and equipment used to create an unlawful telecommunications device with intent to manufacture a cloned phone. The bill enhances the penalty for possession of a cloned phone and sale of a cloned phone from a Class 1 misdemeanor to a Class 6 felony. SB 199; CH. 518.

§§ 18.2-250 and 18.2-250.1 amended. Possession of controlled substances. Allows all jail officers (sworn employees of a correctional facility) certified as handlers of dogs trained in the detection of controlled substances to possess controlled substances or marijuana when necessary in the performance of their duties. HB 103; CH. 116.

§ 18.2-251 amended. Persons charged with first drug offense. Provides that as a term or condition of deferred disposition under the first offender statute, the court may require the accused to be evaluated and enter a treatment and/or education program certified or licensed by an ASAP program certified by the Commission on VASAP. Currently only a DMHMRSAS certified program is authorized. HB 662; CH. 688.

§§ 14.1-112, 14.1-134.1, 16.1-273, 18.2-251, 18.2-252, 18.2-270.1 and 19.2-299 amended; §§ 18.2-251.01, 18.2-251.02, 18.2-271.3 and 19.2-299.2 added. Drug assessment of certain offenders. Requires all felons and those persons convicted of Class 1 misdemeanor drug and alcohol offenses to undergo drug assessment. The bill also requires all persons convicted of a felony drug offense to pay \$150 into the Drug Offender Assessment Fund, newly created by this bill. The \$100 fee which formerly was assessed, payable to the general fund, is no longer collected. The bill also requires all persons convicted of a misdemeanor drug offense to pay \$75 into the Fund upon conviction. The \$50 fee which formerly was assessed, payable to the general fund, is no longer collected. The bill requires that the person enter a drug treatment program and if convicted of a second offense DUI within five years of a prior conviction and given a restricted driver's license, the court must require that the person operate only a vehicle equipped with an ignition interlock device. The provisions applicable to ignition interlock devices in DUI cases also apply in these cases. For effective date, see bill. HB 664; CH. 840/SB 317; CH. 783.

§ 18.2-254. See § 37.1-203; HB 1292.

§ 18.2-271.1. See § 32.1-73.2; SB 484.

§ 18.2-308 amended. Concealed handguns. Referred to as the omnibus concealed handgun bill, the bill contains a number of provisions. It allows retired special ABC Board agents with a service related disability or 15 years of service to carry a concealed handgun with permission from the Board in lieu of obtaining a permit and includes a reciprocity provision for the entire class of retired law-enforcement officers exempt from obtaining a permit. The bill allows the court that issued a concealed handgun permit to suspend the permit of an individual charged with a felony or other specified charges. The bill also allows the issuing court to suspend a permit held by a

person adjudicated mentally incapacitated or involuntarily committed subsequent to receiving the permit. The bill clarifies that applications are complete when all required information is furnished to the clerk, thus triggering the 45-day period for issuance. It also eliminates the requirement that the permit include the holder's social security number and provides that a person found guilty of being under the influence and carrying a concealed handgun forfeits his permit for five years. The bill allows any sworn law-enforcement officer to carry a concealed handgun in a restaurant or club. Retired Immigration and Naturalization Service law-enforcement officers are added to the list of retired law-enforcement officers exempt from the regular permit fee. This bill combines HBs 520, 558, 614 and 954. HB 757; CH. 846.

§ 18.2-308 amended. Ineligibility for concealed handgun permit. Renders a person ineligible for a concealed handgun permit who, within three years of his application, was convicted of a drug offense or who was charged with a drug offense and given a deferred disposition under the Virginia first offender statute or a substantially similar law of another jurisdiction. HB 768; CH. 847.

§ 18.2-308 amended. Concealed weapons. Provides that retired law-enforcement officers who are exempt from the need to obtain a permit in order to carry a concealed weapon, are nonetheless considered to be permit holders for purposes of applying the reciprocity provisions. A copy of proof of exemption is to be kept on file at VCIN (Virginia Criminal Information Network). SB 275; CH. 662.

§ 18.2-308 amended. Concealed handgun permits. Allows the 15 years of service for retired law-enforcement officers who may carry a concealed handgun without a permit to be served in a combination of law-enforcement agencies. SB 631; CH. 670.

§ 18.2-308.2:2 amended. Criminal history record information check for transfer of firearms. Eliminates language which purports to require the receipt of criminal history records information prior to a sale by a licensed dealer. The change makes clear the sale may go forward if the seller requests criminal history information from the State Police, but does not receive a response within a full business day. HB 729; CH. 844.

§§ 18.2-340.16 and 18.2-340.33 amended. Crimes; charitable gaming. Defines "reasonable and proper business expenses" and allows a charitable organization to use its gross receipts from bingo for these expenses. Eff. 10/1/98. HB 470; CH. 57/SB 452; CH. 398.

§§ 18.2-340.19 and 59.1-369 amended. Gambling; help for compulsive gamblers. Requires the Virginia Charitable Gaming Commission and the Virginia Racing Commission to require their respective licensees and qualified organizations to post a sign in a conspicuous place which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers. HB 756; CH. 845.

§ 18.2-340.32 amended. Charitable gaming. Removes the

exemption for certain localities in Tidewater to charge gross receipt, entertainment, admission or other taxes based on the revenues of charitable organizations derived from conducting charitable gaming. The City of Norfolk is the only locality to charge such taxes. HB 386; CH. 679.

§ 18.2-370.01 added. Taking indecent liberties with children. Creates a new crime, punishable as a Class 4 misdemeanor, for a juvenile over the age of 13 but under 18 to knowingly and intentionally, with lascivious intent, (i) expose his or her sexual or genital parts to any other child under the age of 14 who is at least five years the accused's junior or (ii) propose that the child expose his or her sexual or genital parts. HB 411; CH. 825.

§ 18.2-371.2 amended. Prohibiting sale of tobacco from vending machines. Requires that tobacco products be sold only from vending machines on which a notice of the prohibition of youth purchases is posted and only if the machine is located in a place not open to minors unless accompanied by an adult. SB 696; CH. 363.

TITLE 18.2. MISCELLANEOUS.

Cover sheets; circuit court clerks. Allows the circuit court clerk of Wise County and the City of Norton to request that a cover sheet be filled out on all real estate documents which provides pertinent information to the clerk for indexing purposes. This provision will expire on July 1, 2002. HB 793; CH. 378.

TITLE 19.2. CRIMINAL PROCEDURE.

§ 19.2-8 amended. Unlawful filming, videotaping or photographing of another. Provides that a prosecution of unlawful videotaping, etc., of another may be instituted within five years following the commission of the offense. Currently, the prosecution (a misdemeanor offense) must be commenced within one year from the date of the offense. HB 314; CH. 566.

§§ 19.2-11.01 and 19.2-264.4 amended; § 19.2-295.3 added. Victim impact testimony. Requires the court to permit crime victims to testify during the sentencing portion of a felony trial regarding the impact the criminal offense has had upon their lives, upon motion of the Commonwealth's attorney and consent of the victim. HB 600; CH. 485.

§§ 19.2-46.1, 19.2-46.2 and 19.2-47.1. See § 17.1-100; HB 1114.

§ 19.2-76 amended. Capias or warrant; arrest outside county or city where charge is to be tried. Provides that the arresting officer is required to (i) bring the accused before a judicial officer for a bail hearing in either the jurisdiction in

which the arrest was made or where the charge will be tried or (ii) transfer the accused to a law-enforcement officer from the jurisdiction where the charge is to be tried, who must then bring him before a judicial officer for a bail hearing. Current law requires a judicial officer in the locality where the arrest is made to conduct a bail hearing. HB 952; CH. 615.

§§ 19.2-81, 19.2-152.8, 19.2-152.9 and 19.2-152.10. See § 16.1-253.1; HB 583.

§§ 19.2-81.3, 19.2-152.8, 19.2-152.9 and 19.2-152.10. See § 18.2-119; HB 391.

§ 19.2-81.5 added. **Cooperation with a law-enforcement officer.** Requires all public agencies within the Commonwealth to provide to any law-enforcement agency, upon request, the address of any person for whom documentation of a valid arrest warrant or indictment is presented by the law-enforcement agency. HB 1010; CH. 436.

§ 19.2-158 amended. **Revocation proceedings.** Provides that when a person who is charged with a criminal offense and is not free on bail is arrested on a capias, he should be brought before the court which issued the capias or, if not in session, to the district court. SB 100; CH. 773.

§ 19.2-163 amended. **Compensation of court-appointed counsel.** Increases amounts paid to court-appointed counsel in circuit court cases involving felonies. The maximum fee allowed for a Class 2 felony increases from \$735 to \$845 in fiscal year 1999 and \$882 thereafter, and for Class 3, 4, 5, and 6 felonies from \$265 to \$305 in fiscal year 1999 and \$318 thereafter. The maximum fee payable for Class 1 felonies is unchanged. This is a recommendation of the Crime Commission. HB 948; CH. 451.

§ 19.2-163 amended. **Compensation of court-appointed counsel.** Requires that any statement submitted by an attorney for payments due him for indigent representation or for representation of a child shall, after the submission of the statement, be forwarded forthwith by the clerk to the Commonwealth, county, city or town, as the case may be, responsible for payment. HB 1282; CH. 440.

§ 19.2-163.2 amended. **Public defender offices.** Includes Patrick County within the public defender office currently serving the City of Martinsville and Henry County. HB 246; CH. 526/SB 263; CH. 519.

§ 19.2-163.2 amended. **Public defender offices.** Authorizes the establishment of a public defender office for the City of Charlottesville and the County of Albemarle. HB 742; CH. 530.

§ 19.2-250 amended. **Jurisdiction of corporate authorities.** Grants police from Chesterfield and Henrico Counties jurisdiction over offenses committed in the City of Richmond within one mile from the county line. HB 836; CH. 428.

§ 19.2-298.01 amended. **Sentencing guidelines; worksheets.** Clarifies that the worksheets are to be prepared in all felony cases. The use of the term "may" with references to cases tried

upon a plea of guilty has led some courts to conclude that the worksheets need not be prepared, although subsection A clearly requires that the court have the worksheets. This bill is recommended by the Sentencing Commission. HB 695; CH. 200.

§ 19.2-298.01 amended. **Sentencing guidelines; worksheets.** Clarifies that sentencing guideline worksheets are a part of the public record of a criminal case. Because the statute refers to the fact that the worksheets are, in some respects (i.e., distribution), to be treated in the same manner as presentence reports, confusion has arisen in some circuits over the need to seal the worksheet portion of the case record (as is done with presentence reports). This bill is recommended by the Sentencing Commission. SB 357; CH. 353.

§§ 19.2-298.1 through 19.2-298.4 and 19.2-390.1 amended; § 19.2-390.2 added. **Megan's law; community notification.** Adds to the offenses for which registration is required: marital sexual assault; aggravated sexual battery where the victim is 13 or 14 years old, serious bodily or mental injury results or a dangerous weapon is used or threatened to be used; and breaking and entering a dwelling if done with intent to commit rape. Attempts to commit the Registry offenses involving minors or to commit sexually violent offenses will also require registration. The bill adds a reference to the statute which specifically governs attempted rape, forcible sodomy or object penetration to the list of sexually violent offenses and adds attempt to commit aggravated sexual battery to the list of offenses for which registration is required. Attempts were apparently inadvertently not included in these two categories last year, although they were included in the other Registry offenses. Jurisdiction over the offense of failing to register is specifically granted to the State Police, and jurisdiction for a prosecution is specified to be in the county or city where the offender last registered or reregistered or, if he failed to register, where the last offense took place. The bill allows persons convicted of two offenses for which registration is required to be treated as sexually violent offenders, subject to the more stringent reregistration requirements. The State Police are required to develop an Internet-accessible site for public access to Registry information on violent sexual offenders. For other offenders subject to registration, individual-specific requests can be made of the State Police, either directly or through local law enforcement. The Department may charge a fee to cover the costs of maintaining the Registry and developing and maintaining the Internet site. Additionally, the Department is to establish an electronic notification system which would allow certain entities providing care services to children to receive notice whenever a sex offender who lives in the zip code area in which the entity is located, or in a contiguous zip code area, registers with the State Police. Dissemination of Registry information with the intent to intimidate or harass is made punishable as a Class 1 misdemeanor. This bill is recommended by the Virginia State Crime Commission. HB 570; CH. 834/SB 369; CH. 785.

§§ 19.2-299 and 19.2-299.2. See § 18.2-251; HB 664/SB 317.

§§ 16.1-299.1 and 19.2-310.2 through 19.2-310.5 amended. **Criminal procedure; DNA analysis and databank.** Allows for the collection of saliva or tissue samples from felons for DNA analysis as an alternative to the collection of blood samples. SB 208; CH. 280.

§ 19.2-353.3 amended. **Payment of fines, etc., to clerks.** Allows any circuit court clerk to use his discretion to accept credit cards for the payment of fines and costs. Currently, only those clerks of the circuit courts named in the Code section have such discretion. HB 1045; CH. 720/SB 11; CH. 731.

§§ 19.2-354 and 46.2-395 amended. **Failure to pay fines and costs; license suspension.** Expands application of the current law to clarify that when a check bounces or a credit card company refuses payment, the person has failed to pay and the license suspension provisions are invoked. Because the failure to pay under these circumstances occurs sometime after the conviction (e.g., when the check bounces), the person is to be given notice of the failure and of his opportunity to avoid the suspension by making payment in full by cash, cashier's check or certified check within 10 days of the date of the notice. The bill also specifically requires that persons who are authorized to make installment or deferred payments of fines, costs, etc., keep the court apprised of any change of address occurring during the period when payments will be made. This bill is recommended by the Committee on District Courts. HB 530; CH. 831.

§§ 19.2-368.2, 19.2-368.3 19.2-368.5, 19.2-368.5:1, 19.2-368.6 and 19.2-368.11:1 amended; § 19.2-368.3:1 added. **Compensation for Victims of Crime Act.** Broadens the list of compensable crimes for victims who suffer emotional injuries to include all violent felonies as defined and used by the Criminal Sentencing Commission; expressly includes persons injured or killed as a result of foreign terrorism so they are eligible for compensation; increases from 180 days to one year, from the occurrence of the crime or death of the victim, the amount of time that a victim of crime or someone on his behalf has to file a claim; increases the amount of time a victim of crime has to perfect a claim from 90 to 180 days after written notice of defect; increases the statutory cap for allowable funeral expenses from \$2000 to \$3500; and adds reasonable and necessary moving expenses, not to exceed \$500, to the list of compensable services that an award may include. The bill also creates a rebuttable presumption that the claimant did not contribute to and was not responsible for the infliction of his injury. The position of crime victims' ombudsman is established to facilitate the review and resolution of claims and assure that crime victims' rights are safeguarded. The bill is recommended by the Crime Commission. HB 571; CH. 484.

§ 19.2-389 amended. **Criminal history records checks.** Provides that nonprofit private colleges and universities, as well as public colleges and universities, may access criminal history record information on individuals for the purpose of screening individuals who are offered or accept employment. HB 333; CH. 405/SB 291; CH. 445.

§ 19.2-389. See § 22.1-296.3; HB 859.

§§ 19.2-389 and 37.1-197.2 amended. **Criminal background checks.** Adds personnel directors serving community service boards (CSBs) and behavioral health authorities to the list of those eligible to receive criminal background checks, including child abuse registry checks, required by CSBs and behavioral health authorities for individuals who are applying for jobs with direct client interaction. The bill also provides that the local government in those jurisdictions where the CSB is a local department may opt to pay the cost of the check for the prospective employee. HB 1336; CH. 882.

§ 19.2-398 amended. **Appeals by the Commonwealth.** Acknowledges in the portion of the Code regarding pretrial appeals by the Commonwealth that the Commonwealth also has the right to seek review by the Supreme Court of a case on appeal to and decided by the Court of Appeals. HB 290; CH. 251.

TITLE 20. DOMESTIC RELATIONS.

§§ 20-49.1, 20-60.3, 20-60.6 and 63.1-250.2:1 amended. **Child support enforcement; paternity.** Clarifies provisions governing voluntary acknowledgments of paternity which were added last year. The bill provides that either party has the right to rescind the acknowledgment within 60 days from the date it was signed and that, within the 60-day period, the acknowledgment may be rescinded at an administrative or judicial proceeding relating to the child in an action to which the party seeking rescission was a party. The bill expands the duty of parties to provide change of address and change of employment information and to require that the court be advised if support payments are being made directly to an obligee and not through the Department of Social Services. HB 1372; CH. 884.

§§ 20-49.8 and 20-108.1 amended. **Child support; retroactivity.** Provides that judicial orders for support may be made retroactive to the date of delivery of an administrative support order to the process server. Administrative support orders may currently be made retroactive to that date. However, when an administrative support order is appealed, de novo, there is currently no authority for the court to make its order retroactive beyond the date on which the appeal was filed with the court. SB 481; CH. 592.

§§ 20-60.3, 20-79.1, 20-79.2, 20-79.3, 20-88.32, 20-88.64, 63.1-249, 63.1-250, 63.1-250.3, 63.1-256, 63.1-257 and 63.1-258.1 amended. **Domestic relations; support orders.** Modifies the definitional section applicable to several support enforcement provisions by adding definitions of "employer" (any source of income) and "employee" (a recipient of income) and by replacing the definition of earnings with a definition of income. "Income" is more broadly defined as any form of payment due and specifically includes dividends, severance pay, trust income, annuities, capital gains, insurance benefits, disability insurance benefits, veterans benefits, rental income,

gifts, prizes and awards. Additionally, for purposes of including pension and retirement, workers' compensation and unemployment benefits as income, the requirement that payments are currently being made is eliminated. The bill modifies several provisions governing income withholding orders. The current provisions authorizing automatic payroll deduction are expanded to cover automatic income withholding of present and future income. Notice of the issuance of an order and the order will be sent directly to the employer (i.e., the individual or entity from whom income is due), who will then notify and give copies to the employee. Notice by electronic means, including facsimile, is specifically authorized. Employers are required to forward payments to the Division within four days of the employee's pay date if electronic funds transfer is used. Finally, amendments are made to eliminate outdated portions of the section which detail the purpose of the chapter applicable to administrative enforcement of support. HB 1375; CH. 727.

§ 20-103 amended. Child support. Clarifies that child support orders pending suits for divorce, custody or visitation are calculated in accordance with the statutory guidelines (§ 20-108.2). HB 1054; CH. 616.

§§ 20-107.1 and 20-109 amended. Spousal support; rehabilitative alimony. Grants authority to the courts to award spousal support to be paid in periodic payments for a specified duration and to reserve to a party the right to receive support in the future. A reservation of the right to support is presumed under the bill to continue for a period of time equal to half the duration of the marriage (the time between the date of the marriage and the date of separation). The factors to be considered by the court in making any award or modifying an award of support are modified and expanded to include, for example, consideration of each party's contribution to the education of the other, access to educational and job training opportunities, and the effects of decisions made during the marriage on a party's prospective earning capacity. The factors relied on by the court must be stated in the award and a written opinion is required in contested cases in the circuit courts. Awards made for a defined duration may be modified only during the term of the award if the court finds that (i) a material change of circumstances has occurred which could not reasonably have been anticipated at the time the award was entered or (ii) an anticipated event upon which the award was based has not occurred through no fault of the party seeking modification. The bill applies only to initial actions filed on or after July 1, 1998, or to actions to modify an award entered in a case filed initially on or after that date. HB 517; CH. 604.

§ 20-108.1 amended. Support orders; tax consequences. Authorizes the court to order a party to execute the necessary forms and waivers to grant to the other party the right to take the income tax dependency exemption for any child or children for any tax year or years for federal and state income tax purposes. HB 717; CH. 612.

§ 20-108.2 amended. Child support. Specifies that when a parent is receiving disability benefits and such benefits are

included in that parent's gross income for purposes of computing his or her child support obligation using the statutory guidelines, that parent's gross income also includes any amounts which the child is receiving as a derivative disability benefit but that the parent's on-going support obligation may be reduced (i.e., a credit may be taken) by the amount of those derivative benefits. If the amount of the derivative benefits exceeds that amount of the parent's child support obligation, the excess may also be used as a credit against accrued arrearages. HB 1256; CH. 618.

§ 20-155 amended. Premarital agreements. Provides that the provisions of a property settlement agreement are not given effect when the parties reconcile after execution of the agreement. This reinstates the law in effect prior to the decision in *Smith v. Smith*, 19 Va App. 155 (1994). SB 226; CH. 638.

TITLE 22.1. EDUCATION.

§ 22.1-18.1 added. Gifted education programs. Requires the Board of Education to require local school boards to submit the annual report, "Programs for Gifted Education," to the Department of Education. Currently, Board of Education regulations require the submission of the annual report; however, there is no requirement for accountability concerning the use of state funds for gifted education, and, too often, local gifted education advisory committees do not participate in the development of the report as required. This bill is the recommendation of the Joint Subcommittee Studying the Educational Needs of Certain Underserved Gifted Students. HB 1289; CH. 879.

§ 22.1-32 amended. School board salaries. Increases the maximum salaries per year for school board members for Henrico County from \$7,000 to \$12,000; for Loudoun County from \$8,000 to \$12,500; for Mathews County from \$1,240 to \$3,000; for Stafford County from \$2,400 to \$7,500; for Alexandria from \$5,000 to \$7,500; for Newport News from \$3,000 to \$5,000; and for Virginia Beach from \$3,600 to \$6,000. HB 313; CH. 600.

§ 22.1-32 amended. Increasing school board salaries. Clarifies the procedures by which school boards may elect to increase their salaries. A local school board representing a county may establish a salary increase prior to July 1 in any year in which members are to be elected or appointed, or, if such school board is elected or appointed for staggered terms, prior to July 1 of any year in which at least one-half of such members are to be elected or appointed. These increases would become effective on January 1 of the following year. A local school board representing a city or town may establish a salary increase prior to January 1 in any year in which members are to be elected or appointed; the increase would become effective on July 1 of the following year. No salary increase may become effective during an incumbent member's term of office; however, this restriction will not apply if the school board

members are elected or appointed for staggered terms. HB 1047; CH. 309.

§ 22.1-32 amended. School board salaries. Increases the maximum salaries per year for school board members for the various cities and counties as follows: the Cities of Alexandria from \$5,000 to \$7,500; Newport News from \$3,000 to \$5,000; and Virginia Beach from \$3,600 to \$6,000; and for the Counties of Chesterfield from \$7,000 to \$12,500; Henrico from \$7,000 to \$12,000; Loudoun from \$8,000 to \$12,500; Mathews from \$1,240 to \$3,000; and Stafford from \$2,400 to \$7,500. SB 352; CH. 395.

§§ 22.1-32 and 22.1-296. See § 17.1-100; HB 1114.

§ 22.1-57.3:2.1 added. Terms of school board members for the City of Williamsburg. Extends by six months the current three-year terms of the two school board members representing the City of Williamsburg, appointed in 1995 and 1996, to December 31 of 1998 and 1999, respectively, and provides that subsequent appointments for all Williamsburg school board members shall be for four-year terms, commencing on January 1. The City of Williamsburg and James City County share a seven-member school board; the county approved a referendum to elect its school board members in 1995. This bill conforms the date for taking office and the terms of office of the members from the two jurisdictions. Eff. 3/13/98. HB 1031; CH. 125/ Eff. 4/2/98. SB 451; CH. 218.

§ 22.1-70.1 added. Pupil-teacher ratios. Directs the division superintendent to report annually to the local school board regarding divisionwide pupil-teacher ratios. The report is to indicate the ratio of regular classroom teachers, excluding resource teachers, to students in average daily membership (ADM) for each grade. The report must also separately indicate the ratio of regular classroom teachers to students, including resource teachers. HB 184; CH. 815.

§ 22.1-71 amended. Elected and appointed school boards. Clarifies that school boards are corporate bodies that may be comprised of elected as well as appointed members. HB 1124; CH. 102.

§ 22.1-79.1 amended. Opening of the school year. Delineates three "good cause" situations that may justify a waiver of the requirement that the first day of school for students follow Labor Day. These situations include a school division that (i) has been closed an average of eight days per year during any five of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations; (ii) is providing, in the school year for which the waiver is sought, an instructional program or programs in one or more of its elementary or middle or high schools, excluding the electronic classroom, which are dependent on and provided in one or more elementary or middle or high schools of another school division that qualifies for such waiver, in which case the waiver is applicable only to the opening date for those schools where such dependent programs are provided; or (iii) is providing, in the school year for which the waiver is sought, an experimental or innovative program approved by the

Department of Education pursuant to the Standards of Accreditation, in which case the waiver is only applicable to the opening date for those schools where the experimental or innovative programs are offered generally to the student body. SB 425; CH. 702.

§ 22.1-89.3 added. Funds from telephone service or credit cards. Provides that any school board may enter into a contract with a commercial institution for the issuance of a telephone service or credit card that would bear the name of the school board. The contract shall provide that a portion or percentage of the revenue generated by the use of such card will be returned to the local governing body, to be placed in a fund for public school purposes, for subsequent appropriation to the school board. Any such appropriation shall supplement, not supplant, any local funding for educational purposes. The contract shall also (i) provide that the contract is not to be interpreted as authority to license the locality name or endorse commercial products in exchange for revenue and (ii) contain language indemnifying and protecting the locality from certain legal actions. School boards entering into such agreements shall follow all applicable budget and procurement regulations and other state and local laws. SB 625; CH. 595.

§ 22.1-138.1 added. School maintenance program established. Provides that, in compliance with the provisions of the appropriation act relating to the maintenance supplement program and with such funds as are appropriated for such purpose, each school board must establish a program for ongoing school maintenance needs. This bill codifies the maintenance supplement program which has been operating for some years pursuant to provisions of the appropriation act. The 1997-1998 per pupil amount for this equalized program is \$15 per student in average daily membership. Every school board receives funds through this popular program which can be used for various operating expenses related to maintenance needs in schools. HB 138; CH. 73.

§ 22.1-140. See § 54.1-300; HB 930.

§ 22.1-147 amended. Literary Fund. Requires the Board of Education to impose a maximum limit of not more than \$7.5 million on the amount of any loan from the Literary Fund. Last year, the maximum amount of the loan was increased from five to 7.5 million dollars; however, this is currently at the discretion of the Board. This bill requires the new maximum. SB 672; CH. 70.

§§ 22.1-154 through 22.1-158 amended. Literary Fund loans. Provides specific authority for school boards to apply for Literary Fund loans for the construction of a school building on property subject to a long-term lease (25 years or more) with the U. S. government. The school board is required to submit to the Board evidence that both parties are fully apprised of the construction plans, a copy of such lease, certification of the approval of the local governing body and the local school board, documentation of the fiscal integrity and benefits of the arrangements, and a brief synopsis of the lease. All of this documentation, plus a certificate from the clerk, will be required for the Attorney General. The loans for these long-term

leases shall constitute a specific lien on the building only and any additions thereto. HB 918; CH. 719.

§ 22.1-163 amended; § 22.1-167.2 added. Virginia Public School Authority. Provides that the issuance of bonds by VPSA may be based on debt service payments payable from appropriations from the General Assembly. The proposed budget bills and amendments are required to include a proposed appropriation of a sum sufficient, first from the Literary Fund and then from the general fund, to address any debt service shortfalls. By providing that the VPSA is not a political subdivision, the bill also allows the VPSA's board to hold electronic meetings in accordance with the Freedom of Information Act. HB 372; CH. 900.

§ 22.1-163 amended; § 22.1-167.2 added. Virginia Public School Authority. Provides that the issuance of bonds by VPSA may be based on debt service payments payable from appropriations from the General Assembly. The bill also provides that the VPSA is not a political subdivision and thereby allows the board to act by telephone conference if necessary. SB 67; CH. 4.

§§ 22.1-175.1 through 22.1-175.4. See § 58.1-3523; SB 4005.

§ 22.1-178 amended. Physical examinations of school bus drivers. Authorizes a licensed nurse practitioner to perform physical examinations of school bus drivers and sign reports of the results. SB 431; CH. 287.

§ 22.1-199.1 amended. Reading specialists. Allows school boards to employ additional classroom teachers, remedial teachers, and reading specialists for each elementary school, i.e., above the requirements of the Standards of Quality. State and local funding of each additional teacher will be apportioned as provided in the appropriation act. HB 426; CH. 901.

§§ 22.1-199.1, 22.1-199.2, 22.1-209.1:4, 22.1-253.13:1, 22.1-253.13:3, 22.1-254.01 and 22.1-278 amended. Excellence in public schools. Requires the Board of Education to strive to incorporate technological studies within the teaching of all disciplines and to require each school division to strive to establish a voice mail communication system after regular school hours for parents, families, and teachers by 2000. The remedial standards statute is amended to require reporting of data on the number of students failing the SOL assessments for grades 3, 5, and 8 to the Board of Education as well as reporting of the number of such students attending remediation programs. Standard 1 of the SOQ is amended to require the Board of Education to regularly review and revise the competencies for vocational education programs to require the full integration of English, mathematics, science and social studies SOLs. Occupational vocational programs must be aligned with industry and professional standard certification, where these standards exist. The requirement for local school boards to have programs for educationally at-risk students would include the students who fail to achieve passing scores on SOL tests in grades 3, 5, and 8 and high school. Students who do not pass the literacy tests or the SOL tests for grades 3, 5, and 8 will be required to attend summer school or other remediation activity.

Early identification efforts must include students at risk of failing the SOL tests in grades 3, 5, and 8. Standard 3 of the SOQ is amended to require one credit in fine, performing, or practical arts for a diploma and may include a concentration of courses. The Department of Education will be required to conduct technical assistance visits to schools, with those schools accredited with a warning given priority for such assistance. The assistance must include an analysis of relevant school data and the development and implementation of improvement plans to assist the schools in improving. School boards are required to biennially review the Board's model student conduct code to incorporate discipline options and alternatives. An enactment clause requires school boards with one or more schools with SOL test pass rates below 70 percent to develop a comprehensive corrective action plan with and for each school by 1999-2000. This bill is a recommendation of the Commission on the Future of Public Education. HB 431; CH. 902.

§ 22.1-199.1 amended. Programs to promote educational opportunities. Revises the at-risk four-year-olds program to allow school divisions to apply for the state grant funds to support at least half-day programs conducted for the length of the school year which include both at-risk four-year-olds and five-year-olds who are not eligible to attend kindergarten. The current law allows only full-day programs that are conducted for at least the school year and focused only on at-risk four-year-olds to apply for the grants. The bill also adjusts the prohibition on supplanting any funds currently provided for preschool programs within the locality to apply only to local funds currently provided for preschool programs within the locality. In addition to local funds, localities may also use other nonstate moneys to support the required local match, e.g., federal funds. School divisions may apply for and be granted waivers of the Department of Education's guidelines for "quality preschool education and criteria for the service components." HB 471; CH. 828.

§§ 22.1-199.2, 22.1-209.1:4, 22.1-253.13:1, 22.1-253.13:3, 22.1-253.13:4 and 22.1-254.01 amended. Literacy Passport Tests. Phases out the current Literacy Passport testing requirement set forth in the Standards of Quality as follows: in school year 1997-98, the Literacy Passport Test (LPT) shall be administered to students in grades six, seven, and eight, and to graded students and ungraded students, as applicable, in grades nine through twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. For students in grade six in school year 1997-1998, the test results shall be for informational purposes only and shall not be used as a graduation requirement or for classification as a ninth grader but shall be used for remediation purposes. In school year 1998-1999, the LPT shall be administered to students in grade eight, and to graded students and ungraded students, as applicable, in grades nine through twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. In school year 1999-2000, the LPT shall be administered to graded

students and ungraded students, as applicable, in grades nine through twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. In school year 2000-2001, the LPT shall be administered to graded students and ungraded students, as applicable, in grades ten through twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. In school year 2001-2002, the LPT shall be administered to graded students and ungraded students, as applicable, in grades eleven and twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. In school years 2002-2003, 2003-2004, and 2004-2005, the LPT shall be administered to graded students and ungraded students, as applicable, in grade twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. After school year 2004-2005, the LPT shall be administered only to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. An enactment clause also calls for the Board of Education, following the 1998 and 1999 administration of the SOL assessments, to determine the degree to which the current funding mechanisms are sufficient to address the remedial needs of students failing the SOL assessments, for the purposes of determining the future fiscal impact of requiring remediation for such students. The Board must provide, to the Governor and the Chairmen of the House Committees on Appropriations and Education, and the Senate Committees on Finance and Education and Health, by December 1, 1998, an interim report addressing their initial findings and, by December 1, 1999, a final report on the findings for both years and any recommendations for the current remedial education and at-risk funding programs for the 2000-2002 biennial budget, to ensure access to remedial services for those students failing the SOL assessments. For effective date, see bill. HB 409; CH. 602.

§§ 22.1-199.2, 22.1-209.1:4, 22.1-253.13:1, 22.1-253.13:3, 22.1-253.13:4 and 22.1-254.01 amended. Literacy Passport Tests. Phases out the current Literacy Passport testing requirement set forth in the Standards of Quality as follows: in school year 1997-98, the Literacy Passport Test (LPT) shall be administered to students in grades six, seven, and eight, and to graded students and ungraded students, as applicable, in grades nine through twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. For students in grade six in school year 1997-1998, the test results shall be for informational purposes only and shall not be used as a graduation requirement or for classification as a ninth grader but shall be used for remediation purposes. In school year 1998-1999, the LPT shall be administered to students in grade eight, and to graded students and ungraded students, as applicable, in grades nine through twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. In school year 1999-2000, the LPT shall be administered to graded

students and ungraded students, as applicable, in grades nine through twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. In school year 2000-2001, the LPT shall be administered to graded students and ungraded students, as applicable, in grades ten through twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. In school year 2001-2002, the LPT shall be administered to graded students and ungraded students, as applicable, in grades eleven and twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. In school years 2002-2003, 2003-2004, and 2004-2005, the LPT shall be administered to graded students and ungraded students, as applicable, in grade twelve, and to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. After school year 2004-2005, the LPT shall be administered only to adults and students returning to upgrade a certificate of completion or special diploma to a standard or advanced studies diploma. Effective July 1, 2003, division superintendents may require summer school attendance for students whose passage of the Standards of Learning (SOL) Assessments has been determined to be directly related to summer school attendance. Also in 2003, failure rates for the SOL Assessments will serve as a basis for providing state funding for certain instructional positions. The Board of Education is to report to the Governor and chairmen of the House Committees on Education and Appropriations and the Senate Committees on Education and Health and Finance regarding the fiscal impact of requiring remediation for students failing the SOL tests. This bill is similar, but not identical, to HB 409. For effective date, see bill. SB 120; CH. 627.

§ 22.1-199.3 added. Virginia Educational Excellence Incentive Reward Program. Establishes the Virginia Educational Excellence Incentive Reward Program and Fund to be administered by the Board of Education. The Fund shall be disbursed to award incentive grants to public schools meeting certain eligibility or performance criteria established by the Board and to support nonmonetary awards recognizing exemplary performance by teachers, administrators, and students at the regional and state levels. The Board's criteria for making the incentive grants are to include annual performance benchmarks for individual public schools developed with the assistance of the relevant division superintendent. The criteria are to recognize exceptional and improved educational performance in public schools and may be based upon, but shall not be limited to, various school and pupil performance indicators, such as pupil academic performance; Standards of Learning test scores; student and teacher attendance rates; graduation rates, including minority graduation rates; and parental and community involvement. In establishing the criteria, the Board may consider school and division population information, such as the percentage of students speaking English as a second language, community education and income levels, local ability-to-pay for public education, and school- and division-wide enrollments. Grants are calculated on

a per teacher basis and may be used for salary bonuses, professional development, school improvement funds, or other educational initiatives or expenses approved by the Board. In addition, the Board is to establish within the Program a system of nonmonetary awards to recognize exemplary performance by teachers, administrators, and students in the public schools. Teachers, administrators, and students meeting performance criteria established by the Board are to be recognized annually at the regional and state level. This measure is a recommendation of the HJR 196 Commission on the Future of Public Education. HB 653; CH. 903.

§ 22.1-202 amended. Instruction in the history and principles of the flags of the United States and the Commonwealth. Requires instruction in the history and principles of the flags of the United States and the Commonwealth to include the appropriate etiquette and conventions for respecting the dignity and appropriate display of such flags. The Board of Education's guidelines for pledging allegiance must also include the appropriate etiquette and conventions for respecting the dignity of the flags. SB 174; CH. 128.

§ 22.1-205 amended. Driver education programs. Requires driver education programs to include instruction concerning aggressive driving. HB 896; CH. 96.

§ 22.1-208.01 added. Commonwealth Character Initiative. Establishes the Commonwealth Character Initiative, a unit to provide resources and technical assistance to school divisions regarding successful character education programs. The unit is to assist school divisions in character education programs and practices designed to promote the development of personal qualities as set forth in the Standards of Quality (§ 22.1-253.13:1 B) and to improve family and community involvement in the public schools. The unit is specifically to identify and analyze effective character education programs and practices and to collect and disseminate among school divisions information regarding such programs and practices and potential funding and support sources. The unit may also provide resources supporting professional development for administrators and teachers in the delivery of any character education programs. HB 1344; CH. 725.

§ 22.1-208.2:1.1 added. Reading Incentive Grants Program and Fund. Establishes the Reading Incentive Grants Program and Fund, to be administered by the Board of Education. The incentive grants would be awarded on a competitive basis to public schools demonstrating low pupil academic performance and be used to support successful reading programs, including, but not limited to, the Virginia Reading Recovery Program. The Board will establish criteria for making grants from the Fund, including school eligibility criteria and indicators of low pupil academic performance, and procedures for determining amounts for grants to eligible public schools. This measure is a recommendation of the HJR 196 Commission on the Future of Public Education. SB 558; CH. 131.

§ 22.1-209.1:5 added. Virginia Gifted Education Pilot Program. Establishes the Virginia Gifted Education Pilot

Program to provide a model for school divisions, facilitate the identification of gifted students, enhance and improve existing gifted education programs, and increase the representation of gifted students who are eligible for the federal Free-Lunch Program. The program shall consist of selected pilot projects geographically dispersed throughout the Commonwealth. The pilot programs are established with such funds as may be appropriated for this purpose. The act expires July 1, 2001. HB 1288; CH. 878.

§§ 22.1-212.2 and 22.1-253.13:6 amended. Educational planning. Provides statutory consistency for already existing policy calling for six-year plans from the Board of Education and corresponding and consistent plans from local school divisions. Although present law calls for local school boards to include a technology component in their divisionwide six-year improvement plans and the Board of Education actually has a six-year technology plan, the present law authorizes the Board of Education to have only a five-year plan for education technology. This bill transfers the reference to the Board's five-year technology plan to Standard 6 of the Standards of Quality relating to planning and public involvement and revises the reference to call for a six-year technology plan. HB 1340; CH. 106.

§§ 22.1-212.5 through 22.1-212.15 added. Charter schools. Authorizes the establishment of charter schools in Virginia. After public notice, a public hearing, and adoption by the local school board of a resolution stating its intent to receive applications for the establishment of charter schools in the school division, the local school board may receive and review all charter school applications, which may be submitted by individuals or organizations. Each charter application must include a school mission statement consistent with the Standards of Quality (SOQ); goals and learning objectives that must meet or exceed the Standards of Learning (SOL); evidence of parental, teacher, and pupil support; a description of a lottery process used to determine enrollments; a statement of need; a proposed budget; a plan for displaced pupils and teachers; and a description of governance, employment conditions, and other related matters. The local school board may establish procedures for public notice, comment, or hearings on charter school applications and retains final, ultimate authority over the approval, denial, revocation, or nonrenewal of charter contracts; there is no appeals process. The contract between the charter school and the local school contains all agreements releasing of the charter school from school division policies, and is to include all requests for release of the charter school from state regulations, except for the requirements of the SOQ. As public, nonsectarian, nonreligious, non-home-based alternative schools, charter schools remain subject not only to the SOQ, but also to state and federal anti-discrimination laws and regulations, and court-ordered desegregation plans. Tuition-free, charter schools are deemed part of the school division and are accountable to the local school board. The conversion of a private, nonpublic, religious, or home-based program into a charter school is specifically prohibited. Enrollment is open to any child residing in the school division,

through a lottery process on a space-available basis. The school board may restrict the number of charters granted, and no more than two charters may be granted per division before July 1, 2000. Subsequently, the total number of charter schools shall not exceed ten percent of the school division's total number of schools or two charter schools, whichever is greater. The term of any charter, whether initial or renewed, may not exceed three years. At least half of a division's charters must be reserved for applications designed to increase opportunities for at-risk students and priority given to these applications. The funding mechanism for charter schools is similar to that for some Governor's Schools and alternative education programs: students enrolled in a charter school are included in the division's average daily membership, but the schools are not included in fall membership for purposes of calculating division SOQ costs. The proportionate share of state and federal money for disabled pupils and special education personnel as well as state and federal categorical aid must also go to the charter school. Other details for funding for the charter school are to be negotiated in the charter contract. Licensed personnel may volunteer for employment at the charter school on an annual contract basis; charter school teachers are entitled to the same benefits as noncharter school teachers. School boards must submit an annual evaluation of their charter schools to the Board of Education; the Board, in turn, must report its findings to the Governor and the General Assembly beginning in January 1999. HB 543; CH. 748/SB 318; CH. 890.

§§ 22.1-217, 22.1-253.13:5 and 22.1-298 amended. **Instruction of blind and visually impaired students.** Requires minimum proficiency in Braille by July 1, 2000, to be demonstrated as a condition of licensure for teachers of blind and visually impaired students; directs the Virginia Department for the Visually Handicapped to assist the Board of Education and the school boards of the several school divisions with in-service training in Braille for currently employed teachers of students who are blind and visually impaired; and mandates that the Board of Education, in cooperation with the Virginia Department of the Visually Handicapped, sponsor, conduct or provide advice on inservice programs in Braille for teachers of students who are blind and visually impaired. HB 820; CH. 852.

§ 22.1-217.01 added. **Notification upon identification of hearing or visual impairment.** Requires the Department of Education to annually prepare and distribute to local school boards packets of information describing the educational and other services available through the Virginia Schools for the Deaf and the Blind, the Virginia Department for the Deaf and Hard-of-Hearing, and the Virginia Department for the Visually Handicapped to students who are identified as hearing impaired or visually impaired. Local school boards must annually distribute this information to the parents of those students who are identified as hearing impaired or visually impaired. SB 270; CH. 351.

§§ 22.1-226.1 through 22.1-226.4 added. **Coalfield Educational Empowerment Program.** Establishes the Coalfield Educational Empowerment Program, from such funds

as may be appropriated, to be administered by the Adult Education Service of the Department of Education. The Department is to (i) seek the input of school division superintendents in the Coalfield region; (ii) enter into agreements with adult education providers in the region to perform the functions of the Program; and (iii) report to the region's local school boards, the General Assembly, the Governor, and others by November 1 of each year regarding the impact and activities of the Program. The Program's purposes are to enhance the educational attainment of adults in the region's labor force and coordinate G.E.D. activities within the region. The Coalfield region is defined to include the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise and the City of Norton. The measure is to expire on July 1, 2003. HB 977; CH. 308.

§ 22.1-253.13:1 amended. **Standards of Quality; actual pupil/teacher ratios to be reported.** Requires school boards to report, annually, on or before January 1, to the public the actual pupil/teacher ratios in the current school year by elementary school classroom for the current school year. School boards must also report pupil/teacher ratios which include resource teachers. HB 211; CH. 816.

§ 22.1-253.13:1 amended. **Standards of Quality; technological proficiency.** Revises the Standards of Quality to direct school divisions to incorporate within their programs of instruction for grades K-12 emphasis on technological proficiency. The Standards of Learning for mathematics, English, science, and history and social science, revised in 1995, include computer and technology standards for skills to be acquired by the end of grades five and eight. HB 1200; CH. 103.

§ 22.1-253.13:1 amended. **Standards of Quality; basic skills, programs, etc.** Requires the Board of Education to include, in the Standards of Learning (SOL) for mathematics, objectives to cover the skills necessary to manage personal finances and to make sound financial decisions. By July 1, 1999, the Board must develop and approve objectives for mathematics, at the middle and high school level, for personal living and finances, which will focus on money management skills for individuals and families. The objectives will require instruction in those skills necessary to handle personal business and finances, and shall include, but need not be limited to, the following: opening a bank account and how to judge the quality of a bank's services; balancing a check book; completing a loan application; the implications of an inheritance; the basics of personal insurance policies; consumer rights and responsibilities; dealing with salesmen and merchants; debt management, including retail and credit card debt; state and federal tax computation; local tax assessments; computation of interest rates by various mechanisms; understanding simple contracts; and how to contest an incorrect bill. The personal living and finances objectives shall not be required to be included in the Board's Standards of Learning, and are to be developed in a manner to ensure that instruction in the SOL is not deemphasized. The Board shall not be required to evaluate student achievement concerning such objectives in the SOL

Assessments. SB 527; CH. 800.

§ 22.1-253.13:3 amended. Standards of Accreditation; student outcome measures. Requires the Board of Education to include in the student outcome measures, which are required by the Standards for Accreditation, tests for various grade levels and classes, as determined by the Board, in accordance with the Standards of Learning. These Standards of Learning assessments must include, but need not be limited to, tests for English, mathematics, science, and social studies. A second enactment requires the Board to develop and implement, as a component of the student outcome measures required by § 22.1-253.13:3 B, currently known as Standards of Learning assessments, an end-of-course test for world geography which must be a separate and stand-alone test and not part of or paired with other end-of-course social studies assessments. HB 356; CH. 567.

§ 22.1-253.13:3 amended. Integrated learning courses. Directs the Board of Education, in establishing course and credit requirements for a high school diploma, to provide for the selection of integrated learning courses meeting the Standards of Learning and approved by the Board to satisfy graduation credit requirements, to include Standards of Learning tests, as necessary. HB 602; CH. 456.

§ 22.1-253.13:3 amended. Effective instructional programs and practices. Establishes within the Department of Education, from such funds as may be appropriated, a unit to conduct evaluative studies and provide resources and technical assistance to increase the capacity of school divisions to deliver quality instruction. This unit must identify and analyze effective instructional programs and practices and professional development initiatives; evaluate the success of programs encouraging parental and family involvement; assess changes in student outcomes prompted by family involvement; and collect and disseminate among school divisions information regarding effective instructional programs and practices, initiatives promoting family and community involvement, and potential funding and support sources. The unit may also provide resources supporting professional development for administrators and teachers. The unit is to give priority to those school divisions demonstrating a less than 70 percent passing rate on the literacy tests and the Standards of Learning assessment tests. This measure is a recommendation of the HJR 196 Commission on the Future of Public Education. HB 710; CH. 843.

§ 22.1-253.13:4 amended. Seals on high school diplomas. Requires the Board of Education to develop criteria for recognizing exemplary performance in vocational studies by students who have completed the requirements for a standard or advanced studies diploma and to award seals on the diplomas of students meeting such criteria. The Standards of Accreditation are Board of Education regulations which now provide for Board of Education and Governor's Seals on the diplomas of students meeting certain diploma and grade average requirements. Currently, students may also receive other seals or awards for exceptional academic, vocational, citizenship, or

other exemplary performance in accordance with criteria defined by local school boards. HB 63; CH. 72.

§§ 22.1-253.13:5 and 22.1-298 amended. Training and professional development of teachers, principals, and superintendents. Establishes a number of initiatives supporting professional training and development among public school personnel to implement various recommendations of the Commission on the Future of Public Education (HJR 196 of 1996). This bill amends Standard 5 of the SOQ to require the Board of Education to include, in its training and professional development activities, programs designed to strengthen educators' ability to communicate and work with families, enhance family involvement in student learning at home and in school, and fully integrate theory and application of knowledge into student learning. The Board is also required to develop leadership standards for superintendents and principals. Local school boards must sponsor or conduct leadership training programs consistent with these standards. The Board must advise local school boards regarding the provision of these leadership training programs. The licensure statute is amended to require persons seeking initial licensure on and after July 1, 2002, to have completed study in methods of improving communication between schools and families, ways of increasing family involvement in student learning at home and in school, and the Standards of Learning. On and after July 1, 2002, individuals seeking initial licensure and graduating from Virginia colleges and universities must graduate from nationally accredited programs. An enactment clause requires the Board of Education to establish a two-year program for educational leadership and professional development for public school personnel, with leadership training for administrators and instructional training for teachers. The Board will issue guidelines for the program implementation. HB 432; CH. 826.

§ 22.1-254.1 amended. Home instruction. Provides that parents who begin home instruction after the school year has begun are to notify the division superintendent of their action as soon as practicable. In addition, the measure eliminates the requirement that parents provide the division superintendent with an assessment showing "an adequate level" of educational progress for a home-schooled child who is under age six as of September 30 of the school year. HB 968; CH. 435.

§ 22.1-258 amended. Notification of parents regarding pupil's absence. Provides that the notice to parents of a pupil's absences from school for three consecutive days or five days in one calendar month shall be given to both parents when they have been awarded joint physical custody. HB 1278; CH. 620.

§ 22.1-274 amended. Certification of school employees in CPR. Requires each school board to ensure, in school buildings with an instructional and administrative staff of 10 or more, that at least two instructional or administrative employees have (i) current certification in cardiopulmonary resuscitation (CPR) or (ii) received CPR and emergency first aid training in the last two years. In school buildings with an instructional and administrative staff of fewer than 10, at least one instructional

or administrative employee must have such current CPR certification or CPR and emergency first aid training. HB 1111; CH. 871.

§ 22.1-274.01 added. School Nurse Incentive Grants Program and Fund. Establishes the School Nurse Incentive Grants Program and Fund, to be administered by the Board of Education. Moneys in the Fund will be disbursed to award matching grants to school boards to employ, or contract with local health departments for, nursing services to achieve the goals set forth in § 22.1-274 for nurse-to-student ratios. The Board must establish criteria for making grants from the Fund, including procedures for determining amounts of grants and the required local match, which will be calculated on the basis of the composite index of local ability to pay. HB 1060; CH. 904.

§ 22.1-277 amended. Suspension of students from school attendance. Modifies the hearing procedures afforded students who have been suspended for more than 10 days (a long-term suspension) by allowing a three-member committee of a local school board to confirm such long-term suspensions by unanimous decision, pursuant to school board regulations. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. The appeal must be decided by the school board within 30 days. This change mirrors the school board committee hearing procedures currently permitted to address expulsions of students. HB 893; CH. 379.

§§ 22.1-277.01:1 and 22.1-277.01:2 added. Student expulsion and searches. Directs school boards to expel from school attendance any student whom such school board has determined, in accordance with existing due process requirements, to have brought drugs onto school property or to a school-sponsored activity. A school board may, however, determine, based on the facts of the particular case, that special circumstances exist and another disciplinary action is appropriate. School boards are to revise their standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective. This language mirrors the current Gun-Free Schools expulsion provisions of § 22.1-277.01. In addition, the Board of Education is to develop, in consultation with the Office of the Attorney General, guidelines for school boards for the conduct of student searches, including random locker searches, consistent with relevant state and federal laws and constitutional principles. HB 1343; CH. 655.

§§ 22.1-277.02 and 22.1-277.1 amended. Suspension and expulsion of students. Provides that students for whom a report has been received of an adjudication of delinquency or a conviction may be suspended or expelled from school attendance pursuant to § 22.1-277. Under current law, court clerks must notify the relevant school division superintendent when a juvenile is convicted or adjudicated delinquent of certain violent or serious crimes such as arson, homicide, or felonious assault. SB 362; CH. 355.

§ 22.1-277.03 added. Re-admission of suspended and expelled students to public schools. Requires local school

boards by oral or written notice to notify the parent of a student who has been suspended for not more than 10 days from school of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and, in the case of suspensions, of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division shall be borne by the parent of the student. The parent of a student suspended for more than 10 days or expelled shall receive similar written information about educational and intervention programs and whether the student is eligible to return to regular school attendance or to attend an appropriate alternative education program approved by the school board or an adult education program during or upon the expiration of the expulsion and the terms or conditions of re-admission. If the school board determines the student to be ineligible to return to regular school attendance or to attend an alternative education program or an adult education program, the written notice must also advise the parent that the student may petition the school board for readmission after one calendar year from the date of his expulsion and of the conditions, if any, under which readmission may be granted. This bill is the recommendation of the Standing Joint Subcommittee on School Dropout Prevention. SB 667; CH. 806.

§ 22.1-288.2 amended. Information regarding certain offenses committed by students. Allows a principal, after he receives the information from the division superintendent, to disseminate information received from the court clerk regarding adjudications or convictions of a student for certain serious crimes to licensed instructional personnel and other school personnel providing direct educational and support services to the student who have a legitimate educational interest in such information. Under current law, the superintendent may only share adjudication and conviction information with school personnel responsible for the management of student records, specifically, the principal of the school in which the student is enrolled and other relevant school personnel, and only if the student poses a danger to himself or others or to facilitate an appropriate educational placement. This bill also removes the requirement that, for dissemination beyond the principal and record managers, the student must pose a danger to himself or others or that the disclosure will facilitate the student's appropriate educational placement or other educational services. HB 1104; CH. 870.

§ 22.1-296.2 amended. Criminal records checks; school board employees. Adds the City of Martinsville and Rappahannock County to the list of jurisdictions authorized to fingerprint applicants who accept or are offered school division employment and to submit the fingerprints and descriptive information through the Central Criminal Records Exchange to the Federal Bureau of Investigation to obtain a national criminal records history. Presently, 50 (28 counties and 22 cities) of the

134 school divisions in Virginia are authorized to fingerprint applicants and search the FBI records. The applicant may be required to pay for the fingerprinting and records search. HB 521; CH. 412.

§§ 19.2-389 and 22.1-296.3 amended. Criminal records check for private school employees. Allows the governing board or administrator of an accredited private or parochial school employing or previously employing a temporary teacher or a private organization coordinating such records on behalf of the governing board or administrator, pursuant to a written agreement with the Department of State Police, to disseminate, at the written request of that temporary teacher, information as to whether or not the teacher meets the criteria for employment (that is, whether the Central Criminal Records Exchange (CCRE) indicates that the applicant has been convicted of certain specified crimes) to the governing board or administrator of another accredited private or parochial school at which the teacher has accepted employment. The transferring governing board or administrator or private organization coordinating such records will be immune from civil liability for any official act, decision or omission done or made in performance of the information transfer, when such acts or omissions are taken in good faith and are not the result of gross negligence or willful misconduct. This bill also authorizes a private organization coordinating the records information on behalf of the governing boards or administrators pursuant to a written agreement with the Department of State Police to receive the Central Criminal Records Exchange information. Although the law relating to criminal records checks for private schools has been on the books since 1996, this bill revises the date for compliance to July 1, 1998. HB 859; CH. 113.

§ 22.1-298 amended. Teachers to study gifted education. Adds the study of gifted education, particularly the use of multiple criteria to identify gifted students to the requirements for licensure for classroom teachers. Currently, few teachers are prepared to identify and accommodate the educational needs of gifted students, especially such students in the elementary grades and the nontraditional gifted student. Due to the stereotypes concerning gifted students and the use of inappropriate assessment methods to identify them, too often, gifted minority and low-income students are tracked into lower level courses and are not identified for or served by gifted education programs. These factors are among many which contribute to their under-representation in such programs. This bill is the recommendation of the Joint Subcommittee Studying the Educational Needs of Certain Underserved Gifted Students. HB 1287; CH. 621.

§ 22.1-346 amended. Virginia Schools for the Deaf and the Blind. Requires the Board of Education to include, in any budget recommendations to the Governor for state funding for the several school divisions which may be related to educational technology or other programs appropriate for implementation within the two schools for the deaf and the blind, state funding for such programs to be provided to the Virginia Schools for the Deaf and the Blind. SB 397; CH. 66.

TITLE 22.1. MISCELLANEOUS.

Third enactments of Chapters 803, 888 and 891 of the Acts of Assembly of 1997 amended. Trigon funds of local school divisions. Authorizes local governing bodies to use a portion of their school's health insurance premium fund to compensate retired school employees, including those who are now retired and those who retire in the future, for their health insurance premiums, including premiums paid for by the employees during periods they were employed by the school division and insured under a Trigon group policy. Currently, the money in this fund may be used only to offset health insurance premium expenses incurred by or on behalf of present and future school employees. HB 607; CH. 256.

TITLE 23. EDUCATIONAL INSTITUTIONS.

§ 23-7.4:1 amended. Waivers of tuition for certain students. Reduces from ten to five the number of years of Virginia residency required of a veteran who was killed, disabled, a prisoner of war, or missing in action in armed conflict, or of the surviving spouse of such veteran, for the child of such veteran to be eligible for free tuition and fees at a state institution of higher education. In addition, the residency requirements addressing surviving spouses are altered to allow such spouse to have been a Virginia resident for either five years before marriage or for five years prior to the child's application for college admission; current law requires that both of these conditions be met. HB 726; CH. 377.

§ 23-7.4:2 amended. Virginia Community College System; reduced tuition for certain students. Repeals the July 1, 1998, sunset to allow the governing board of the Virginia Community College System to continue to charge reduced tuition to any person enrolled in one of the System's institutions who lives within a 30-mile radius of a Virginia institution, and is domiciled, and entitled to in-state tuition charges in the institutions of higher learning, in any state contiguous to Virginia that has similar reciprocal provisions for persons domiciled in Virginia. HB 468; CH. 79/SB 288; CH. 62.

§§ 23-9.2:3 and 23-38.12 amended. Eligibility for student financial assistance. Modifies the current requirements for eligibility for student assistance and the Tuition Assistance Grant (TAG) Program to require registration for selective service pursuant to federal law. Current law makes students who have been convicted of failure to register ineligible for such assistance. HB 518; CH. 483.

§§ 2.1-1.5, 2.1-179, 9-6.14:4.1, 15.2-5002, 23-9.2:3 and 23-38.72 amended; §§ 23-38.30 through 23-38.44:4 repealed. State Education Assistance Authority, the Virginia Student Assistance Authorities, and the Virginia Education Loan Authority. Abolishes the Virginia Student

Assistance Authorities; deletes references to the State Education Assistance Authority, the Virginia Student Assistance Authorities, and the Virginia Education Loan Authority; and makes other technical changes related to abolishing the Virginia Student Assistance Authorities as a result of privatizing these functions. HB 638; CH. 39.

§§ 2.1-1.5, 2.1-179, 9-6.14:4.1, 15.2-5002, 23-9.2:3 and 23-38.72 amended; §§ 23-38.30 through 23-38.44:4 repealed. **State Education Assistance Authority, the Virginia Student Assistance Authorities, and the Virginia Education Loan Authority.** Abolishes the Virginia Student Assistance Authorities; deletes references to the State Education Assistance Authority, the Virginia Student Assistance Authorities, and the Virginia Education Loan Authority; and makes other technical changes related to abolishing the Virginia Student Assistance Authorities as a result of privatizing these functions. This bill is nearly identical to HB 638, but changes the percentages in § 15.2-5002. SB 341; CH. 784.

§ 23-9.2:3 amended. **Rules governing student conduct and programs to promote compliance with laws relating to alcoholic beverages.** Requires the governing bodies of institutions of higher education to establish rules and regulations for the rescinding or restriction of financial aid, within the discretionary authority provided to the institution by federal or state law and regulations, and the suspension of students who fail or refuse to abide by the rules and regulations for the conduct of students. This bill also requires the governing bodies of institutions of higher education to establish programs, in cooperation with the State Council of Higher Education and the Office of the Attorney General, to promote compliance among students with the Commonwealth's laws relating to the use of alcoholic beverages. SB 680; CH. 362.

§§ 23-38.75 and 23-38.77 amended. **Virginia Higher Education Tuition Trust Fund.** Permits beneficiaries of a contract to apply the benefits under a prepaid tuition contract toward tuition costs at such eligible educational institutions, as defined in the Internal Revenue Code, as determined by the Board of the Virginia Higher Education Tuition Trust Fund in its sole discretion. HB 589; CH. 85/SB 267; CH. 61.

§§ 23-38.78 and 58.1-322 amended. **Income tax deduction; obligations of the Virginia Higher Education Tuition Trust Fund.** Establishes an individual income tax deduction for the amount paid for a prepaid tuition contract entered into with the Virginia Higher Education Tuition Trust Fund, not to exceed \$2,000 per contract in any taxable year. Unused portions of the deduction may be carried forward until the purchase price has been fully deducted. The deduction may be taken beginning in taxable years beginning on and after January 1, 1998, for contracts purchased between January 1, 1996, and January 1, 1998. The measure also requires the Governor to include in the budget bill a sum sufficient appropriation for the purpose of ensuring that the Fund can meet its current obligations for the payment of contract benefits or other obligations, maintenance of the Fund, and operating expenses for the current biennium.

HB 608; CH. 373.

§§ 2.1-20.1:2, 23-50.16:5, 23-50.16:24 and 23-50.16:32 amended; §§ 23-50.16:24.1 and 23-50.16:24.2 added; § 51.1-126.2 repealed. **Medical College of Virginia Hospitals Authority.** Requires any employee of the Authority hired on or after July 1, 1998, to participate in the Authority's retirement plan. Employees hired before July 1, 1998, will continue to have the option of participating in either the VRS or the Authority's retirement plan. Employees who elected to remain in the VRS will have the option to switch to the Authority's plan in an open enrollment period in April 2001. The retirement plan contribution for employees hired on or after July 1, 1998, will be set by the Authority; for employees hired before that date, the rate will be the lesser of the VRS rate or eight percent. The Authority is authorized to provide group life insurance to its employees in lieu of the insurance provided by the VRS. The Authority will pay the cost of the retiree health care credit for retired employees who were employed prior to July 1, 1998. HB 227; CH. 449.

§ 11-35 amended; § 23-76.1 added. **Investment of University of Virginia endowment funds; exemption of such investments from the Virginia Public Procurement Act.** Exempts the selection of services for the management and investment of endowment funds of the University of Virginia from the Virginia Public Procurement Act. This bill also requires the board of visitors to direct the University's endowment investments in accordance with the provisions of the Uniform Management of Institutional Funds Act and provides the board with immunity from personal liability for losses arising from these endowment fund investments. HB 678; CH. 121/SB 606; CH. 132.

§§ 23-214 and 23-215 amended. **Workforce training at community colleges.** Modifies the definition of "comprehensive community college" to include the provision of noncredit training and retraining courses and programs of varying lengths to meet the needs of business and industry in the Commonwealth and designates the Virginia Community College System as the state agency with primary responsibility for coordinating workforce training at the postsecondary to the associate degree level, excluding vocational and technical education provided through the public schools. The Community College System's responsibility for coordinating workforce training will not preclude other agencies from also providing such services as appropriate; however, these activities will be coordinated with the community colleges. This measure is a recommendation of the HJR 622 Joint Subcommittee to Study Noncredit Education for Workforce Training in Virginia. HB 849; CH. 111/SB 384; CH. 396.

§§ 23-231.3 and 23-231.4 amended. **Southwest Virginia Higher Education Center.** Adds the president of Emory & Henry College to the Board of Trustees of the Southwest Virginia Higher Education Center and authorizes the Board to enter into agreements with Emory & Henry College for the provision of (i) graduate degree instructional programs in education and (ii) upper-level undergraduate instructional

programs. Both types of programs will be provided at the Center. HB 466; CH. 78.

§§ 23-231.14 and 23-231.16 amended. Roanoke Higher Education Center Authority. Empowers the Roanoke Higher Education Center Authority to accept, administer, and account for any state grant to a nonstate entity which may be provided in the name of the Roanoke Higher Education Center or in the name of the Roanoke Higher Education Center Authority. The bill also provides that any real estate and tangible personal property held or acquired by the Board shall be exempt from any prohibition of the use of noncash assistance as matching funds. SB 651; CH. 360.

§§ 23-231.15, 23-231.16 and 23-231.17 amended. Roanoke Higher Education Authority; membership. Increases the membership of the Roanoke Higher Education Authority from 17 to 21 by adding the College of Health Sciences, Ferrum College, Hollins College, and Roanoke College. These institutions join the other participating institutions--Averett College, Bluefield College, Mary Baldwin College, Old Dominion University, Radford University, University of Virginia, Virginia Polytechnic Institute and State University, and Virginia Western Community College--in providing staff support for the functions of the Roanoke Higher Education Center. The board of the Authority is also empowered to enter into agreements with local school boards and other entities to provide such programs as it deems necessary and appropriate to carry out Authority purposes. HB 827; CH. 55/SB 346; CH. 45.

§§ 23-287 through 23-290 added; §§ 9-96 through 9-99 repealed. Educational institutions. Designates the Jamestown-Yorktown Foundation as an institution of higher education and moves its enabling legislation from Title 9 to Title 23. The bill also requires that future appointments made by the Governor to the Board of Trustees be confirmed by the General Assembly as is required for other appointments in the executive branch. The bill clarifies that it does not require the reappointment of the Board of Trustees and that the present Board members may continue to serve until their current terms expire. SB 382; CH. 786.

TITLE 24.2. ELECTIONS.

§§ 24.2-101 and 24.2-803 amended. Election laws definitions; contested elections for the General Assembly. Provides that a write-in candidate must have received at least 15 percent of the votes cast for the office in question to be eligible to contest the election. With respect to General Assembly election contests, the bill also (i) revises certain procedures and (ii) provides that the house hearing the contest, by a two-thirds vote, may require a contestant to pay the contestee's costs if the contest was brought in bad faith. HB 1073; CH. 866.

§ 24.2-105.1 added. Election information on the Internet. Requires the State Board of Elections to furnish lists of candidates and information on constitutional amendments and

statewide referenda on the Internet for all elections in the Commonwealth beginning with the November 1998 general election. HB 580; CH. 478.

§ 24.2-114 amended. Elections; duties and powers of general registrars; pollbooks. Modifies the provisions on retention of registered voter lists by the general registrar. There are duplicate lists which serve as the pollbooks for an election. One set is held by the clerk of the circuit court after the election and delivered by him to the general registrar after the time for a recount or contest has expired. The general registrar is required to retain this set for five years after the election date. The other set is sent to the State Board of Elections for voter credit purposes and then returned by the State Board to the general registrar to be retained by him for four years. The bill permits the general registrar to destroy the set returned by the State Board two years after a federal election and one year after other elections. SB 358; CH. 354.

§§ 24.2-115 and 24.2-636 amended. Officers of election; instruction on duties and use of voting equipment. Permits electoral boards to provide instruction to all officers on their duties and on voting equipment between three and 30 days before the election. The bill sets one uniform period for instruction. HB 1196; CH. 187.

§§ 24.2-230, 24.2-232, 24.2-410, 37.1-134.6, 37.1-134.14, 37.1-134.15, 37.1-134.18 and 37.1-137.2 amended. Guardians and conservators. Clarifies provisions governing the effect of the 1997 changes in the law of guardianship and determinations of incompetency and incapacity on the state's election laws and on the duties of commissioners of accounts. The bill clarifies that the local department of social services of the jurisdiction where the incapacitated person resides is responsible for securing the guardian's report. Eff. 4/15/98. SB 14; CH. 582.

§ 24.2-302 amended. Congressional districts. Revises the boundaries of the First, Second, Third, Fourth, and Seventh Congressional Districts in response to the three-judge federal district court order in *Moon v. Meadows*. Eff. 2/11/98. SB 13; CH. 1.

§ 24.2-303 amended. Senatorial districts; technical adjustments. Corrects the lines between Senate Districts 10 and 12 and between Senate Districts 12 and 16 in Henrico County to eliminate technical splits of the Westwood and Seven Pines Precincts. All of the present Westwood and Seven Pines Precincts are retained in Senate District 12. The changes affect four census map blocks and 15 registered voters. SB 15; CH. 191.

§ 24.2-309.1 added. Prohibition on election precinct boundary changes. Prohibits any changes in precinct boundaries from September 1, 1998, to June 1, 2001, with specified exceptions. The Joint Reapportionment Committee has recommended this freeze on precinct boundary adjustments as part of the Commonwealth's program to obtain accurate precinct data with the Census 2000 maps and population reports. This precinct boundary freeze is similar to the freeze of

precinct boundaries enacted prior to the 1990 Census. HB 343; CH. 368.

§§ 24.2-506, 24.2-521 and 24.2-543 amended. **Petition requirements for independent candidates, primary candidates, and groups of voters nominating candidates in presidential elections.** Reduces the number of petition signatures required for independent candidates and primary candidates for statewide offices and for minor party tickets on the presidential ballot from one-half of one percent of the number of voters registered in the Commonwealth (approximately 17,000 signatures based on the January 1, 1998, registered voter total) to 10,000 signatures. The bill also reduces the number of signatures for independent and primary candidates in congressional district elections from one-half of one percent of the number of voters registered in the district (approximately 1,550 signatures based on the January 1, 1998, registered voter total) to 1,000 signatures. The bill increases the requirement for a minimum number of signatures from each congressional district from 200 to 400 for statewide petitions. HB 49; CH. 152/SB 316; CH. 246.

§§ 24.2-633, 24.2-634 and 24.2-639 amended. **Duties of officers of election; preparation and sealing of voting and counting equipment for elections.** Provides that a voting or counting device which cannot be sealed with a metal seal may, instead, be locked with a key following the preparation of the device for the election. HB 1195; CH. 264.

§ 24.2-640 amended. **Elections; form of ballots.** Gives localities that have converted from mechanical to electronic voting equipment the option to continue to use a ballot alignment similar to what was used with the mechanical equipment. The purpose of the option is to permit the locality to show political party alignments on the ballot. Eff. 4/22/98. SB 500; CH. 797.

§ 24.2-669 amended. **Keeping of ballots by circuit court clerks.** Allows the clerk to destroy the counted ballots, for elections other than federal elections, one year rather than two years after the election if no contest is pending. The two-year retention requirement remains in effect for federal elections to comply with federal law requirements. HB 1411; CH. 270.

§§ 24.2-700 and 24.2-701 amended. **Persons entitled to vote absentee and absentee ballot applications.** Provides that a person who is unable to go to the polls on election day because of an obligation occasioned by his religion shall be entitled to vote absentee. The person does not have to be absent from his locality on election day in order to vote absentee under this provision. The bill also requires the State Board of Elections to make absentee ballot applications available through the Internet beginning with the November 1999 election. HB 591; CH. 254.

§ 24.2-712 amended; § 24.2-115.1 added. **Officers of election; hours of service.** Authorizes each local electoral board to use split shifts for officers of election on election day in one or more precincts. However, the chief officer and assistant chief officer must be on duty throughout the election day. This general authorization for split shifts expires July 1,

2001. A conforming change is made in the provision on central absentee voter precincts, which presently allows partial use of split shifts, to require the chief and assistant chief officer, rather than three officers, to remain on duty throughout the election day. HB 1016; CH. 572/SB 373; CH. 549.

§ 24.2-914.1 amended. **Campaign finance disclosure reports; electronic filings; Internet access.** Requires candidates for Governor, Lieutenant Governor, and Attorney General, beginning January 1, 1999, to file information on campaign contributions and expenditures by computer or electronic means meeting State Board of Election standards, and permits General Assembly candidates to file by computer electronically. The bill provides for the availability to the public of information from these campaign finance filings and reports through the Internet and requires the State Board to make all information from these reports (whether or not filed electronically) available on the Internet beginning January 1, 2001. HB 588; CH. 416.

§ 24.2-919 amended. **Campaign finance disclosure; reports of large pre-election contributions.** Modifies the present reporting requirement for candidates for nomination by a political party by convention or other non-primary nominating procedures. The bill expands the reporting requirement to cover all elections, not just nominations for the November election, and provides that the special large contribution report requirements apply only to candidates who have opposition in seeking the nomination. HB 1001; CH. 382.

§ 24.2-928 amended. **Campaign finance disclosure reports.** Provides that the local registrar or board of elections shall notify the person filing the report of any need for additional information within seven days of the due date of the report rather than within seven days of the receipt of the report. HB 96; CH. 153.

TITLE 24.2. MISCELLANEOUS.

November 1998 elections for Towns of Dayton and Mount Crawford. Provides that in the Towns of Dayton and Mount Crawford, the council and mayor shall be elected in November rather than May in 1998. After 1998, elections in the Towns will revert to the May schedule. This bill overrides provisions of general law and the Dayton and Mount Crawford charters. Eff. 4/16/98. HB 496; CH. 713.

TITLE 25. EMINENT DOMAIN.

§ 25-46.5 amended. **Condemnation; bona fide effort to purchase.** Provides that a condemnor's bona fide effort to purchase a property shall include a written statement to the owner which explains the factual basis for the condemnor's

offer. SB 641; CH. 556.

TITLE 26. FIDUCIARIES GENERALLY.

§§ 26-4, 26-12.3, 58.1-1712 and 58.1-1714 amended. **Fiduciaries.** Raises from \$5,000 to \$10,000 the threshold amount of an estate for which (i) a fiduciary may qualify without giving surety on his bond, (ii) filing of an inventory is waived, and (iii) the filing of a probate tax return and payment of the tax is waived. Eff. 3/13/98. HB 344; CH. 117.

§§ 8.01-424, 26-12, 26-15, 26-20.1, 55-59.4, 64.1-134 and 64.1-135 amended; § 64.1-133 repealed. **Commissioners of accounts.** Authorizes the court, in its order authorizing the trust or additions thereto, to subject trustees of trusts created for minors in personal injury cases to the same duties to qualify and account as apply to testamentary trustees. Trustees are required to file an inventory with the commissioner within four months after receipt of any assets and thereafter as assets are received or discovered. The assets are to be valued in the inventory as of the date they are received by the trustee. A trustee is required to promptly deliver a copy of the trustee's deed to the commissioner. The trustee's deed must include the trustee's mailing address. The provisions governing the filing of a list of heirs are simplified and various provisions are modified to reflect forms created by the Office of the Executive Secretary and provided to the clerks. HB 665; CH. 610.

§ 26-45.1 amended. **Trustee's standard of judgment and care required; authorized investments.** Provides that a trustee under an irrevocable life insurance trust does not have a duty to (i) determine whether the policy is and remains a proper investment, (ii) dispose of such policy in order to diversify the investments of the trust, or (iii) exercise policy options under the contract not essential to the continuation of the policy. The bill does not otherwise affect the application of the standard of judgment and care of a fiduciary generally. HB 489; CH. 213.

§§ 26-48, 26-49 and 26-51 amended. **Appointment of new or substitute trustees.** Clarifies that if a trustee moves out of the Commonwealth he is not disqualified unless continued residence is required by law. The bill also adds a catch-all to the list of disqualifiers so that a new trustee may be appointed if the existing trustee "for any other reason" becomes ineligible. HB 487; CH. 410.

§§ 26-48 and 26-51 amended. **Corporate trustees; substitution.** Allows the beneficiaries of a trust to petition the court to have a new resident trustee appointed for good cause whenever a corporate trustee moves the management function over the trust to another jurisdiction. SB 321; CH. 392.

TITLE 27. FIRE PROTECTION.

§ 27-36 amended. **Fire protection; appointment of assistant fire marshals.** Authorizes a local governing body or its designee to appoint assistant fire marshals. Currently, only the governing body of a county, city or town may appoint assistant fire marshals. HB 899; CH. 236.

TITLE 28.2. FISH, OYSTERS, SHELLFISH AND OTHER MARINE LIFE.

§ 28.2-102 amended. **Marine Resources Commission; membership.** Requires that one of the nine members of the Marine Resources Commission be a representative of the sport fishing industry or a recreational fisherman who is not employed by the commercial fishing industry. HB 1264; CH. 161.

§ 28.2-204.1 amended. **Marine Resources Commission; limited sale of gear licenses and permits.** Allows the Commission to issue gear licenses or permits to fish to any person who has resided for at least five years on an island in the Commonwealth that is at least three miles from the mainland, despite any limits the Commission has set on the numbers of such permits or licenses to be issued. HB 993; CH. 114.

§ 28.2-539 amended. **Oyster inspection tax.** Extends the sunset date for the oyster inspection tax from June 30, 1998, to June 30, 2000. HB 992; CH. 98.

§ 28.2-705 amended. **Placing food in peeler crab pots.** Allows the Virginia Marine Resources Commission to develop regulations regarding the placing of food for male (jimmy) crabs in peeler pots. Currently, there is a statutory prohibition on placing such food in peeler pots. HB 656; CH. 88.

§ 28.2-1001 amended. **Potomac River Compact.** Conforms provisions in Virginia's Potomac River Compact to technical changes in the Compact's language made in 1996 and 1997 by the State of Maryland. HB 1209; CH. 216.

§ 28.2-1200. See § 42.1-1; HB 822.

§ 28.2-1203 amended. **Boat shelters on private piers.** Exempts, within certain limitations, open-sided roof shelters and boat lifts on private, noncommercial piers which are themselves exempt from permit requirements, from requirements for a permit from the Virginia Marine Resources Commission. This exemption does not preempt local ordinances, does not apply if an adjoining property owner objects, and only applies to roof structures providing 700 square feet or less of coverage for a single boat slip or lift. HB 537; CH. 605.

§§ 28.2-1400 and 28.2-1403 amended. **Definition of coastal**

primary sand dune. Excludes from the definition of "primary coastal sand dune" sand that is deposited for purposes of beach replenishment or nourishment. The slope of mounds of sand deposited for beach replenishment or nourishment may not be used in determining the lateral or landward limits of a coastal primary sand dune. HB 1244; CH. 160.

TITLE 29.1. GAME, INLAND FISHERIES AND BOATING.

§§ 29.1-101 and 58.1-638 amended; § 29.1-101.01 added. Dedication of tax on outdoor equipment. Dedicates, beginning July 1, 2000, two percent of the proceeds from the state sales and use tax on hunting, fishing and wildlife-watching equipment to the Department of Game and Inland Fisheries' Game Protection Fund, up to an annual amount of \$13 million. The amount that will be deposited in the Fund will be based on the most recent equipment sales figures reported in the "National Survey of Fishing, Hunting, and Wildlife-Associated Recreation" for Virginia. The bill specifies that a portion of the dedicated revenue has to be used to defray the cost of law enforcement. A special, nonreverting fund, the Capital Improvement Fund, is also created to be used to purchase, construct, maintain, or repair the capital assets of the Department of Game and Inland Fisheries. No deposits will be made to the Capital Improvement Fund at any time the balance in this fund exceeds \$35 million. The Board of Game and Inland Fisheries is authorized to transfer up to 50 percent of the dedicated sales tax revenue from the Game Protection Fund to the Capital Improvement Fund to finance the agency's capital needs. HB 38; CH. 320.

§§ 29.1-306 and 29.1-519 amended. Disabled archery hunters. Requires that disabled hunters who are certified by a physician as being unable to use a conventional bow and arrow be afforded the same hunting privileges and opportunities that able-bodied archery hunters enjoy. HB 1091; CH. 144.

§ 29.1-521 amended. Assisting hunters. Allows persons who, during a hunt, reach their daily bag or season limit for turkeys, ducks, geese and swans to assist others who are hunting, by calling these wild birds, so long as their weapons are unloaded. Hunters who have reached their limit before the hunt may offer such assistance but are forbidden to have a weapon in their possession. HB 585; CH. 415.

§§ 29.1-529 and 29.1-544 amended. Game and Inland Fisheries; kill permits. Gives the Director of the Department of Game and Inland Fisheries the authority to capture and relocate bears that are damaging a landowner's property. The bill also gives the Director the discretion of whether or not to issue a permit to kill deer which have caused damage on parcels of property of five acres or less which are not used for commercial agricultural production. Currently, the Director must issue a kill permit which authorizes the landowner to have the bears or deer that damaged his property killed. Persons

having prior convictions of violating wildlife laws added are prohibited from being the shooter on a kill permit. The bill also makes it lawful to sell mounted quail that have been legally raised in captivity and mounted outside of Virginia. HB 486; CH. 179.

§ 29.1-700 amended; § 29.1-749.1 added; § 29.1-747 repealed. Insuring personal watercraft rentals. Allows localities to enact an ordinance that establishes standards for insurance coverage for businesses which rent personal watercraft. HB 576; CH. 563.

§ 29.1-700 amended; § 29.1-749.1 added; § 29.1-747 repealed. Identification of personal watercraft rentals. Requires businesses in Virginia Beach which rent personal watercraft to place a red or black letter "R" on both sides of each rented personal watercraft. The letter must be at least 11 x 8.5 inches. HB 577; CH. 84.

§ 29.1-700 amended. Definition of no wake. Defines "no wake" speed as the operation of a motorboat or vessel at the slowest possible speed required to maintain steerage and headway. Eff. 1/1/99. HB 903; CH. 533.

§ 29.1-700 amended; § 29.1-749.1 added; § 29.1-747 repealed. Personal watercraft rentals. Provides that, beginning January 1, 1999, a person who is in the business of renting personal watercraft must provide to the person who rents such a watercraft information on the laws governing motorboat operation, specific operating requirements of the personal watercraft, and any motorboat safety requirements. The information is to be approved by the Director. Failure to do so is punishable by a civil penalty of no more than \$250. The offense shall be prosecutable by the attorney for the locality, and the civil penalty shall be paid into the local treasury. A provision is included to ensure that a violation of the section does not constitute negligence per se. Eff. 1/1/99. HB 905; CH. 512.

§§ 29.1-700 and 29.1-748 amended; §§ 29.1-744.1 and 29.1-747 repealed. Operation of personal watercraft; penalty. Prohibits a person from operating a personal watercraft in excess of the slowest possible speed required to maintain steerage and headway within 50 feet of piers, boathouses, boat ramps, people in the water, and vessels other than personal watercraft. The bill repeals the enabling authority of local governments to regulate the distance personal watercraft operate from shores, docks, and swimmers. Eff. 1/1/99. HB 1027; CH. 537.

§ 29.1-700 amended; § 29.1-738.03 added; § 29.1-747 repealed. Boating; Reckless operation of a personal watercraft. Makes it a Class 1 misdemeanor to operate a personal watercraft recklessly. The bill includes in its definition of recklessness activities such as weaving at high speed through vessels and crossing between the tow boat and a person on water skis, etc. If a person is convicted a second or subsequent time for this offense, the court shall order that the person not operate a personal watercraft for one year. Eff. 1/1/99. HB 1295; CH. 514.

§§ 29.1-700, 29.1-748 and 29.1-749 amended; § 29.1-747 repealed. **Age of operation of a personal watercraft; penalty.** Requires a person to be at least 16 years of age to operate a personal watercraft, unless he successfully completes a boating safety course approved by the Director of the Department of Game and Inland Fisheries. A 14- or 15-year-old who currently can legally operate a personal watercraft would be able to continue to operate a personal watercraft if he successfully completes the approved training course. Eff. 1/1/99. HB 1380; CH. 443.

§§ 29.1-700, 29.1-736, 29.1-801, 29.1-808, 29.1-813 and 29.1-818 amended; § 29.1-808.1 added; § 29.1-747 repealed. **Motorboat safety training.** Makes it unlawful for anyone to rent a personal watercraft to another unless the rental agent has completed a boating safety course. The bill also requires watercraft salesmen and watercraft demonstrators to successfully complete a boating safety education course approved by the Director of the Department of Game and Inland Fisheries. Any watercraft salesman or demonstrator who is licensed after December 31, 1998, has 60 days from the issuance of his license to sell or demonstrate watercraft to complete the course. Eff. 1/1/99. HB 1381; CH. 515.

§ 29.1-744.1 amended. **Personal watercraft ordinance enforcement.** Empowers game wardens, sheriffs and other law-enforcement officers to enforce local ordinances regulating the use of personal watercraft (jet skis). HB 817; CH. 531.

§ 29.1-744.2 amended. **Local regulation of motorboat distance.** Allows the localities surrounding Lake Anna to enact ordinances requiring motorboats to remain below planing speed while within 50 feet or less of the shore or docks attached to the shore. The ordinances shall not become effective until all counties, cities, or towns adjacent to the lake have adopted the identical ordinance. The authority to enact such an ordinance is currently available to the localities surrounding Smith Mountain Lake. HB 535; CH. 110.

§ 29.1-744.3 added; § 29.1-744.2 repealed. **Boating; no wake speed.** Makes it unlawful to operate a motorboat above "no wake" speed when within 50 feet of various structures and people in the water. The bill also repeals, effective January 1, 1999, the authority of local governments adjacent to Smith Mountain Lake and Lake Anna to require motorboats with engines greater than 20 horsepower to operate below planing speed while within 50 feet of the shore or docks. Eff. 1/1/99. HB 904; CH. 857.

TITLE 29.1. MISCELLANEOUS.

Boating; personal watercraft rentals. Authorizes the Department of Conservation and Recreation to regulate the launching of personal watercraft in a certain area of Seashore/First Landing State Park in Virginia Beach and requires that any such regulations be posted. HB 575; CH. 509.

TITLE 30. GENERAL ASSEMBLY.

§ 30-19.1:3. See § 58.1-609.1; HB 131.

§ 30-19.1:8 added. **Impact statements.** Codifies a process for preparing and distributing impact statements for proposed legislation and requires that the Division of Legislative Services prepare such impact statements. Currently, the Department of Planning and Budget, the Department of Taxation, the State Corporation Commission, and other agencies prepare legislative impact statements on most bills pursuant to a Governor's executive order. The bill requires that the impact statements include the assumptions and methodology use in calculating the fiscal impact. Eff. 7/1/99. SB 401; CH. 765.

TITLE 30. MISCELLANEOUS.

General Assembly; first-day introduction bills. Allows members of the General Assembly to introduce first-day introduction bills on the second day of the 1998 Regular Session of the General Assembly. Eff. 1/14/98. HB 345; CH. 406.

TITLE 32.1. HEALTH.

§§ 2.1-342, 32.1-5, 32.1-122.10:01, 38.2-511, 38.2-4214, 38.2-4301, 38.2-4302, 38.2-4307, 38.2-4312, 38.2-4316, 38.2-4319 and 38.2-4509 amended; §§ 32.1-137.1 through 32.1-137.6, 32.1-137.7 through 32.1-137.17 and 38.2-5800 through 38.2-5811 added; §§ 38.2-4308, 38.2-4311 and 38.2-5400 through 38.2-5409 repealed. **Managed care health insurance plans; penalties.** Provides a framework for statutory and regulatory oversight of managed care health insurance plans. Managed care health insurance plans ("MCHIPs") are defined as arrangements by which a health carrier undertakes to provide, arrange for, pay for, or reimburse any of the cost of health care services for a covered person on a prepaid or insured basis which (i) contains one or more incentive arrangements, including any credentialing requirements intended to influence the cost or level of health care services between the health carrier and one or more providers with respect to the delivery of health care services, and (ii) requires or creates benefit payment differential incentives for covered persons to use providers that are directly or indirectly managed, owned, under contract with or employed by the health carrier. For purposes of this bill, the prohibition of balance billing by a provider is not considered a benefit payment differential. All MCHIPs must, at the time of initial application for licensure by the Bureau of Insurance, simultaneously apply to the Department of Health for quality assurance certification. All MCHIPs presently licensed must

receive quality assurance certification by July 1, 2000, and no plan may be operated in a manner that is materially different from the information submitted during the licensure process. No certificate of quality assurance will be issued by the Department of Health until the Health Commissioner has examined and is satisfied that the MCHIP has in place procedures for guaranteeing the quality of care provided by MCHIPs, including measures addressing (i) complaint resolution and consumer satisfaction; (ii) access, availability, and continuity of care; (iii) preventive care; (iv) credentialing; (v) consumer and provider education and awareness; (vi) utilization review; and (vii) improvement of community health status. Additionally, the Department may establish criteria for review of an MCHIP licensee's administration and internal organization with regard to the quality of care provided and policies concerning patient information, consent and confidentiality. Those MCHIPs receiving certificates of quality assurance may be reviewed periodically for complaint investigation and compliance with the quality of care certification standards. Failure of an MCHIP to fulfill its obligation to furnish quality health care services as per the quality of care certification standards will subject such MCHIP to civil penalties imposed by the State Health Commissioner. Such penalties will not exceed \$1,000 per incident of noncompliance or \$10,000 for a series of related incidents of noncompliance. Fines payable under this bill are paid into the Literary Fund. The bill also establishes, within the Department of Health, a system of utilization review standards and appeals for MCHIPs. All MCHIP utilization review programs must establish reasonable and prudent standards and criteria, with established procedures for adverse decisions and an appeal process. Persons covered under an MCHIP must receive, at the time of enrollment, a (i) list of the names and locations of all affiliated providers, (ii) description of the service area within which the MCHIP will provide health care services, (iii) description of the complaint procedures, and (iv) notice that the MCHIP is subject to regulation by both the Bureau of Insurance and the Virginia Department of Health. Under current law, such utilization review is conducted by the Bureau of Insurance. This bill requires MCHIPs to establish and maintain a complaint system to provide reasonable procedures for the resolution of written complaints. Complaint systems will be examined by the Health Commissioner to determine compliance with respect to quality of care and may require necessary corrections or modifications. The bill also creates, in Title 38.2, a new chapter addressing the establishment and licensing requirements of MCHIPs. MCHIPs must provide, at enrollment or at the time of issuance of coverage, a (i) list of names and locations of all affiliated providers, (ii) description of the service areas within which the MCHIP will provide health care services, (iii) description of the method for resolving complaints, and (iv) notice that the MCHIP is subject to regulation by both the SCC and the Department of Health. Included in this new chapter are requirements for MCHIP provider contracts, including termination notices, liability provisions, and essential language that must be included in any "hold harmless" clause. Finally, the bill establishes criteria for

coordinated examinations by the Department of Health and the SCC, and the criteria by which the SCC may suspend or revoke a license issued to a health carrier. The Commissioner of the Department of Health will report annually to the Joint Commission on Health Care the status of the ongoing requirements of this bill, including, but not limited to (i) the criteria developed by which managed health insurance plans are reviewed and evaluated; (ii) the number of quality assurance certificates issued by the Department; (iii) the number of quality assurance certificates denied by the Department and the reasons for the denial; (iv) the status of the periodic reviews for complaint investigations and compliance with the quality of care certificate standards established by this bill; and (v) the number and amount of civil penalties which were imposed during that year for noncompliance. SB 712; CH. 891.

§ 32.1-25 amended. Information available on inspections. Clarifies that the Department of Health's right of entry to inspect regulated entities does not apply to information identified as privileged communications under the Malpractice Act. HB 1391; CH. 772.

§§ 32.1-64.1 and 32.1-64.2 amended. Virginia Hearing Impairment Identification and Monitoring System. Clarifies the requirements of the infant hearing impairment identification system. The bill requires all infants born in hospitals to be given hearing screenings by July 1, 1999. Newborns are to be tested and all infants born outside hospitals are to be offered screenings by July 1, 2000. Present law authorizes reporting of information to parents and physicians; this bill requires the Commissioner to contact the parents of children, their physicians and the local early intervention programs. Board regulations will require anyone making a determination that an infant is at risk for hearing impairment or has failed a hearing screening or has not been tested to notify the parent or guardian of the child, the primary care physician, and the Commissioner of Health. This bill also requires the appointment of an advisory committee (currently, the Commissioner of Health has the discretion to appoint this committee), adds revision of the system to its responsibilities, and requires its membership to include a representative of the health insurance industry; at least one pediatrician or family practitioner, one otolaryngologist, and one neonatologist; nurses representing newborn nurseries; audiologists; hearing aid dealers and fitters; teachers of the deaf and hard-of-hearing; parents of children who are deaf or hard-of-hearing; and adults who are deaf or hard-of-hearing. No testing will be performed if the parents of the infant object because of bona fide religious convictions. Recent studies indicate that 1.5 to 6 per 1,000 infants experience hearing loss (American Academy of Pediatrics). Young children with hearing loss who are not treated early suffer significant language development delays. Many of these children require intensive therapy and yet may never develop age-appropriate language skills. HB 916; CH. 513/SB 585; CH. 505/SB 591; CH. 506.

§ 32.1-70 amended; § 32.1-70.1 repealed. Statewide cancer registry. Changes the nature of the reports to be made to the Commissioner of Health for inclusion in the statewide cancer

registry. The bill requires a physician to make reports, but only if he determines that another entity has not already done so. Reports of basal or squamous cell carcinoma of the skin are excepted. The authority of the Board of Health to establish fees to be charged when nonparticipating hospitals and clinics request data from the Virginia Tumor Registry is repealed. SB 548; CH. 315.

§§ 18.2-271.1, 32.1-73.2 and 46.2-411 amended. License reinstatement fee; Neurotrauma Fund; funding. Authorizes DMV to collect an additional fee of \$30 in order to have an operator's license reinstated. The additional fee will be charged only to persons whose operators licenses were suspended or revoked upon conviction of specified dangerous driving offenses (e.g., DUI related offenses; hit and run; reckless driving; failure to comply with conditions imposed upon license probation for driving offenses, etc.). Of the additional money, \$25 will fund the Commonwealth Neurotrauma Initiative Fund. The balance of \$5 will go to DMV; however, if the driving offense was DUI-related, the \$5 will go to the VASAP Commission. SB 484; CH. 703.

§ 32.1-102.1 amended. Certificate of public need. Eliminates the requirement that an operator obtain a COPN for a replacement magnetic resonance imaging (MRI equipment). SB 603; CH. 289.

§§ 32.1-102.3:2 and 32.1-102.4 amended; § 32.1-102.3:2.1 repealed. Certificates of public need; nursing home beds. Establishes the following conditions for the continuing care retirement community (CCRC) exception from the Request For Applications (RFA) process for certificates of public need for an increase in the number of nursing home beds: (i) the CCRC will be required to be registered with the State Corporation Commission as a continuing care provider, (ii) any initial application cannot exceed the lesser of 20 percent of the continuing care retirement community's total number of beds that are not nursing home beds or 60 beds, (iii) any subsequent application cannot cause the continuing care retirement community's total number of nursing home beds to exceed 20 percent of its total number of beds that are not nursing home beds, and (iv) the CCRC has established a qualified resident assistance policy. The Commissioner of Health may authorize a one-time, three-year open admission period. In addition to the certificate for nursing home beds requested for the initial one-time, three-year open admission period, the Commissioner may approve a certificate if (i) the number of new nursing home beds requested in any subsequent application does not cause the continuing care retirement community's total number of nursing home beds to exceed 20 percent of its total number of beds that are not nursing beds, (ii) the number of licensed nursing home beds within the CCRC does not and will not exceed 20 percent of the number of occupied beds that are not nursing beds, and (iii) no open-admission period is allowed for these additional nursing home beds. After the expiration of the one-time, three-year open admission period, the CCRC can admit (i) standard contract holders who have been bona fide residents of the non-nursing home portions of the CCRC for at least 30 days, (ii) a person who is a standard contract holder

who has lived in the non-nursing home portion of the continuing care retirement community for less than 30 days but who requires nursing home care due to change in health status since admission to the facility, or (iii) a person who is a family member of a standard contract holder residing in a non-nursing home portion of the continuing care retirement community. A CCRC applicant must authorize the State Corporation Commission to disclose information to the Commissioner of Health; the SCC must provide the requested information. Definitions are set forth for "family member," "one-time, three-year open admission period," and "qualified resident assistance policy." The CCRC must have a qualified resident assistance policy to aid residents who suffer financial exigencies. A CCRC is not prohibited or prevented from discharging a resident for breach of nonfinancial contract provisions or if medically appropriate care can no longer be provided to the resident or if the resident is a danger to himself or others while in the facility. The Commissioner of Health is empowered to monitor compliance with and enforce the conditions of CCRC certificates obtained under the exception to the RFA process. A certificate may be revoked for failure to honor the conditions of a certificate granted pursuant to the special provisions. SB 466; CH. 794.

§ 32.1-111.3 amended. Statewide prehospital and interhospital trauma triage plan. Requires the Board of Health to develop and maintain a statewide prehospital and interhospital Trauma Triage Plan as a component of the Statewide Emergency Medical Services Plan to provide rapid access to appropriate trauma care for pediatric and adult trauma patients. The criteria for prehospital and interhospital triage and transport will be revised by the Emergency Medical Services Advisory Board to incorporate accepted changes in medical practice or to respond to needs indicated by analyses of data on patient outcomes. The criteria will be used as guides and resources for health care providers and are not intended to establish, in and of themselves, standards of care or to abrogate the requirements of the standard of care established in the Medical Malpractice Act. SB 551; CH. 317.

§§ 32.1-111.4 and 32.1-111.5. See § 54.1-2901; HB 843/SB 630.

§§ 32.1-122.10:01, 38.2-4308, 54.1-114, 54.1-2400.2, 54.1-2400.3 and 54.1-2909 amended; § 54.1-2910.1 added.

Practitioner information. Requires the collection, compilation and disclosure or availability of various information on licensed practicing physicians and health maintenance organizations in Virginia. This bill amends the various collection and reporting statutes to (i) require the Commissioner of Health to collect data relating to the quality and performance of medical services in health maintenance organizations, prepare an annual summary of complaints filed against health maintenance organizations, and disseminate such information to consumers, and allow the Commissioner to report a summary of data so collected to the patient level data system; (ii) authorize the Department of Health Professions to include in its reports and summaries information specially

required by the Board of Medicine, and allow disclosure of such information to the public; (iii) require reporting of disciplinary actions and malpractice judgments and multiple malpractice settlements from health maintenance organizations to the Board of Medicine; and (iv) require the Board of Medicine to compile and release, upon request, specific information on physicians relating to education, practice demographics, disciplinary actions and malpractice suits or settlements. SB 660; CH. 744.

§ **32.1-127 amended. Licensure of hospitals.** Requires hospitals to notify the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager for any identified substance-abusing postpartum woman. The community services board must implement and manage the discharge plan. Hospitals are already required, as a condition of licensure, to develop these discharge plans. HB 388; CH. 450.

§§ **32.1-127.1:01 and 32.1-127.1:03.** See § 54.1-111; SB 560.

§§ **32.1-138.6 through 32.1-138.15.** See § 38.2-5400; SB 224.

§ **55-519 amended; §§ 32.1-176.5:1 and 62.1-44.15:4.1 added. Oil release report and notification.** Requires the Department of Environmental Quality to compile a list of the locations of oil releases which are serious enough to have a site characterization analysis performed. This list is to be sent monthly to the State Department of Health, which is to disseminate the list to all of its local offices. A person who has a well located in an area affected by an oil release may request the Department of Health to test his well's water for oil contamination. If the test indicates that the water supply is a potential risk to public health, the state will assume the costs of the test. The Department of Health is also directed to keep a list of private laboratories which perform such tests and furnish the list to any person who might request information on companies that test well water. In addition, the bill requires that residential property disclosure statements contain a notice to prospective purchasers and owners that the Department of Environmental Quality maintains information which identifies the location of oil releases that may affect the property. Eff. 1/1/99. SB 483; CH. 795.

§ **32.1-248.2 added. Gray and rain water use guidelines.** Requires the Department of Health to develop guidelines for the use of gray water and rain water. The Department of Health and the Department of Environmental Quality are to promote the use of gray water and rain water as means for promoting conservation and easing the burden on water distribution and treatment systems. HB 912; CH. 155.

§§ **32.1-277 and 32.1-281 amended. Postmortem examinations.** Requires the State Health Commissioner to have adequate medical investigative personnel for each office and facility established to perform medicolegal investigations and postmortem examinations. SB 378; CH. 217.

§§ **32.1-305 through 32.1-309.** See § 54.1-2800; HB 1078.

§§ **32.1-307, 54.1-2800, 54.1-2825 and 54.1-2973 amended.**

End-of-life decisions. Revises various statutes relating to who may be authorized to make decisions for a decedent or a person who is incapable of making an informed decision. This bill (i) authorizes any person who is designated in a signed, notarized writing to make decisions concerning disposition of the decedent's body or any agent named in an advance directive to identify a body for cremation; (ii) authorizes a person designated to make decisions concerning the disposition of a person's body to direct that the body be cremated (after obtaining permission of the medical examiner or waiting 24 hours); and (iii) authorizes the person designated to make decisions concerning the disposition of a person's body to request an autopsy. There are technical amendments. HB 861; CH. 718.

§ **32.1-325.** See § 38.2-4319; HB 542.

§§ **2.1-20.1 and 32.1-325 amended. Health and related insurance for state employees; State Plan for Medical Assistance Services; pap smear coverage.** Requires the health insurance plan for state employees and the state's Medicaid plan to provide coverage for annual pap smears. HB 610; CH. 257.

§ **32.1-325.** See § 38.2-4319; HB 915.

§ **32.1-325 amended. Medical assistance services; child sexual and physical abuse and neglect assessment and treatment services.** Requires the Department of Medical Assistance Services to include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider who specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director. HB 990; CH. 571/SB 601; CH. 554.

§ **32.1-325 amended. Medical assistance services.** Requires reimbursement for prostheses following medically necessary complete or partial removal of a breast for any medical reason. This bill primarily relates to Medicaid coverage of prostheses after the performance of a mastectomy because of breast cancer. HB 1084; CH. 459.

§ **32.1-325 amended. Medical assistance services.** Requires Virginia Medicaid to include in the state plan for medical assistance services a requirement that certificates of medical necessity (CMN) for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the provider. Presently, Medicaid regulations require the CMN to be completed and returned within 21 days. Allegedly, many physicians accomplish this task much later than 21 days. HB 1085; CH. 653.

§§ 2.1-20.1 and ~~32.1-325~~ amended. **Health and related insurance for state employees; State Plan for Medical Assistance Services; mammograms.** Requires the state's Medicaid plan to provide coverage for low-dose screening mammograms for determining the presence of occult breast cancer; the coverage makes available one screening mammogram to persons age 35 through 39, one mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over and may be limited to a benefit of \$50 per mammogram subject to such dollar limits, deductibles and coinsurance factors as are no less favorable than for physical illness generally. The coverage required by this bill is currently mandated for health care coverage policies, plans and contracts issued by Virginia's insurers, HMOs and corporations furnishing health care subscription contracts. This measure also defines what constitutes a screening mammogram for purposes of the health insurance plan for state employees. HB 1202; CH. 875.

§ 32.1-325. See § 63.1-25; SB 676.

§ 32.1-325. See § 38.2-4319; SB 679.

§ 32.1-325. See § 38.2-4319; SB 705.

§ 32.1-330.3. See § 38.2-226.2; SB 626.

TITLE 33.1. HIGHWAYS, BRIDGES AND FERRIES.

§§ 33.1-23.03:2, 33.1-46.1, 58.1-638 and 58.1-2425 amended. **State aid to mass transit.** Allows all localities to use their local share of highway funds to support mass transit operating costs and increases the Commonwealth Mass Transit Fund's share of the Transportation Trust Fund from 8.4 percent to 14.5 percent in fiscal year 1998-1999 and 14.7 percent thereafter. HB 958; CH. 907/SB 562; CH. 905.

§ 33.1-41.1 amended. **City street maintenance payments.** Authorizes street maintenance payments for streets in housing developments in Richmond City that are closed to public traffic for public safety reasons. HB 1286; CH. 441.

§ 33.1-46.2 amended. **HOV lanes.** Allows transit and commuter buses, buses and motor coaches operating under irregular route passenger certificates, and any vehicle operating under certificates of public convenience and necessity or as common carriers of passengers to use HOV lanes, regardless of the number of their occupants. Eff. 4/9/98. HB 130; CH. 321.

§ 33.1-56 amended. **Relocation of utilities.** Provides for inclusion of costs of relocating natural gas facilities in project costs of certain highway projects. SB 514; CH. 219.

§ 33.1-72.1 amended. **Subdivision street maintenance.** Provides that, for streets whose plans are submitted on or after July 1, 1998, where local street pavement widths standards for certain streets are different from VDOT standards and those

local standards cause VDOT increased maintenance costs, the amount of the increase will be paid to VDOT by the locality. HB 273; CH. 338.

§§ 33.1-72.1 and 33.1-75.1 amended. **Subdivision streets.** Changes from July 1, 1985, to July 1, 1988, the date by which subdivision streets had to be open to the public in order to be eligible to be taken into the state secondary system. HB 457; CH. 340/SB 26; CH. 330.

§ 33.1-75.3 amended. **Highway construction by counties.** Adds Hanover County and Roanoke County to the list of counties authorized to use general county revenues for highway improvements. HB 676; CH. 341.

§ 33.1-75.3 amended. **Highway improvements by counties.** Allows any county (instead of only Arlington, Chesterfield, Culpeper, Fairfax, Frederick, Henrico, James City, Loudoun, Prince William, Spotsylvania, Stafford, and York) to undertake activities towards the design, land acquisition, or construction of primary or secondary highway projects in the primary or secondary system and adds Albemarle, Augusta, and Rockingham to the list of counties that may use county general revenue for transportation projects. HB 1112; CH. 342.

§ 33.1-75.3 amended. **Highway construction by counties.** Adds Augusta, Hanover, and Rockingham Counties to the list of counties authorized to use general county revenues for highway improvements. SB 231; CH. 334.

§ 33.1-90 amended. **Sale of certain property acquired by power of eminent domain.** Requires that when certain property, acquired by the VDOT Commissioner for use in connection with a transportation project, is sold, it must be offered first for re-purchase at fair market value by its previous owner. HB 785; CH. 426.

§ 33.1-221.1:3. See Appropriations and Bonds; HB 1117/SB 566.

§ 33.1-252 amended. **Toll facilities.** Allows animal wardens and officers and employees of the Department of Game and Inland Fisheries free use of toll facilities. HB 706; CH. 565.

§ 33.1-371.1 added. **Pruning certain vegetation within highway rights-of-way.** Establishes a system for permitting trimming of vegetation growing within highway rights-of-way when that vegetation obscures motorists' view of certain lawful advertising. HB 1228; CH. 540/SB 686; CH. 525..

§ 33.1-375.1 added. **Unauthorized signs in highway rights-of-way.** Authorizes the Commonwealth Transportation Commissioner to enter into agreements with Spotsylvania County to have county law-enforcement agencies or other governmental entities enforce statutes relating to placing signs in highway rights-of-way without a permit. Some signs are exempted. Penalties and costs collected for violations would be divided evenly between the locality and the Highway Maintenance and Operating Fund. The bill has a July 1, 2000, sunset. HB 603; CH. 835.

§§ 33.1-400 and 33.1-403 amended. **Use of motor vehicles by**

state employees. Requires approval by the Commonwealth Transportation Commissioner for contract rental of motor vehicles for use by state employees and officers for official business. HB 1240; CH. 329.

TITLE 33.1. MISCELLANEOUS.

Charles Hardaway Marks Bridges. Designates the Virginia Route 10 twin bridges near Hopewell the "Charles Hardaway Marks Bridges." Eff. 4/8/98. HB 126; CH. 296.

Frederick T. Gray Bridge. Designates the I-295 bridge across the Appomattox River the "Frederick T. Gray Bridge." HB 1427; CH. 312.

Freya Dalton Bridges. Designates the US 460 bridges across Virginia Route 67 at Richlands the "Freya Dalton Bridges" and the U.S. Route 33 bridges over Interstate Route 64 in New Kent County the "Farrar and Jeanette Howard Bridges." SB 302; CH. 465.

George Ward Dalton Bridge. Designates the U. S. Route 23 bridge at Harvey's Crossing in Lee County the "George Ward Dalton Bridge." HB 734; CH. 304.

Harold L. Ringley Bridge and Frank Clay Bridge. Designates the two US Alternate Route 58 bridges in the Town of Coeburn the "Harold L. Ringley Bridge" and the "Frank Clay Bridge." HB 1136; CH. 310.

Pearl Harbor Memorial Highway. Designates Interstate Route 264 and Virginia Route 44 in the Cities of Norfolk and Virginia Beach the "Pearl Harbor Memorial Highway." HB 693; CH. 841.

Purple Heart Trail. Amends the 1996 designation of the Purple Heart Trail to include I-64 from I-95 to Norfolk and routes connecting I-95 to Mount Vernon. HB 826; CH. 306.

T. George Vaughan, Jr., Memorial Highway. Designates US Route 58 between Hillsville and Galax the "T. George Vaughan, Jr., Memorial Highway." HB 1048; CH. 575/SB 1; CH. 59.

Transportation; highway and transportation rights-of-way. Permits the lease, sale or exchange of highway rights-of-way for transportation or development purposes to a public college or university foundation and exempts such projects from the capital appropriations process. HB 925; CH. 433.

TITLE 34. HOMESTEAD AND OTHER EXEMPTIONS.

§ 34-6 amended. Homestead exemption; real estate. Requires that the deed required to claim the homestead

exemption also be recorded in the county or city where the householder resides if the property is located outside of the Commonwealth. SB 34; CH. 331.

TITLE 35.1. HOTELS, RESTAURANTS, SUMMER CAMPS, AND CAMPGROUNDS.

§ 35.1-14.2. See § 3.1-418.1; SB 478.

TITLE 36. HOUSING.

§ 36-27 amended. Eminent domain; condemnation by a housing authority. Requires the commissioners to hear evidence on the value of the condemned property including, but not limited to, the owner's appraisal. Currently, consideration may be given to the effect that any pending application for a zoning change, special use permit application, or variance application may have on the value of the property. Housing authorities are also required to provide at least one of the property owners notice of their legal rights and an appraisal conducted by a licensed real estate appraiser. The bill also provides that the notice from the locality shall not be the basis for eligibility for relocation benefits. HB 1297; CH. 880.

§ 36-49.1:1 amended. Redevelopment projects; spot blight abatement. Permits Prince William County (described by county form) to recover from the owner the costs of repairs or disposal of certain blighted property (as defined by law) located outside of a conservation or redevelopment area. The costs expended by such counties constitute a lien on the property so repaired or acquired. HB 740; CH. 690.

§ 36-49.1:1 amended. Housing; spot blight abatement. Adds the Cities of Danville, Alexandria, and Richmond (described by population) to those localities which may recover from the owner the costs of repair or disposal of certain blighted property. Also, the bill allows Fairfax and Prince William Counties (described by form of government); the Cities of Alexandria, Suffolk, Danville and Richmond (described by population); and the Town of Vienna (described by population), as an alternative to other remedies for spot blight abatement, the power to declare blighted property a nuisance and abate the nuisance in accordance with law. The bill also contains technical amendments. HB 764; CH. 898.

§§ 36-55.30, 36-55.40 and 36-55.44 amended. VHDA; powers. Authorizes VHDA to enter into agreements with the federal government or other parties for the provision by VHDA of services and assistance in the modification of a debt or in the improvement of the financial or physical condition of any housing development, including developments owned, financed or assisted by the federal government or financed by a mortgage loan insured by the federal government. The bill authorizes the

inclusion in such agreements of indemnification by VHDA against liabilities and costs in connection with the provision of such services and assistance. The bill provides that the purchase or ownership by VHDA of any of its notes or bonds with the intent that such notes or bonds remain outstanding, after written notice to the trustee, shall not cause the notes or bonds to be cancelled or extinguished except under certain circumstances. The bill also provides that VHDA (i) may deposit its funds in federal home loan banks; (ii) may invest its moneys in (a) obligations or securities considered lawful investments for fiduciaries, (b) investments authorized for public funds, and (c) any other investments authorized for moneys held under any bond resolution or trust indenture which have long-term ratings of at least AA or Aa by two rating agencies, one of which must be Moody's Investors Services, Inc., or Standard & Poor's Ratings Group; and (iii) may contract with lenders other than the holders of its notes and bonds for the custody, collection, securing, investment and payment of moneys of VHDA. HB 1342; CH. 442.

§ 36-96.6 amended. Titles to real or leasehold properties; prohibited covenants and reversionary interests. Prohibits the solicitation or acceptance of any compensation for the release of covenants or reversionary interests restricting the occupancy or ownership of property on the basis of race, color, religion, national origin, sex, and other similar bases. Violators will be liable to any person injured thereby in an amount equal to the greater of three times the compensation solicited or received, or \$500, plus reasonable attorneys' fees and costs. However, the bill does not void or nullify the release of unrelated covenants or reversionary interests in an instrument concurrently releasing the types of covenants and reversionary interests described above. The bill also clarifies existing law by declaring that reversionary interests connected to restrictive covenants currently prohibited are also void and contrary to public policy. HB 1121; CH. 873.

§§ 36-96.10 and 36-96.11 amended. Virginia Fair Housing Law. Eliminates the one-year limitation on the Board to investigate or make a determination of reasonable cause in fair housing cases. HB 1428; CH. 634.

§§ 36-97 and 36-99 amended. Uniform Statewide Building Code; definitions. Clarifies the definition of a farm building by adding a specific definition of "farm building or structure." The bill clarifies that "farm buildings or structures" shall be exempt from the provisions of the Building Code. The bill requires, however, that farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations. The Board of Housing and Community Development is also required to study the use of farm buildings and structures in marketing and sales of agricultural goods and services. The provisions expire on July 1, 2000. HB 935; CH. 755.

§ 36-106 amended. Uniform Statewide Building Code; penalty for violations. Provides that each 15-day period during which a violation relating to a residential unit continues after the court ordered abatement period has ended shall constitute a

separate offense. SB 338; CH. 664.

§ 36-139 and § 1 of Chapter 495 of the 1996 Acts of Assembly amended. Low Income Home Energy Assistance Program (LIHEAP); administration. Increases the share of LIHEAP funding allocated for low-income weatherization assistance from 7.5 percent to 15 percent. LIHEAP is a federally funded program furnishing heating and cooling assistance, together with home weatherization, to low-income households within the Commonwealth. The Department of Housing and Community Development (DHCD) administers the weatherization program. DHCD is directed to coordinate a study of the structure of delivery of LIHEAP services. HB 1103; CH. 693.

TITLE 37.1. INSTITUTIONS FOR THE MENTALLY ILL; MENTAL HEALTH GENERALLY.

§ 37.1-3 amended. Membership of State Mental Health, Mental Retardation and Substance Abuse Services Board. Requires the State Mental Health, Mental Retardation and Substance Abuse Services Board to include one member who is an elected local government official. The bill changes the term of service from two successive four-year terms to no more than 12 years. Persons appointed to fill vacancies may serve two additional full four-year terms; however, no person shall serve more than a total of 12 years. This bill is a recommendation of the HJR 240 Joint Subcommittee to Evaluate the Future Delivery of Publicly Funded Mental Health, Mental Retardation and Substance Abuse Services. SB 495; CH. 447.

§§ 37.1-65 and 37.1-67.3 amended. Community services boards; prescreening. Provides that a prescreening report for persons who are alleged to be mentally ill and in need of voluntary or involuntary commitment may be done by the community services board of the jurisdiction where the person is located, if it is impossible or impractical to obtain one from the jurisdiction where the person resides. SB 415; CH. 446.

§§ 37.1-67.01 and 37.1-67.1 amended. Involuntary detention; certification program for mental illness evaluators. Provides that any individual who is skilled in the assessment and treatment of mental illness and who provides a prescreening evaluation for persons believed to be mentally ill and in need of hospitalization must also complete a certification program approved by the Department of Mental Health, Mental Retardation and Substance Abuse Services. Such certification program includes a practice protocol as well as minimum skill and educational standards for evaluators. This is a recommendation of the Joint Subcommittee to Evaluate the Future Delivery of Mental Health, Mental Retardation and Substance Abuse Services (HJR 240-1996). The bill has a technical amendment. Eff. 1/1/99. HB 681; CH. 611.

§ 37.1-67.1 amended. Involuntary commitment; detention.

Eliminates the 72- or 96-hour maximum extension periods for temporary detention occurring over a long holiday weekend, for example. The bill simply provides that when the maximum 48-hour period of temporary detention would expire on a Saturday, Sunday or holiday, the detention is to continue until the next day which is not a Saturday, Sunday or holiday. This bill is recommended by the Committee on District Courts. HB 539; CH. 37.

§ 37.1-67.1 amended. Mental health; involuntary temporary detention. Clarifies that any responsible person may seek an involuntary temporary detention order of a person believed to be mentally ill and in need of hospitalization. The local community services board must still perform an in-person evaluation of such person. The bill also states that the magistrate, in making his decision concerning a temporary detention order, shall consider any recommendation from a physician or clinical psychologist treating the person, if such evidence is readily available. SB 608; CH. 594.

§ 37.1-89 amended. Fees for appointed professionals at adult involuntary commitment proceedings. Increases fees for court-appointed professionals who participate in adult involuntary commitment proceedings, as follows: special justices and district court substitute judges, from \$57.50 to \$86.25 for commitment hearings; special justices and district court substitute judges, from \$28.75 to \$43.25 for certification hearings and orders (relating to mental retardation proceedings); health professionals serving as witnesses and interpreters, from \$50 to \$75 for commitment hearings and from \$25 to \$43.25 for certification proceedings; and attorneys, from \$50 to \$75 for commitment hearings and from \$25 to \$43.25 for certification proceedings. HB 596; CH. 455.

§§ 37.1-98, 37.1-194 through 37.1-199, 37.1-202.1, 37.1-242, 37.1-243, 37.1-245 through 37.1-248 and 37.1-250 through 37.1-253 amended; §§ 37.1-48.1, 37.1-194.1 and 37.1-248.1 added. Community services boards and behavioral health authorities; comprehensive state plan. Clarifies and redefines the role of community services boards (CSBs) and behavioral health authorities (BHAs) who are the local agencies responsible for the delivery of publicly funded mental health, mental retardation and substance abuse services. The bill clarifies that CSBs and behavioral health authorities are the single point of entry for individuals seeking such services and have the responsibility for arranging admission to and discharge from state facilities. Because local government relationships with and control over CSBs have evolved differently across the state, the bill now reflects the practice and distinguishes the three different types of community services boards as (i) "operating community services boards," (ii) "administrative policy boards" or (iii) "policy-advisory boards." Behavioral health authorities (BHAs) will henceforth have the same duties and responsibilities as an operating community services board. Appointments to CSBs and behavioral health authorities must consist of one-third identified consumers or family members of consumers, at least one of whom shall be a consumer receiving services. One or more members of the CSB may be nongovernmental service providers, and no more than two

elected or appointed local government officials may be members. CSBs and behavioral health authorities will be responsible for the effective and efficient use of all state-controlled funds through a performance contract. The performance contract shall (i) delineate the respective responsibilities of the Department and the CSB; (ii) specify conditions that must be met for the receipt of state-controlled funds; (iii) identify the groups of consumers to be served with state-controlled funds; (iv) beginning on July 1, 2000, contain specific consumer outcome and provider performance measures, consumer satisfaction and consumer and family member participation and involvement indicators, and state facility bed utilization targets; (v) establish a procedure for informing the CSB or BHA of alleged defaults and the consequences of default; and (vi) include reporting requirements. The Department is given explicit authority to contract with other public agencies and with private nonprofit or for-profit organizations for local services when the CSB or BHA, after remediation efforts have proven unsuccessful, remains in substantial noncompliance with the performance contract. The Department shall develop and update biennially a six-year Comprehensive State Plan for mental health, mental retardation and substance abuse services. This bill is a recommendation of the HJR 240 (1996) Joint Subcommittee to Evaluate the Future Delivery of Publicly Funded Mental Health, Mental Retardation and Substance Abuse Services. HB 428; CH. 680.

§§ 37.1-134.6, 37.1-134.14, 37.1-134.15, 37.1-134.18 and 37.1-137.2. See § 24.2-230; SB 14.

§§ 37.1-134.6, 37.1-134.14:1 and 37.1-134.19. See § 2.1-1.6; SB 394.

§ 37.1-134.13:1 added. Guardians and conservators. Requires the Commonwealth to pay the fees and costs of the proceeding to appoint a guardian or conservator if the subject of the petition is determined to be indigent. This bill adds a new section to incorporate changes approved during the 1997 Session because the section to which the 1997 amendments were drawn was repealed, effective January 1, 1998, by other legislation (see § 37.1-132 and Chapter 921, 1997 Acts of Assembly). Eff. 3/13/98. HB 209; CH. 76.

§ 37.1-195 amended. Community services boards. Provides that, prior to making any appointment to the board, the appointing authority must disclose and make available to the public the names of those persons being considered for appointment and also make information on the candidates available to the public, if such information is available to the appointing authority. Anyone who is an employee or board member of any organization which receives funding from any CSB will not be eligible to be appointed to the board. SB 501; CH. 667.

§ 37.1-197.2. See § 19.2-389; HB 1336.

§ 37.1-197.2 amended. Community services boards. Amends a provision requiring employee background checks by allowing the Central Criminal Records Exchange to submit an

individual's record to the executive director of the community services board or the personnel director serving the community services board, rather than to the executive director only. SB 306; CH. 130.

§§ **2.1-1.7, 9-6.23, 9-6.25:1, 18.2-254, 37.1-203 through 37.1-207 and 37.1-219 through 37.1-223 amended; §§ 37.1-208, 37.1-209 and 37.1-214 through 37.1-218 repealed.** **Substance abuse services.** Changes the Governor's Council on Alcohol and Drug Abuse Problems to the Substance Abuse Services Council with new members and duties; establishes an Office of Substance Abuse Services within the Department of Mental Health, Mental Retardation and Substance Abuse Services with new duties; lists the components of a comprehensive program of substance abuse prevention and treatment that may be established by community services boards; and updates the language related to services for alcohol and other drug abuse problems. This bill is a recommendation of the Joint Subcommittee Studying the Future Delivery of Publicly Funded Mental Health, Mental Retardation and Substance Abuse Services (HJR 240, 1996). HB 1292; CH. 724.

TITLE 38.2. INSURANCE.

§§ **38.2-203, 38.2-1322, 38.2-1401, 38.2-4302, 38.2-4309, 38.2-4319 and 38.2-4509 amended.** **Insurance; financial regulation of certain insurers.** Establishes specific net worth requirements for entities seeking licensure as health maintenance organizations (HMOs), and applies minimum net worth requirements to all HMOs. Additionally, the bill authorizes the SCC to issue notices of financial impairment to HMOs, requiring them to eliminate the impairment within 90 days and prohibiting the issuance of new HMO contracts during the impairment's pendency. A phase-in period for the new minimum capitalization requirements is provided in the bill. The bill broadens HMOs' investment authority and makes their investments subject to SCC oversight and regulation under Chapter 14 (§ 38.2-1400 et seq.) of the insurance title. HMOs are also brought under provisions of Article 5 (§ 38.2-1322 et seq.) of Chapter 13, governing insurance holding companies. These provisions, already applicable to other insurers, (i) require the disclosure of affiliated relationships and (ii) authorize specific SCC regulatory oversight of material transactions within the holding company system. The bill also subjects HMOs to current law requiring prior approval of controlling management and exclusive agency contracts. This amendment also extends the application of this provision to premium finance companies, and to dental and optometric service plans, while clarifying its application to legal services plans. SB 248; CH. 42.

§ **32.1-330.3 amended; § 38.2-226.2 added.** **Medical assistance services; operation and oversight of pre-PACE and PACE plans.** Establishes operational, jurisdictional, and regulatory parameters for pre-PACE and PACE plans. The

Program for All Inclusive Care for the Elderly, or PACE, is a program providing community-based services for elderly individuals and is intended to serve as an alternative to institutionalized care. The bill also identifies the pre-PACE and PACE plans to which insurance regulation will not be applicable. SB 626; CH. 318.

§§ **38.2-231, 38.2-2114 and 38.2-2212 amended.** **Insurance; written notification of cancellation of policy.** Provides that named insureds or their duly constituted attorneys-in-fact must cancel or not renew insurance policies in writing only in circumstances where the insurer requires such written notification. HB 884; CH. 142.

§ **38.2-316 amended.** **Insurance; policy forms filed with Virginia State Corporation Commission.** Adds health and life insurance enrollment forms to the types of forms that must be filed with the Virginia State Corporation Commission prior to their use in connection with the sale of insurance within the Commonwealth. SB 58; CH. 17.

§ **38.2-401 amended.** **Fire Programs Fund.** Provides that moneys in the Fire Programs Fund may not be diverted or expended for any purpose not specifically set forth in the statute establishing the Fund, unless authorized by a specific act of assembly other than the general appropriation act. HB 1253; CH. 877.

§ **38.2-401 amended.** **Fire Programs Fund.** Provides that moneys in the Fire Programs Fund may not be diverted or expended for any purpose not specifically set forth in the statute establishing the Fund, unless authorized by a specific act of assembly other than the general appropriation act. SB 467; CH. 166.

§ **38.2-407 amended.** **Insurance; declarations of estimated assessments.** Requires all insurers subject to Virginia State Corporation Commission (SCC) maintenance assessments (used to maintain the SCC's Bureau of Insurance) to file quarterly declarations if their estimated annual maintenance assessment liabilities are expected to exceed \$3,000. Under current law, these estimates are required only from companies who also file premium tax estimates, effectively excluding entities not liable for premium taxes from maintenance assessment estimate obligations. Eff. 1/1/99. SB 40; CH. 15.

§ **58.1-2508 amended; §§ 38.2-415 and 52-36 through 52-44 added.** **Insurance fraud; delegation of related duties to the Department of State Police.** Creates an Insurance Fraud Investigation Unit within the Department of State Police's Bureau of Criminal Investigation to initiate independent inquiries and conduct independent investigations into fraudulent acts involving property and casualty insurance transactions. This activity would be funded by premium assessments on all property and casualty insurance companies writing policies in the Commonwealth. The provisions of this bill will expire on January 1, 2003. Eff. 1/1/99. SB 421; CH. 590.

§§ **38.2-511, 38.2-4214, 38.2-4301, 38.2-4302, 38.2-4307, 38.2-4308, 38.2-4311, 38.2-4312, 38.2-4316, 38.2-4319,**

38.2-4509, 38.2-5400 through 38.2-5409, and 38.2-5800 through 38.2-5811. See § 32.1-5; SB 712.

§ 38.2-512 amended. Insurance; misrepresentation in insurance documents and communications. Expands insurance consumer protection laws governing misrepresentations in insurance documents and communications. Under current law, only misrepresentations in insurance applications are explicitly proscribed. The bill (i) extends prohibitions against misrepresentations contained in current law to all insurance documents and all forms of insurance-related communications, (ii) prohibits agents and others from forging signatures of proposed insureds, insurance applicants, policyowners, claimants and others, and (iii) prohibits agents and others from obtaining signatures under false pretenses, and using such changes to accomplish insurance-related changes not actually authorized by the individuals whose signatures are thus obtained. HB 675; CH. 12.

§ 38.2-1026 amended. Insurance; retaliatory payments and reports. Establishes a March 1 deadline for foreign and alien insurers' annual "retaliatory" report and payment submissions to the Virginia State Corporation Commission (SCC). Additionally, the bill authorizes the SCC to assess penalties and interest for late payment. This report and payment scheme is related to the SCC's current statutory authorization to equalize regulatory costs between Virginia's domestic insurers doing business as foreign or alien insurers in other states, and their foreign or alien insurer counterparts in Virginia. Current Virginia law requires foreign or alien insurers to annually provide regulatory cost information from their domiciliary states to the SCC for the SCC's use in determining whether Virginia's domestic insurers doing business in other states are subject to comparatively greater regulatory costs in those states. Foreign or alien insurers are assessed "retaliatory" payments by the SCC whenever the SCC determines that such insurers' home states subject Virginia's domestic insurers to greater regulatory costs than would be imposed on a comparable alien or foreign insurer doing business in Virginia. Any payment required from a foreign or alien insurer is the difference between the foreign or alien insurer's Virginia regulatory costs and the regulatory costs imposed on their Virginia-domiciled counterparts by the foreign or alien insurer's home state. SB 247; CH. 60.

§§ 38.2-1403, 38.2-1413, 38.2-1414, 38.2-1415, 38.2-1421, 38.2-1423 and 38.2-1433 amended. Insurance; insurer investment limits. Modifies the investment restrictions imposed on insurance companies domesticated in Virginia. For purposes of distinguishing between Category 1 and Category 2 investments, this measure would increase the caps on foreign investments, investments graded Category 4 by the Securities Valuation Office (the "SVO") of the National Association of Insurance Commissioners (securities are rated from 2 [high grade] to 6 [lower grade]), investments in local government obligations, and investments in any one agency of the U.S. government. The bill (i) treats as Category 1 investments, investments of up to nine percent of admitted assets in foreign

securities rated high grade and of up to one percent in such securities rated medium grade, (ii) increases the cap on investments in any one U.S. political subdivision from two to five percent, (iii) increases the aggregate cap on investments in federal, state and local government obligations from 20 percent to 30 percent, and (iv) authorizes investment of up to two percent of admitted assets in securities rated 4 by the SVO. In addition, the bill provides that Category 2 assets can be treated as admitted assets to the extent that they do not exceed 75 percent of surplus in excess of minimum capital and surplus. HB 565; CH. 414.

§§ 38.2-1601, 38.2-1603, 38.2-1604, 38.2-1606, 38.2-1618, 38.2-1620, 38.2-1621 and 38.2-1622 amended. Property and Casualty Insurance Guaranty Association. Authorizes Virginia's Property and Casualty Insurance Guaranty Association ("the Association"), whose membership is comprised of insurers writing property and casualty insurance within the Commonwealth, to obtain commitments or lines of credit, and to secure borrowings by pledging future assessments. The bill does, however, limit the amount of Association borrowings, while establishing related approvals required from the Virginia State Corporation Commission (SCC) and providing clarifications in provisions governing the operation of the Association's Safety Fund. The proposed lines of credit could be drawn on only in the event of insurer insolvency following a natural disaster. These funds would enable the Association to respond promptly to claims under policies underwritten by a suddenly insolvent insurer--such as could occur in the event of widespread casualty and property losses from a particularly severe multi-state or coastal hurricane. In addition, the amendments clarify in Chapter 16 of Title 38.2 that guaranty fund coverage is not available for risks insured by risk retention groups. SB 64; CH. 230.

§§ 38.2-1800, 38.2-1814 and 38.2-1824 amended. Insurance; pet accident, sickness and hospitalization. Authorizes the Bureau of Insurance of the Virginia State Corporation Commission (SCC) to issue restricted insurance agent licenses to individuals selling pet accident, sickness and hospitalization insurance. These licenses may be issued without examination to individuals making application for them who must, however, meet other general requirements for agent licensing as administered by the Bureau of Insurance. Under current law, since pet insurance is a property and casualty insurance product (pets are deemed property), agents selling it must be licensed as property and casualty insurance agents. HB 1281; CH. 164.

§§ 13.1-400.1, 13.1-400.3, 13.1-400.4, 13.1-400.5, 38.2-1800, 38.2-1814 and 38.2-1824 amended; § 13.1-400.4:1 added. Insurance; automobile clubs. Makes the following changes to Virginia's statutes governing automobile clubs: (i) establishes time frames and fees for licensing automobile clubs that are consistent with the time frames (other entities' licenses renew effective July 1; automobile club licenses currently renew January 1) and fees (other entities pay a \$500 nonrefundable application fee and at least a \$200 annual renewal fee; automobile clubs pay an initial fee of \$100 and an annual renewal fee of \$100) for other entities licensed by the Bureau of

Insurance; (ii) codifies the specific grounds upon which the Commission may suspend, revoke, or refuse to issue a license to an automobile club; (iii) subjects automobile club agents to the same standards for license qualification as apply to other holders of restricted agent licenses; (iv) subjects automobile club agents to the same licensing and appointment requirements as apply to all other restricted licenses issued by the Bureau, including making the restricted license perpetual (as opposed to annually renewable as of January 1 each year) and imposing upon automobile clubs the same annual appointment renewal fees and quarterly billing for appointments and appointment renewals that are at present applicable to all other licenses and licensees; (v) subjects automobile club agents to the same grounds for license refusal, suspension, or revocation as apply to all other licensees; and (vi) corrects some minor editorial changes in the current law to conform the law internally (e.g., the law refers in some places to "motor clubs" and "holders of service contracts," both terms being outmoded) to provide for consistent use of the terms "automobile club" and "members or subscribers of any such club." SB 41; CH. 16.

§§ 38.2-1800, 38.2-1814, 38.2-1815 and 38.2-1824 amended; § 38.2-514.2 added. Insurance; motor vehicle rental contract insurance. Requires individuals selling motor vehicle rental contract insurance to obtain a license from the State Corporation Commission and provide written disclosure to prospective renters that (i) summarizes clearly and correctly the material terms of the insurance coverage offered, (ii) advises the prospective renter that the insurance coverage offered may duplicate coverage already owned by the prospective renter, and (iii) states that the purchase of the insurance coverage offered is not required in order to rent a motor vehicle. SB 423; CH. 47.

§§ 38.2-1866, 38.2-1868.1, 38.2-1869 and 38.2-1872 amended. Insurance; continuing education requirements for insurance agents. Addresses insurance agent and consultant continuing education requirements. The bill requires sponsors of continuing education courses to indicate to agents enrolling in continuing education courses whether such courses are determined by the insurance continuing education board ("the Board") to be insurance company or agency-sponsored. Agents may not receive more than 75 percent of their required continuing education requirements from insurance company or agency-sponsored courses. Agents must complete all required courses by December 31 of each even-numbered year and submit proof of compliance on or before the close of the business day on February 28 of the following year. An extension, until March 31, for submitting proof of compliance is allowed if an agent pays, in addition to any other fees ordinarily imposed, a late filing fee of \$250. Those agents whose licenses are terminated for failure to satisfy continuing education requirements may appeal the termination in writing within 60 days of the date of termination. The right to appeal is waived if an agent fails to appeal in writing within 60 days of the date of termination. The Board will provide status reports to agents who have not yet satisfied the continuing education requirements both at six months and 45 days prior to the end of

the biennium. Additionally, the bill allows agent whose license has been terminated to make application prior to the expiration of the 90-day period, provided that the agent has fulfilled the study course and examination requirements and pays an administrative penalty of \$1000. Eff. 3/11/98. SB 422; CH. 46.

§ 38.2-2212 amended. Motor vehicle insurance; cancellation and nonrenewal. Eliminates the current statutory prohibition of motor vehicle insurance nonrenewal because of a single claim filed by an insured under his medical payments coverage in connection with a not-at-fault accident. The bill also modifies policy cancellation provisions concerning driver's license suspension or revocation during a motor vehicle insurance policy period. Cancellation of a renewal policy due to such suspension or revocation under the bill's provisions would be permitted during the policy period or the 90 days immediately preceding the last effective date, rather than the 90 days immediately preceding the last anniversary of the effective date. HB 883; CH. 141.

§ 38.2-2232 added. Liability insurance; private pleasure watercraft. Requires insurers to offer, with any new or renewed policy of liability insurance for private pleasure watercraft, optional uninsured operator coverage. HB 1353; CH. 726.

§§ 38.2-3323, 38.2-3324, 38.2-3331, 38.2-3525, 38.2-3526, 38.2-3533, 38.2-3543.1, 38.2-4214 and 38.2-4319 amended; §§ 38.2-3318.1 through 38.2-3322.2, 38.2-3521.1 through 38.2-3523.4 and 38.2-3543.2 added; §§ 38.2-3318 through 38.2-3322 and 38.2-3521 through 38.2-3524 repealed. Group life and group accident and sickness insurance policies; delivery requirements. Amends the requirements for delivery or issue for delivery of certain group life and group accident and sickness insurance policies. Group life and group accident and sickness insurance policies which are issued outside of the Commonwealth but cover Virginia residents must meet certain requirements if the policy is issued to a group other than one of the following: an employer, a creditor, a labor union or similar employee organization, certain trusts and associations, or a credit union. Group life and group accident and sickness insurance policies which are issued out-of-state to groups other than those listed above and which cover Virginia residents shall not be delivered in this Commonwealth unless the State Corporation Commission (SCC) finds that (i) the issuance of such group policy is not contrary to Virginia's public policy and is in the best interest of the citizens of this Commonwealth; (ii) the issuance of the group policy would result in economies of acquisition or administration; and (iii) the benefits are reasonable in relation to the premium charged. An insurer which files a certification with the SCC that another state has made a determination that such requirements have been met may issue the policy. Group life and group accident and sickness insurance policies which are issued to a type of group other than those listed above and which do not meet the above requirements shall be subject to the statutory requirements of Title 38.2. Such policies failing to meet these provisions may only be marketed by agents holding a valid insurance agent license. The SCC may review the records of any insurer to

determine compliance with the requirements of this bill. HB 855; CH. 154.

§ 38.2-3407.3 amended. Accident and sickness insurance; calculation of cost-sharing provisions; out-of-state services. Allows health insurers, health service plans and health maintenance organizations to use, for the purpose of determining an insured's, subscriber's, or enrollee's percentage of the cost of covered service, the cost of services as reported by an out-of-state insurer, health services plan, or health maintenance organization when an insured, subscriber, or enrollee receives covered services by such an out-of-state entity. SB 553; CH. 49.

§ 38.2-3407.4:1 added. Uniform consultation referral form. Requires the State Corporation Commission to adopt a uniform consultation referral form for any health care entity identified as a utilization management organization by the Health Care Financing Administration for its Electronic Data Interchange. This uniform referral form will be the sole form authorized for use by any entity which requires its insureds, subscribers or enrollees to obtain referrals in writing. No entity may impose, as a condition of coverage, any requirement to modify the uniform consultation referral form or submit additional consultation referral forms. SB 462; CH. 148.

§§ 38.2-3408 and 38.2-4221 amended. Accident and sickness insurance; health services plans, licensed acupuncturists. Requires health insurers and health service plan providers who furnish coverage for acupuncture treatment to provide equal coverage for such services when provided by acupuncturists licensed by the Virginia Board of Medicine. HB 1234; CH. 146.

§§ 38.2-3430.2, 38.2-3430.4, 38.2-3430.6, 38.2-3431, 38.2-3432.1, 38.2-3432.2, 38.2-3432.3, 38.2-3435, 38.2-3514.2 and 38.2-3531 amended. Health insurance; conformity with the Health Insurance Portability Act; technical amendments. Provides technical amendments and clarifications to provisions of Virginia law enacted by the 1997 General Assembly implementing the federal Health Insurance Portability Act. HB 781; CH. 24.

§ 38.2-3430.3:1 added. Individual health insurance; guaranteed availability; preexisting conditions. Requires that those persons qualified as "eligible individuals" between April 29, 1997, and January 1, 1998, and who are currently neither eligible for nor enrolled in (i) a group health plan which would provide coverage for preexisting conditions or (ii) Part A or Part B of Title XVIII of the Social Security Act, be afforded the guaranteed availability and preexisting conditions provisions of Virginia law that became effective January 1, 1998, even if such individuals have already obtained individual health insurance coverage. These guaranteed availability and preexisting conditions provisions ordinarily apply only to individuals moving from insurance coverage under a group or similar health plan. The bill also has a sunset clause; its provisions expire on January 1, 1999. Eff. 3/9/98. HB 782; CH. 25.

§§ 38.2-3431 and 38.2-3433 amended. Accident and sickness insurance; small employer market. Provides that essential and standard health benefit plans issued to small employers be rated on a "modified community" basis. Small employers consist of groups of two to 50 employees. Currently, modified community rating is applicable only to standard and essential health benefit plans issued by health insurance issuers to primary small employers, which are groups of two to 25 employees. Modified community rating uses demographic factors, such as age, gender, and geographic area. A group's rate can be adjusted 20 percent higher or lower based on claims experience, health status, duration or other risk classification factors. HB 854; CH. 26.

§§ 38.2-4214 and 38.2-4319 amended; § 38.2-3407.12, added. Health maintenance organizations; point-of-service plans. Requires health maintenance organizations (HMOs) to include a point of service (POS) benefit to be offered in conjunction with the HMO's health care plan as an additional benefit for the enrollee, at the enrollee's option, individually to accept or reject. HMOs may contract with another health insurance carrier to provide the POS benefit required by the legislation. Premiums charged to enrollees who choose the POS benefit may be different from those charged to enrollees who do not choose the POS benefit. The premiums charged for the POS benefit must be actuarially sound and supported by a sworn certification of an officer of each carrier offering the POS benefit. Unless otherwise directed or authorized by the group contract holder, (i) any enrollee who selects the POS benefit is responsible for the additional premium cost and (ii) no portion of the additional cost for the POS benefit may be reflected in the premium charged by the carrier to the group contract holder for a health benefit plan without the POS benefit. Generally, different co-insurance, co-payments, deductibles and other cost-sharing arrangements for the POS benefit can be imposed so long as these requirements are consistent with similar provisions in other POS benefit plans actively marketed by the carrier. The co-insurance required of the POS enrollees cannot exceed the greater of 30 percent of the carrier's allowable charge or the co-insurance amount that would have been required had the covered items or services been received through the provider panel. Reimbursement to providers for services received through the POS benefit must be at least as favorable as (i) reimbursement made to similar providers in another POS benefit plan which is regulated under Title 38.2 and is offered and actively marketed in the Commonwealth, or (ii) reimbursement made to similar providers on the HMO's provider panel. Additionally, the scope of POS benefits must be as great as the corresponding benefits provided through the health care plan for a particular group, and marketing materials must reflect that scope. HMOs are not required to offer the POS benefit if the HMO determines in good faith that the group contract holder will be concurrently offering another POS benefit plan to its enrollees. The POS requirement applies only to group health benefit plans issued in the commercial group market, and does not apply to (i) the individual market, (ii) Medicare, (iii) Medicaid, (iv) federal employees, (v) CHAMPUS, (vi) state employee health benefits program, (vii)

self-insured or self-funded health benefit plans which allow enrollees to access care from their provider of choice whether or not the provider is a member of the health maintenance organization's panel, and (viii) other limited types of policies. The State Corporation Commission is authorized to issue regulations consistent with the provisions of the legislation. HB 1075; CH. 908.

§ 38.2-4308. See § 32.1-122.10:01; SB 660.

§§ 2.1-20.1, 32.1-325 and 38.2-4319 amended; § 38.2-3418.3 added. **Accident and sickness insurance; minimum hospital stays for patients following mastectomy and for lymph node dissection for the treatment of breast cancer.** Requires the state employee health insurance plan, the Virginia Medicaid plan, and health insurers, health maintenance organizations and corporations providing accident and sickness subscription contracts to provide coverage for at least a 48-hour hospital stay following a radical or modified radical mastectomy and not less than 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for the treatment of breast cancer. Notwithstanding these requirements, the attending physician and the patient can determine that a shorter stay in the hospital is appropriate. The bill's provisions are applicable to policies, plans, and contracts delivered, issued for delivery, or renewed on and after July 1, 1998. They are not applicable to short-term travel, accident only, limited or specified disease policies, Medicare or other state or federal governmental plans, or to short-term nonrenewable policies of not more than six months' duration. HB 542; CH. 631.

§ 38.2-4319 amended; § 38.2-3418.3 added. **Accident and sickness insurance; coverage for hemophilia and congenital bleeding disorders.** Requires health insurers, health maintenance organizations and corporations providing accident and sickness subscription contracts to provide coverage for hemophilia and congenital bleeding disorders. The benefits mandated include coverage for expenses incurred with the treatment of routine bleeding episodes, and coverage for the purchase of blood products and blood infusion equipment required for home treatment of routine bleeding episodes when the home treatment is conducted under the supervision of the state-approved hemophilia treatment center. The bill's provisions are applicable to policies, plans and contracts delivered, issued for delivery or renewed on and after July 1, 1998. They are not applicable to short-term travel, accident only, limited or specified disease policies, policies or contracts designed for issuance to persons eligible for coverage under Medicare, or to short-term nonrenewable policies of not more than six months' duration. HB 673; CH. 120.

§§ 2.1-20.1, 32.1-325 and 38.2-4319 amended; § 38.2-3418.3 added. **Health and related insurance for state employees; State Plan for Medical Assistance Services; accident and sickness insurance; prostate-related procedures.** Requires health care coverage companies (including health insurers and HMOs), together with the health care coverage plan for state employees and the state plan for Medicaid, to provide coverage for PSA testing and digital rectal examinations to persons age

50 and over and to persons age 40 and over who are at high risk for prostate cancer according to American Cancer Society guidelines. These tests and examinations are conducted for the purpose of detecting and treating prostate cancer. "PSA testing" means the analysis of a blood sample to determine the level of prostate-specific antigen. The provisions of this bill are not applicable to (i) short-term travel, accident only, limited or specified disease policies other than cancer policies; (ii) short-term nonrenewable policies of not more than six months' duration; or (iii) Medicare policies or contracts or any other similar coverage under state or federal governmental plans. The bill also makes a clarifying amendment in statutes governing the health care coverage plan for state employees. HB 915; CH. 858.

§ 38.2-4319 amended; § 38.2-3418.3 added. **Accident and sickness insurance; coverage for early intervention services.** Requires health insurers, health maintenance organizations and corporations providing accident and sickness subscription contracts to provide coverage for medically necessary early intervention services. "Early intervention services" means medically necessary speech and language therapy, occupational therapy, physical therapy, and assistive technology services and devices for dependents from birth to age three who are certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services as eligible for services under Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). "Medically necessary early intervention services for the population certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services" means those services designed to help an individual attain or retain the capability to function age-appropriately within his environment, and includes services which enhance functional ability without effecting a cure. This coverage is limited to a benefit of \$5,000 per insured or member per policy or calendar year. This bill also requires that the cost of these medically necessary early intervention services not be applied to any contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the insured during the insured's lifetime. Additionally, copayments, coinsurance or deductibles resulting from receiving early intervention services may be paid by federal, state, or local funds. The bill's provisions are applicable to policies, plans and contracts delivered, issued for delivery or renewed on and after July 1, 1998. They are not applicable to short-term travel, accident only, limited or specified disease policies, policies or contracts designed for issuance to persons eligible for coverage under Medicare, or to short-term nonrenewable policies of not more than six months' duration. HB 1413; CH. 625.

§§ 38.2-4319 amended; § 38.2-3418.3 added. **Accident and sickness insurance; coverage for hemophilia and congenital bleeding disorders.** Requires health insurers, health maintenance organizations and corporations providing accident and sickness subscription contracts to provide coverage for hemophilia and congenital bleeding disorders. The benefits mandated include coverage for expenses incurred with the treatment of routine bleeding episodes, and coverage for the

purchase of blood products and blood infusion equipment required for home treatment of routine bleeding episodes when the home treatment is conducted under the supervision of the state-approved hemophilia treatment center. The bill's provisions are applicable to policies, plans and contracts delivered, issued for delivery or renewed on and after July 1, 1998. They are not applicable to short-term travel, accident only, limited or specified disease policies, policies or contracts designed for issuance to persons eligible for coverage under Medicare, or to short-term nonrenewable policies of not more than six months' duration. SB 251; CH. 43.

§§ 2.1-20.1, 32.1-325 and 38.2-4319 amended; § 38.2-3418.3 added. Health and related insurance for state employees; State Plan for Medical Assistance Services, accident and sickness insurance; coverage for reconstructive breast surgery. Requires the state employee health insurance plan, the Virginia Medicaid program, and health insurers, health maintenance organizations and corporations providing accident and sickness subscription contracts to cover reconstructive breast surgery. "Reconstructive breast surgery" means surgery on or after July 1, 1998, coincident to or following a mastectomy performed for breast cancer, to reestablish symmetry between the two breasts. The bill's provisions are applicable to insurance policies, plans and contracts delivered, issued for delivery or renewed on or after July 1, 1998. They are not applicable to short-term travel, accident only, limited or specified disease policies (except policies issued for cancer), policies or contracts designed for issuance to persons eligible for coverage under Medicare or to short-term nonrenewable policies of not more than six months' duration. SB 679; CH. 56.

§§ 2.1-20.1, 32.1-325 and 38.2-4319 amended; § 38.2-3418.3 added. Health and related insurance for state employees; State Plan for Medical Assistance Services; accident and sickness insurance; prostate-related procedures. Requires health care coverage companies (including health insurers and HMOs), together with the health care coverage plan for state employees and the state plan for Medicaid, to provide coverage for PSA testing and digital rectal examinations to persons age 50 and over and to persons age 40 and over who are at high risk for prostate cancer according to American Cancer Society guidelines. These tests and examinations are conducted for the purpose of detecting and treating prostate cancer. "PSA testing" means the analysis of a blood sample to determine the level of prostate-specific antigen. The provisions of this bill are not applicable to (i) short-term travel, accident only, limited or specified disease policies other than cancer policies; (ii) short-term nonrenewable policies of not more than six months' duration; or (iii) Medicare policies or contracts or any other similar coverage under state or federal governmental plans. The bill also makes a clarifying amendment in statutes governing the health care coverage plan for state employees. SB 705; CH. 709.

§§ 38.2-5400 and 38.2-5401 amended; §§ 32.1-138.6 through 32.1-138.15 added; §§ 38.2-5300 through 38.2-5309 repealed. Insurance; private review agents. Transfers responsibility for certifying private review agents from the

Virginia State Corporation Commission's Bureau of Insurance to the Department of Health. Private review agents conduct "utilization reviews" for insurers, reviewing the necessity, appropriateness and efficiency of hospital, medical or other health care resources in determining whether a service should be covered by a health care coverage plan. Persons conducting utilization reviews as employees of HMOs, health insurers and other entities offering health care coverage plans are not regulated as private review agents. Such entities, while themselves exempt from regulation as private review agents, are subject--along with their agents and employees--to the utilization review standards and appeals provisions contained in Chapter 54 (§ 38.2-5400 et seq.) of the insurance title. SB 224; CH. 129.

§§ 38.2-5701 and 38.2-5702 amended. Insurance; viatical settlements. Specifies that the application and license fees (including renewal fees) collected from viatical settlement providers and viatical settlement brokers must be deposited to the fund for the maintenance of the Virginia State Corporation Commission's (SCC) Bureau of Insurance. Current law does not specify where such fees should be directed. The SCC's Bureau of Insurance has oversight responsibility for the viatical industry--an industry which brokers the purchase of life insurance policies from terminally ill individuals. The bill also makes technical amendments. HB 567; CH. 11.

§§ 38.2-511, 38.2-4214, 38.2-4301, 38.2-4302, 38.2-4307, 38.2-4308, 38.2-4311, 38.2-4312, 38.2-4316, 38.2-4319, 38.2-4509, 38.2-5400 through 38.2-5409 and 38.2-5800 through 38.2-5811. See § 32.1-5; SB 712.

TITLE 38.2. MISCELLANEOUS.

Genetic information. Repeals the sunset from the genetic privacy act. The act was to expire on July 1, 1998. SB 372; CH. 356.

TITLE 40.1. LABOR AND EMPLOYMENT.

§§ 9-151 and 40.1-6 amended. Labor; migrant workers. Authorizes the Virginia Migrant and Seasonal Farmworkers Board to request and receive, in the name of the Board and for its benefit and that of the Interagency Migrant Worker Policy Committee, periodic reports from persons or entities receiving federal grants or other federal funding for the purpose of assisting the Commonwealth's migrant and seasonal farm worker population. The bill also adds a provision requiring representation from the Virginia Workers' Compensation Commission on the Interagency Migrant Worker Policy Committee. The bill also contains technical amendments. HB 938; CH. 97.

§ 40.1-51.4:4 amended. **Polygraph tests.** Prohibits regional jails from requiring employees to submit to lie detector tests or discriminating against employees who refuse to take such tests, except when related to internal administrative investigations alleging misconduct or criminal activity. The same prohibition currently applies to law-enforcement personnel. HB 101; CH. 140.

§ 40.1-79.01 amended. **Labor and employment; exemptions from child labor laws.** Exempts 13- and 14-year-olds working as paid youth association referee officials from provisions of Virginia's child labor laws. HB 1254; CH. 30.

§ 40.1-112 amended. **Employment; solicitation and sales.** Allows persons to place advertisements or literature on or near a business or private residence without first obtaining a permit from the Commissioner of Labor and Industry, so long as there is no attempt, in person, to solicit commercial business or make a sale at the time of the placement. Presently, any person engaged in or employing others in any trade in any street or public place must first obtain a permit from the Commissioner of Labor and Industry in order to conduct such business. This bill creates a limited exemption from that permit requirement. HB 1149; CH. 157.

TITLE 41.1. LAND OFFICE.

§§ 41.1-1, 41.1-2, 41.1-5, 41.1-6, 41.1-7 and 41.1-15. See § 42.1-1; HB 822.

TITLE 42.1. LIBRARIES.

§§ 2.1-41.2, 2.1-342, 2.1-467, 2.1-467.2, 2.1-467.4, 2.1-467.5, 2.1-467.7, 2.1-467.8, 7.1-28, 7.1-29, 9-361, 15.2-1412, 28.2-1200, 41.1-1, 41.1-2, 41.1-5, 41.1-6, 41.1-7, 41.1-15, 42.1-1, 42.1-12, 42.1-13, 42.1-14, 42.1-15, 42.1-16, 42.1-18, 42.1-30, 42.1-31, 42.1-32.7, 42.1-77, 42.1-79 through 42.1-81, 42.1-85, 42.1-86, 42.1-86.1, 42.1-88, 42.1-89, 55-186.2, 55-200, 58.1-3129 and 58.1-3306 amended. **State Librarian.** Changes the title of State Librarian to Librarian of Virginia. Appointed by the Library Board, the Librarian appoints assistants, approves the appointments of other employees, requests appropriations, and approves expenditures of funds of The Library of Virginia. HB 822; CH. 427.

§ 42.1-35 amended. **Libraries; terms of local library boards.** Provides that a local governing body may alter the composition of its library board to create staggered terms of service in which the same number of terms expire annually. The bill provides the mechanism to achieve this goal if desired by a local governing body. HB 465; CH. 212.

§ 42.1-77. See § 54.1-111; SB 560.

TITLE 43. MECHANICS' AND CERTAIN OTHER LIENS.

§ 43-13. See § 54.1-1100; HB 928.

§ 43-34 amended. **Abandoned vehicles.** Provides an expedited mechanism for holders of mechanics' liens on abandoned vehicles which are at least six years old and have a value of \$1,000 or less to obtain title to those vehicles after 30 days of continuous possession. NADA book is to be used to establish vehicle value. Eff. 7/1/99. HB 1083; CH. 868.

TITLE 44. MILITARY AND EMERGENCY LAWS.

§§ 44-60 and 65.2-101 amended. **Virginia Naval Militia.** Provides for the Virginia Naval Militia to be under the command of the Adjutant General and for workers' compensation coverage of persons in the Virginia Naval Militia under the Virginia Workers' Compensation Act. HB 459; CH. 52.

TITLE 45.1. MINES AND MINING.

§§ 45.1-161.292:2, 45.1-161.292:4, 45.1-161.292:7, 45.1-161.292:8, 45.1-161.292:15, 45.1-161.292:26, 45.1-161.292:29, 45.1-161.292:30, 45.1-161.292:32, 45.1-161.292:33, 45.1-161.292:35 through 45.1-161.292:38, 45.1-161.292:44, 45.1-161.292:46, 45.1-161.292:47, 45.1-161.292:49, 45.1-161.292:50, 45.1-161.292:51, 45.1-161.292:54, 45.1-161.292:55, 45.1-161.292:56, 45.1-161.292:62, 45.1-161.292:63, 45.1-161.292:64, 45.1-161.292:66, 45.1-161.292:70, 45.1-161.292:71, 45.1-161.294, 45.1-161.296, 45.1-161.305, 45.1-161.307, 45.1-225.1 and 45.1-225.2 amended; § 45.1-161.292:73 added. **Mineral mining.** Clarifies the responsibilities of licensed operators and independent contractors at mineral mines. The current definition of "operator" includes any independent contractor performing services or construction at a mine. The bill clarifies that many duties imposed by law are the responsibility of the operator to whom the mining license has been issued. For some duties, particularly those related to protecting the health and safety of those working at the mine, the licensed operator and the independent contractor each have responsibilities. Two members are added to the Board of Mineral Mining Examiners: one supervisory and one nonsupervisory employee of an independent contractor. Applicants for a mineral mine license must provide information about any independent contractors who will be working at the

mine. HB 1175; CH. 695.

§ 45.1-241 amended. Mine reclamation performance bonds. Eliminates two requirements that apply when letters of credit are used for such performance bonds: (i) the requirement limiting the amount of the letter of credit to that which can be insured by the FDIC and (ii) the requirement that a letter of credit issued by an out-of-state lending institution be confirmed by a Virginia lending institution. HB 978; CH. 692.

§ 45.1-361.13 amended. Virginia Gas and Oil Board. Requires the Governor to seek persons who reside in localities with significant oil or gas production or storage for appointments to the Gas and Oil Board. HB 1223; CH. 159.

§ 45.1-361.29 amended. Coalbed methane operations. Provides that the operator of any coalbed methane well drilled within 250 feet of a cemetery shall comply with a written request that he suspend operations for a period from two hours before to two hours after any burial service at such cemetery. HB 1222; CH. 229.

§ 45.1-361.35 amended. Gas and oil permits. Allows surface owners to object to a coalbed methane permit if the well or pipeline will unreasonably infringe on the surface owner's use of the surface, if a reasonable alternative site is available within the unit and granting the objection will not materially impair any right contained in an agreement between the surface owner and the operator. HB 1221; CH. 228.

§§ 45.1-361.43 and 45.1-361.44 added. Coalbed methane operations; water supply replacement. Requires operators of coalbed methane wells to replace any water supply contaminated or partially or completely interrupted by an operation that is within 750 of a water well. The bill also requires surface owners to allow coalbed methane operators to sample water from such wells. HB 1220; CH. 227.

TITLE 46.2. MOTOR VEHICLES.

§ 46.2-100 amended. Speed limits in residence districts. Clarifies definition of "residence district" as used in Title 46.2 (Motor Vehicles) of the Code of Virginia. HB 1426; CH. 888.

§§ 46.2-208 and 46.2-623. See § 58.1-3523; SB 4005.

§§ 46.2-208 and 46.2-382 amended. Records; convictions for boating while under the influence. Requires the Department of Motor Vehicles (DMV) to maintain the records of persons convicted of operating a watercraft or motorboat while intoxicated. These records are to be electronically made available to law-enforcement officers. The bill requires district and circuit courts to keep full records of such violations and submit these records following the procedures used under § 46.2-383 for drivers convicted of motor vehicle violations, so that such records can be incorporated into the DMV database. Currently, the Department of Game and Inland Fisheries (DGIF) maintains records of convictions for boating under the

influence. If a law-enforcement officer wants access to a record of prior convictions for drunk boating, he would have to contact DGIF. This bill will allow quicker access to such records. SB 458; CH. 147.

§§ 46.2-208 and 46.2-819 amended; § 46.2-819.1 added. Photo-enforcement of toll payments. Authorizes use of photo-monitoring equipment for enforcement of toll payments for use of toll facilities. Suggested amendments are attached to eliminate conflicting references to the penalties provided for in the bill. SB 588; CH. 802.

§ 46.2-223 amended. Traffic Safety Fund. Vests the DMV Commissioner with the responsibility for administering the Fund and accepting grants, gifts, bequests, and other moneys for deposit in the Fund. SB 579; CH. 743.

§§ 46.2-323, 46.2-335, 46.2-342, 46.2-345, 46.2-1191 and 58.1-2403 amended. Driver's licenses, learner's permits, and the motor vehicle sales and use tax. Provides for a motorcycle learner's permit (distinct from the regular learner's permit) and fees for such permits; revises limitations applicable to operation of motorcycles by holders of motorcycle learner's permits; eliminates the requirement that photographs on certain driver's licenses and special identification cards be profile photographs and requires use of special age descriptors instead; and clarifies that certain buses, school buses, well-drilling equipment, specialized mobile equipment, and trailers and semitrailers not designed or used to carry property are subject to the motor vehicle sales and use tax. There are some technical amendments. HB 867; CH. 322.

§ 46.2-336 amended. Issuance of driver's licenses to minors. Exempts minors holding valid driver's licenses issued by other states from the requirement that they receive their Virginia licenses from a juvenile and domestic relations or family court judge at a formal ceremony. HB 19; CH. 472.

§ 46.2-341.4 amended. Commercial vehicles and commercial vehicle driver's licenses. Revises the portion of the definition of "commercial vehicle" relating to firefighting, rescue and emergency vehicles. HB 1339; CH. 883.

§ 46.2-357 amended. Operation of motor vehicle by habitual offender; participation in alternative incarceration programs. Prohibits credit for time served in alternative incarceration programs for those persons convicted of driving while habitual offenders if they have been sentenced to incarceration, allowed to participate in the alternative incarceration program, and been removed from the program. No good time credit is given for Diversion Center Incarceration participation. These offenders will then have to serve the full mandatory, minimum sentence imposed for such offense. HB 295; CH. 298.

§§ 46.2-360 and 46.2-361 amended. Restoration of privilege after driving while license revoked or suspended. Requires that notice of a petition for restoration of driving privilege be given to the attorney for the Commonwealth and to the Commissioner of DMV who is to make a determination whether the person may be ineligible for restoration. A hearing

on the petition may not be set for earlier than 30 days from the date the petition was filed. The Commissioner of DMV is authorized to give notice of the filing of a petition to the Attorney General, who is then authorized to participate in the proceedings on behalf of the Commonwealth. The court is authorized to require the petitioner to be assessed by VASAP. The bill clarifies that a petition for restoration may not be made prior to five years after loss of driving privileges if loss of privileges was based in part on a DUI conviction. The bill also corrects an inadvertent omission of the word "adjudication" in the Habitual Offender statute. This bill is recommended by the Commission on VASAP. HB 634; CH. 749.

§ 46.2-380 amended. Accident reports; photographs. Requires the Department of Motor Vehicles to maintain accident reports for a period of at least 36 months from the date of the accident and the Department of State Police to maintain negatives of any photographs relating thereto for at least 36 months from the date of the accident. SB 490; CH. 522.

§ 46.2-395. See § 19.2-354; HB 530.

§ 46.2-411. See § 32.1-73.2; SB 484.

§ 46.2-492 amended. Driver demerit points. Provides for assignment of six demerit points for DUI (§ 18.2-266) and for driving underage after underage consumption of alcohol (§ 18.2-266.1). HB 872; CH. 430.

§§ 46.2-495 and 46.2-498 amended; § 46.2-334.01 added. Restricted driver's licenses. Places restrictions on driver's licenses issued to persons less than 18 years old if they are convicted of certain motor vehicle offenses. HB 1014; CH. 124/SB 457; CH. 792.

§ 46.2-502 amended. Driver improvement clinic fees. Changes mandatory fee of \$75 for attending driver improvement clinics to a maximum fee of \$75. HB 1038; CH. 437.

§ 46.2-604 amended. Vehicle registrations. Includes vehicle color (selected by the owner from a list of colors supplied by the Commissioner) on registration cards and requires DMV to retain vehicle color information in its vehicle data records. Eff. 1/1/99. HB 534; CH. 302/SB 310; CH. 285.

§ 46.2-666 amended. Registration-exempt vehicles used for seasonal transportation of farm produce and livestock. Changes the 30-mile limitation on operation of registration-exempt vehicles used for the seasonal transportation of farm produce and livestock to allow operation of these vehicles either 30 miles or the distance to the nearest storage house, packing plant, or market, but not more than 50 miles. HB 877; CH. 323.

§§ 46.2-706 and 46.2-708 amended. Registration of uninsured motor vehicles. Increases the fee for registration of an uninsured motor vehicle from \$400 to \$500; increases from \$400 to \$500 the fee for registering a vehicle that is claimed to be insured, but is found not to be so. HB 327; CH. 404.

§ 46.2-733 amended. License plates for delivery of unladen

vehicles ("drive-away" tags). Allows test-drives by prospective buyers of vehicles displaying "drive-away" tags. HB 418; CH. 370.

§ 46.2-738.1 added. Special license plates; members of the American Radio Relay League. Authorizes issuance of special license plates to members of the American Radio Relay League. HB 453; CH. 508.

§ 46.2-746.01 added. Special license plates; persons once declared missing in action. Authorizes issuance of special license plates to persons once declared missing in action. HB 799; CH. 511.

§ 46.2-746.7 amended. Special license plates; Loyal Order of Moose. Authorizes issuance of special license plates for members of the Loyal Order of Moose. SB 121; CH. 175.

§ 46.2-746.8:1 added. Special license plates; Fraternal Order of Police Associates; Fraternal Order of Police Auxiliary. Authorizes issuance of special license plates to members of the Fraternal Order of Police Associates or Fraternal Order of Police Auxiliary. HB 1232; CH. 654.

§ 46.2-746.11 added. Special license plates; employees of the Virginia Department of Transportation. Authorizes issuance of special license plates to employees of the Virginia Department of Transportation. HB 67; CH. 710.

§ 46.2-746.11 added. Special license plates; National Speleological Society. Authorizes issuance of special license plates bearing the legend NATIONAL SPELEOLOGICAL SOCIETY. HB 72; CH. 293.

§ 46.2-746.11 added. Special license plates; aviation enthusiasts. Authorizes issuance of special license plates to aviation enthusiasts. HB 89; CH. 294.

§ 46.2-746.11 added. Special license plates; supporters of the National Air and Space Museum Annex at Dulles Airport. Authorizes the issuance of special license plates for supporters of the National Air and Space Museum Annex at Dulles Airport. These are "revenue-sharing" plates, a portion of whose revenues (after the first 1,000 sets) will go to the Department of Aviation to support the National Air and Space Museum Annex. HB 115; CH. 295/SB 409; CH. 286.

§§ 46.2-746.11 and 46.2-746.12 added. Special license plates; supporters of Great Meadow; returned Peace Corps volunteers. Authorizes issuance of special license plates to supporters of Great Meadow and members of the returned Peace Corps volunteers. HB 255; CH. 297.

§§ 46.2-746.11 and 46.2-746.12 added. Special license plates; supporters of AAA; Tercentenary of City of Williamsburg. Authorizes issuance of special license plates (i) to supporters of the American Automobile Association and (ii) commemorating the Tercentenary of the City of Williamsburg. Section 46.2-746.12 will expire on July 1, 2003. HB 770; CH. 849.

§§ 46.2-746.11 and 46.2-746.12 added. Special license plates; Wildlife Foundation of Virginia; Virginia Wildlife Federation. Authorizes issuance of special license plates

bearing the legend "Wildlife Foundation of Virginia" and others bearing the legend "Virginia Wildlife Federation." HB 868; CH. 429.

§ 46.2-746.11 added. **Special license plates; supporters of credit unions.** Authorizes the issuance of special license plates to supporters of credit unions. SB 568; CH. 288.

§ 46.2-749.2:13 amended. **Special license plates; 400th anniversary of Jamestown settlement.** Authorizes issuance of special license plates combining the design of the Jamestown anniversary plates with the design of the Virginia Senate or House of Delegates plates. This bill expires on 1/1/13. HB 1349; CH. 763.

§ 46.2-749.2:14 added. **Special license plates; 1999 Bicentennial of George Washington.** Authorizes the issuance of special license plates commemorating the 1999 Bicentennial of George Washington. The bill sunsets on July 1, 2003. HB 640; CH. 181/SB 108; CH. 174.

§§ 46.2-749.2:14, 46.2-749.2:15 and 46.2-749.2:16 added. **Special license plates; 250th anniversary of the City of Alexandria.** Authorizes issuance of special license plates commemorating the 250th anniversary of the City of Alexandria, County of Chesterfield, and County of Culpeper. The act expires on July 1, 2003. SB 301; CH. 284.

§ 46.2-749.6:1.1 added. **Special license plates; supporters of Virginia's minor league baseball teams.** Authorizes issuance of special license plates for supporters of the Virginia's minor league baseball teams. SB 9; CH. 501.

§ 46.2-749.7:3 added. **Special license plates; Eastern Shore tourism.** Authorizes issuance of special license plates promoting tourism on Virginia's Eastern Shore. HB 995; CH. 381.

§ 46.2-752. See § 58.1-3916; HB 731.

§ 46.2-803.1 amended. **Commercial vehicles on interstate highways.** Exempts commercial vehicles being used for interstate highway maintenance or construction work from the law limiting commercial vehicles to the two right-most lanes of interstate highways with three or more lanes in each direction and speed limits of 65 mph or more. SB 624; CH. 555.

§ 46.2-833.01 amended; **second enactment of Chapter 492 of the Acts of Assembly of 1995 repealed. Traffic light violations.** Extends to July 1, 2005, the sunset provision applicable to the photo enforcement program established in certain localities to facilitate the enforcement of traffic light violations. HB 627; CH. 685/SB 315; CH. 663.

§ 46.2-870 amended. **Speed limits.** Increases the speed limit on limited access highways in Frederick County to 65 miles per hour. HB 108; CH. 560/SB 239; CH. 546.

§ 46.2-872 amended. **Speed limits.** Changes maximum speed limit for vehicles traveling under VDOT oversize and overweight permits from 10 mph less than the posted speed limit (everywhere) to 55 mph on highways where the posted speed limit is 55 mph or more. HB 1168; CH. 439.

§ 46.2-882 amended. **Motor vehicle speed detection devices.** Allows Prince William County to use laser speed detection devices. HB 735; CH. 423.

§ 46.2-892 amended. **Rural mail carriers.** Provides for display of warning signs on rural mail carrier vehicles only while the vehicles are engaged in the collection or delivery of mail (instead of from their first stop to their last stop). HB 498; CH. 411.

§ 46.2-910 amended. **Motorcycle helmets.** Exempts from helmet requirements persons on motorcycles operating as part of certain parades at speeds of no more than 15 mph. SB 437; CH. 789.

§ 46.2-1021 amended. **Warning lights on certain buses.** Allows buses operated as public carriers to use white "strobe" warning lights similar to those used as warning lights on school buses. HB 654; CH. 419.

§ 46.2-1025 amended. **Warning lights on certain vehicles.** Allows vehicles owned and used by certain construction companies to be equipped with amber warning lights. HB 594; CH. 417.

§ 46.2-1025 amended. **Amber warning lights.** Allows vehicles used to lead funeral processions to be equipped with amber warning lights. SB 435; CH. 134.

§ 46.2-1052 amended. **Vehicle window-tinting films.** Allows use of tinting films with less than 35 percent light transmittance on the rear windows and rear side windows of multi-purpose passenger vehicles. SB 344; CH. 133.

§ 46.2-1079 amended. **Radar jamming devices.** Makes use of radar jammers illegal. HB 445; CH. 300.

§ 46.2-1172 amended. **Motor vehicles; removal of inspection sticker.** Provides that the unauthorized taking, possession or use of a vehicle inspection sticker is punishable as a Class 1 misdemeanor. Currently, a first offense is punishable as a Class 3 misdemeanor and a Class 1 misdemeanor for second or subsequent offenses. HB 390; CH. 299.

§ 46.2-1179.1 amended. **Clean Fuel Fleet Program.** Replaces list of specific localities to which the Clean Fuel Fleet Program applies with a generic description, based on the federal Clean Air Act, and authorizes abolition of the entire Clean Fuel Fleet Program if approved by the federal EPA. HB 682; CH. 421/SB 633; CH. 401.

§ 46.2-1220 amended. **Parking.** Allows Dinwiddie County to regulate parking (including installation of parking meters), stopping, and standing of vehicles within its boundaries. Accords similar powers to Augusta and Rockingham Counties (but without authority to install parking meters). SB 107; CH. 545.

§ 46.2-1222 amended. **Parking.** Adds Loudoun and Prince George to the list of counties (Fairfax, James City, Montgomery, Prince William, and York) that may regulate parking on state secondary highways within their boundaries. HB 705; CH. 422.

§ 46.2-1224 amended. **Ordinances prohibiting parking in streets and highways.** Adds towns located in Fairfax County to those localities that may prohibit persons from parking specifically defined commercial vehicles (tractor trucks, trailers, etc.) in areas zoned for residential use. This bill is very similar to Senate Bill No. 308, the sole distinction being the changes in line 15. The language of this bill makes it clear that each ordinance is to apply only within the locality's own jurisdiction. HB 95; CH. 403.

§ 46.2-1224 amended. **Commercial vehicle parking in residential areas.** Grants Prince William County (by population) the same power to regulate commercial vehicle parking in residential areas currently granted only to Fairfax County (by population). HB 738; CH. 424.

§ 46.2-1224 amended. **Ordinances prohibiting parking in streets and highways.** Adds towns located in Fairfax County to those localities that may prohibit persons from parking specifically defined commercial vehicles (tractor trucks, trailers, etc.) in areas zoned for residential use. SB 308; CH. 391.

§ 46.2-1304 amended. **Buses.** Allows Williamsburg to restrict the operation of nonscheduled buses (other than school buses) within its boundaries. HB 1030; CH. 574/SB 258; CH. 547.

§§ 46.2-1503.3, 46.2-1521, 46.2-1527.1, 46.2-1527.2, 46.2-1527.3, 46.2-1527.5, 46.2-1581, 46.2-1921, 46.2-1992.19 and 46.2-1993.19 amended. **Motor vehicle, T&M vehicle, trailer, and motorcycle dealers.** Provides that interest income on the Motor Vehicle Dealer Board Fund shall accrue to the Fund; provides for optional multi-year licensure of dealers; revises bonding requirements for motor vehicle dealers; expands coverage of Motor Vehicle Transaction Recovery Fund to include leased motor vehicles; increases amounts that can be recovered from the Fund; and revises requirements related to disclosure of dealer processing fees in dealer advertising. For effective date, see bill. HB 1013; CH. 325.

§ 46.2-1508.1 added. **Motor vehicle dealers.** Provides for special conditions under which charities that sell donated motor vehicles can be licensed as motor vehicle dealers. SB 336; CH. 393.

§ 46.2-1510 amended. **Motor vehicle dealers.** Allows the Motor Vehicle Dealer Board to license certain charities as dealers without their having to comply with the statutory requirements for minimum size of office space and vehicle display space. HB 604; CH. 418.

§§ 46.2-1550, 46.2-1952, 46.2-1992.44 and 46.2-1993.44 amended. **Dealer's license plates.** Permits limited use of dealer's license plates by persons authorized by dealers on vehicles being driven to or from a point of sale, an auction, a repair facility, or a dealer exchange. HB 469; CH. 827.

§ 46.2-1569 amended. **Motor vehicle dealers.** Requires manufacturers to offer to their same line-make franchised dealers all models manufactured for that line-make and prohibits manufacturers' requiring that dealers pay extra fees,

remodel their facilities, or purchase "unreasonable" advertising displays or other materials in order to receive a model or a series of vehicles. HB 462; CH. 682.

§ 46.2-1571 amended. **Motor vehicle dealers; warranty obligations.** Provides that warranty parts compensation paid to dealers is to be stated as a percentage of markup (an approximation of retail markup) and is to be uniformly applied to all of the manufacturer's or distributor's parts (unless otherwise provided in statute). The bill also provides that, in the case of a dealer's claim against a manufacturer, a dealer's failure to comply with the specific requirements of the manufacturer for processing the claim will not void or reduce the amount of the claim so long as the dealer has presented "reasonable documentation" to substantiate the claim. In addition, dealers cannot be charged back for sales incentives or other charges related to vehicles subsequently exported by their purchasers if the dealer had no knowledge of the purchasers' intentions to export the vehicles. HB 461; CH. 681.

TITLE 50. PARTNERSHIPS.

§§ 50-73.2, 50-73.69, 50-73.78, 50-73.130 and 50-73.133 amended. **Virginia Revised Uniform Limited Partnership Act.** Allows domestic or foreign limited partnerships to be relieved of cancellation of their certificate of registration or limited partnership and to have such certificate reinstated by paying to the State Corporation Commission a reinstatement fee of \$100 and any and all registration fees and penalties that were due prior to the cancellation of the certificate. The bill provides this reinstatement for (i) limited partnerships that failed to timely remit the assessed annual registration fee, (ii) limited partnerships that dissolved after discharging all debts, liabilities, and obligations, and (iii) foreign limited partnerships that surrendered their registration. The bill also modifies the name requirements for limited partnerships that also qualify as limited liability partnerships. Under current law, limited partnerships which are also limited liability partnerships must include both indicators ("LP" and "LLP") in their names. HB 1273; CH. 163.

TITLE 51.1. PENSIONS, BENEFITS AND RETIREMENT.

§§ 51.1-124.20 and 51.1-124.26 amended. **Virginia Retirement System; Board of Trustees and advisory committees.** Provides state and local government employees appointed to the Board with administrative leave from their employment to attend Board and committee meetings. The bill also removes the requirement that the Board of Trustees appoint a Real Estate Advisory Committee. The Board is authorized to appoint other advisory committees as it deems necessary. HB

271; CH. 196.

§ 51.1-124.22 amended. **Virginia Retirement System; powers and duties of Board.** Authorizes the Board of Trustees of the Virginia Retirement System to invest in real estate to be held as a nonrevenue producing asset and used by the retirement system for administrative offices. HB 134; CH. 176.

§ 51.1-126.2. See § 23-50.16:5; HB 227.

§ 51.1-126.5 added. **Defined contribution plan.** Establishes a defined contribution plan for school superintendents. The plan provides an optional alternative to the defined benefit program under the Virginia Retirement System. HB 300; CH. 822.

§ 51.1-126.5 added. **Defined contribution plan.** Establishes a defined contribution plan for state employees in exempted positions. The plan provides an optional alternative to the defined benefit program under the Virginia Retirement System. Exempted positions include certain officers appointed by the Governor, officers elected by vote of the General Assembly, certain employees of the Attorney General's Office, and chief deputies and confidential assistants for policy or administration in executive branch agencies. SB 125; CH. 661.

§§ 51.1-142 and 51.1-143 amended. **Virginia Retirement System; prior service credit.** Authorizes the purchase of prior service credits on a pre-tax basis. Employers are authorized to pay an equivalent amount in lieu of member contributions, which payments will not be considered wages or salary. The measure takes effect upon the first to occur of (i) July 30, 1998, or (ii) receipt of a ruling from the Internal Revenue Service stating that this measure does not affect the tax status of the retirement system. For effective date, see bill. HB 133; CH. 813.

§ 51.1-142 amended. **Virginia Retirement System; prior service credit for involuntary maternity leave.** Provides that state employees shall receive up to two years of service credit for involuntary maternity leave if such mandatory leave occurred between January 1, 1964, and January 1, 1973, and the member has not withdrawn all accumulated contributions. The employee must provide evidence from her employer satisfactory to the VRS. HB 142; CH. 193.

§ 51.1-142 amended. **Virginia Retirement System; prior credits.** Permits vested members of the VRS who have 25 years of service to purchase up to four years of service credit for active duty military service or service in the retirement system of another state. Currently they may purchase no more than three years of service credit. The bill also allows vested VRS members with 25 years of service to purchase a maximum of four years of service credit for service in a political subdivision or public school system of any state. HB 260; CH. 675/HB 669; CH. 689.

§§ 2.1-20.1:2, 2.1-20.1:3, 2.1-20.1:4, 51.1-142, 51.1-155.2, 51.1-165 and 51.1-206 amended. **Virginia Retirement System; benefits provided.** Permits all state retirees who defer retirement to be eligible to receive the health care insurance credit upon retirement. Currently, state police officers and

judges who defer retirement do not receive the credit. The bill also increases the monthly supplement paid under the State Police Officers Retirement System to retirees who have not attained age 65. The measure also provides that (i) VRS has responsibility and authority for the health premium credit program and can charge administrative expenses to the health premium credit fund; (ii) provisions to allow members to purchase up to three years of credit for military service at five percent of compensation after 25 years of service are extended to service rendered in a local or state retirement system of this or another state, or as a civilian employee of the United States; (iii) the Board may determine the manner in which beneficiary designations are maintained; and (iv) a retiree who returns to a covered position and later retires must retire under the option selected for the first retirement. The bill is a recommendation of the Virginia Retirement System. HB 262; CH. 676.

§ 51.1-142 amended. **Virginia Retirement System; prior service credit.** Provides that special police officers serving between 1964 and 1985 in certain towns may purchase prior service credit in the Virginia Retirement System. HB 369; CH.408.

§ 51.1-144 amended. **Member contributions to the Virginia Retirement System.** Permits employers to pay a portion of the five percent contribution required of Virginia Retirement System members after giving notice to the Board, in order to phase in the employer's payment of the full member contribution over a three-year period. Currently, an employer may pay all or none of its employees' contributions. SB 65; CH. 660.

§§ 51.1-155, 51.1-157, 51.1-206 and 51.1-306 amended. **Virginia's retirement systems; retirement allowance calculation.** Changes the current formula for computing the annual retirement allowances for regular and disabled retirees and beneficiaries of the Virginia Retirement System, State Police Officers' Retirement System, and Judicial Retirement System. With a slight variation for judges, the current formula is basically 1.50 percent of the first \$13,200 of average final compensation (AFC) plus 1.65 percent of AFC in excess of \$13,200 multiplied by the amount of creditable service. The bill provides for a single multiplier (1.70 percent) with no AFC or creditable service thresholds. The bill also provides that members who retire on or before December 31, 1998, will receive a two percent increase in their retirement allowances. Eff. 1/1/99. HB 36; CH. 674.

§§ 51.1-155 and 51.1-155.1 amended. **Virginia Retirement System; exceptions to general early retirement provisions.** Allows a member of the VRS who served as the chief executive officer of an interstate commission on Virginia's behalf, is involuntarily separated from service, and has 20 or more years of service, to retire without reduction in his retirement benefits at age 55. The bill also eliminates the exclusion for members of the General Assembly from the general prohibition on VRS retirees receiving retirement benefits while in service in a covered position. Active members of the General Assembly who are eligible to receive a retirement benefit from service

other than as a member of the General Assembly may receive the retirement benefit based on their non-General Assembly service. Active members of the General Assembly receiving a retirement allowance while in service as a member of the General Assembly shall be unretired. Eff. 4/16/98. HB 272; CH. 746.

§§ 51.1-155, 51.1-162 and 51.1-207 amended. Virginia Retirement System; administration of benefits. Requires a retiring employee, who has previously retired from service, to elect the same benefit payment option for his second or subsequent retirement that he selected upon his original retirement. The bill also allows the VRS Board to determine the method for filing beneficiary designations and allows certain death benefits to be paid in the order provided in the Code for retirement contributions if no beneficiary designation has been made. HB 347; CH. 407.

§ 51.1-159 amended; § 51.1-124.11 added. Virginia Retirement System benefit payments. Authorizes the Virginia Retirement System to recover payments made on the basis of any false statements or falsified records. The VRS Board must provide notice and a hearing before determining that the payment resulted from a false statement or record, and the member has the right to appeal the Board's decision. The measure also clarifies that disability allowance payments shall cease if the Medical Board determines that a beneficiary has not been disabled. SB 20; CH. 657.

§ 51.1-168 amended. Virginia Retirement System; compliance with Internal Revenue Code. Raises the limit on compensation used to determine the benefit, as allowed by the Internal Revenue Code; requires certain employers to test for compliance for combined benefit limits; requires the benefits or additions certain non-VRS plans to be reduced before the VRS benefits; and requires vendors for an optional retirement plan to provide testing services. SB 39; CH. 389.

§ 51.1-602 amended. Virginia Retirement System; deferred compensation plan. Clarifies that accounting and reconciliation services associated with deferred compensation plan contributions for employees of (i) state agencies with decentralized payroll functions and (ii) participating political subdivisions are the responsibility of such state agency or political subdivision. The Department of Accounts is responsible for such services for employees of other state agencies. SB 38; CH. 658.

§§ 51.1-1100 through 51.1-1140 added; § 51.1-513 repealed. Sickness and disability program for state employees. Establishes a program for sick leave, family and personal leave, and short-term and long-term disability insurance for state classified employees, appointed and elected officials, and college and university faculties. Limited benefits are also provided for permanent part-time salaried employees working at least 20 hours per week. The program is optional for all employees on January 1, 1999, and mandatory for employees hired after that date. Current employees who enroll in this program may either bank their sick leave balances or convert the balance to VRS service credit. Full-time participants receive

8 to 10 days of sick leave, and 4 or 5 days of family and personal leave annually, depending on length of service. Short-term disability coverage provides income replacement of 100, 80, or 60 percent of creditable compensation, depending on length of service, accrued leave, and duration of the disability. Short-term disability coverage is available for illness or injury lasting more than five days but not more than six months, maternity leave, and periodic absences due to major chronic conditions. Long-term disability coverage provides income replacement of 60 percent of creditable compensation for illness or injury lasting more than six months. Enhanced benefits are available for catastrophic illness or injury. The program provides incentives for members to return to work and participate in rehabilitation programs. If an injury is work-related, the disability benefits are integrated with workers' compensation coverage. Long-term disability benefits are adjusted for inflation. Members may remain on long-term disability until age 65, when they would receive the normal VRS retirement benefit based on the last salary earned, adjusted for inflation. VRS service credit is earned for time covered by the disability program. SB 126; CH. 774.

TITLE 51.1. MISCELLANEOUS.

Workforce Transition Act Corrective Payments. Directs the Virginia Retirement System to pay to former employees who retired from state service based on the miscalculation of their Workforce Transition Act credits the amount they expected to receive in retirement benefits. Beginning July 1, 1998, the VRS is directed to restore the monthly retirement benefits of the adversely affected former employees to the amount initially paid by the VRS at the time of their retirement under the Workforce Transition Act. HB 299; CH. 678.

TITLE 52. POLICE (STATE).

§§ 52-36 through 52-44. See § 38.2-415; SB 421.

TITLE 52. MISCELLANEOUS.

Awards service handgun to James I. Shutt, Sr. Awards to retired Capitol Police Officer James I. Shutt, Sr., his service handgun. HB 13; CH. 5.

**TITLE 53.1. PRISONS AND OTHER
METHODS OF CORRECTION.**

§ 53.1-32 amended. **State correctional facilities; religious services.** Allows a designee of the Director (who must be a state employee) to make arrangements for religious services for prisoners. When such arrangements are made pursuant to a contract or memorandum of understanding the final authority for arrangements shall reside with the Director or his designee. SB 503; CH. 798.

§ 53.1-45 amended. **Virginia correctional enterprises.** Prohibits Virginia correctional enterprises from "passing through" goods not fully manufactured by prisoners except under limited circumstances. HB 1190; CH. 240.

§ 53.1-60.1. See § 8.01-271.1; SB 648.

§ 53.1-82.3. See § 2.1-234.11; HB 449/SB 195.

§ 53.1-106 amended. **Jail or jail farm board or regional jail authority; membership.** Requires the sheriff of each participating locality to be a member of a jail or jail farm board or regional jail authority in addition to another representative from the locality. Current law requires at least one representative from each locality and requires the sheriff to be the second appointee of the governing body if there is more than one. However, if the sheriff is the administrator of a local regional jail, he shall not be eligible to serve on the board or authority. HB 1408; CH. 541.

§ 53.1-116 amended. **Corrections; home incarceration.** Requires the approval of a sheriff for a regional jail administrator to assign an inmate to home/electronic incarceration. SB 238; CH. 776.

§ 53.1-121 amended. **Sheriffs; monthly report to Compensation Board.** Provides for the sheriff to forward his monthly prisoner report to the Compensation Board within 10 business days of the date due instead of five days. HB 1128; CH. 204/SB 237; CH. 350.

§ 53.1-129 amended. **Prisons and corrections.** Allows judges to permit persons confined in city or county jails to work on town property as well as city or county property and property owned by nonprofit organizations. HB 1306; CH. 311.

§ 53.1-262 amended. **Privately operated correctional services.** Requires any contract for the construction and operation of correctional facilities within the boundaries of the locality to be consented to by the local governing body as to the location and operation of such facility within the boundaries of the locality. The bill includes language that would permit the state in evaluating the past performance of a correctional corporation which is bidding to provide service to include the experience of persons in management and the experience of a parent company. HB 233; CH. 818.

**TITLE 54.1. PROFESSIONS AND
OCCUPATIONS.**

§§ 8.01-413, 32.1-127.1:01, 32.1-127.1:03, 42.1-77, 54.1-111, 54.1-2403.2, 54.1-2403.3, 54.1-3401, 54.1-3434 and 54.1-3434.01 amended. **Practice of pharmacy; penalties.** Revises provisions relating to maintenance, storage and transfer of prescription dispensing records, regulatory offenses, and closing and changing ownership of a pharmacy. The bill amends numerous sections relating to patient records to clarify that prescription dispensing records are not to be stored on microfilm or microphotographs, but must be stored or transferred in compliance with the statutes relating to selling and dispensing drugs, refilling prescriptions, and the required dispensing data. This bill also clarifies, to eliminate a possible dual ownership of records, that, when a health care provider is employed by another health care provider, the owner of the medical records is the employer. A prohibition on removing patient records from the premises is modified to refer to the statutes relating to selling and dispensing drugs, refilling prescriptions, and the required dispensing data. The bill modifies the authority to disclose patient records "in the normal course of business in accordance with accepted standards of practice within the health services setting" to note that the maintenance, storage, and disclosure of the mass of prescription dispensing records must be accomplished only in compliance with the statutes relating to selling and dispensing drugs, refilling prescriptions, and the required dispensing data. This bill adds as an "unlawful act" refusing to process a request, tendered in accordance with the regulations of the relevant health regulatory board or applicable statutory law, for patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice. This statute is also amended to note, however, that the law must not be construed to prohibit or prevent the owner of patient records from retaining copies of his patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice or the charging of a reasonable fee, not in excess of the amounts authorized § 8.01-413, for copies of patient records. "Change of ownership" is defined in the Drug Control Act to mean (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except for a corporation in which the voting stock is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's

charter. The pharmacy permitting statute is revised to require information on hours of operation and notice of a change in these hours which is expected to last more than one week. Cessation of the operation of a pharmacy requires the surrender of the pharmacy permit. The Board of Pharmacy is specifically authorized to promulgate regulations defining acquisition of an existing permitted, registered or licensed facility or of any corporation under which the facility is directly or indirectly organized, to provide for the transfer, confidentiality, integrity, and security of the pharmacy's prescription dispensing records, regardless of where located. The Board of Pharmacy will promulgate regulations providing for precise criteria for "closing of a pharmacy" and exceptions to the requirements of the closing statute. Upon any change of ownership of a pharmacy, regardless of how such change may be effectuated, the prescription dispensing records and other patient records for at least two years immediately prior to the change of ownership must be transferred to the new owner in a manner to ensure the confidentiality, integrity, and security of the pharmacy's prescription dispensing records and other patient records and the continuity of pharmacy services at substantially the same level as that offered by the previous owner. Refusing to process a request for the prescription dispensing records and other patient records tendered in accordance with law or regulation will constitute a closing and the requirements of the closing statute will apply. Such refusal may constitute a violation of the general penalty statute (§ 54.1-111), depending on the circumstances. This bill has an enactment requiring emergency regulations. Eff. 4/14/98. SB 560; CH. 470.

§§ 54.1-114, 54.1-2400.2, 54.1-2400.3, 54.1-2909 and 54.1-2910.1. See § 32.1-122.10:01; SB 660.

§§ 2.1-1.6, 2.1-20.4, 9-6.25:2, 13.1-549, 13.1-1111, 22.1-140, 54.1-300, 54.1-400, 54.1-403 and 54.1-407 amended. **Board for Architects, Professional Engineers, Land Surveyors and Landscape Surveyors and Landscape Architects.** Adds 'Certified Interior Designers' to the title of the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects because certified interior designers are represented on the Board. The bill also provides terms for the 1998, 2000 and 2001 appointments to the Board. HB 930; CH. 27.

§§ 54.1-500, 54.1-501, 54.1-503, 54.1-512, 54.1-516 and 54.1-517 amended; § 54.1-513 repealed. **Professions and occupations; asbestos and lead contractors, workers, supervisors, etc.** Conforms Virginia law to federal regulations by adding a number of definitions of the various asbestos and lead programs, occupations, plans, and terminology. The bill also allows a contractor to contract to perform a project, a portion of which constitutes asbestos or lead abatement work, if all the asbestos or lead abatement work is subcontracted to a person licensed to perform such work. Private parties working on their own buildings are also exempted, but only if no other person or persons reside in the building and no child resides in the building who has been identified as having an elevated blood-lead level. The bill also provides for the Board to approve the criteria for accredited training programs, accredited lead

training programs, training managers and principal instructors. In addition, the bill deletes redundant references to the Board's power to approve asbestos courses and primary instructors. This bill is a recommendation of the Joint Subcommittee To Study Lead-Based Paint Abatement. SB 510; CH. 739.

§§ 54.1-828 through 54.1-835 added; §§ 54.1-800 through 54.1-827 repealed. **Professions and occupations; regulation of professional boxers and wrestlers.** Authorizes the Director of the Department of Professional and Occupational Regulation to enter into a contract for partial privatization of the regulation of professional boxing and wrestling. The bill also authorizes the Director to promulgate regulations for the conduct of boxing and wrestling matches. The bill specifies when a license is required to conduct or promote such matches and enumerates specific penalties for violations of the statutes or the Department's regulations. SB 157; CH. 895.

§§ 43-13, 54.1-1100, 54.1-1101, 54.1-1103, 54.1-1106, 54.1-1108.2 and 54.1-1111 amended. **Board for Contractors; definitions, exemptions, Class C licenses.** Deletes "owner-developer" from definitions. Currently, an owner-developer includes any person who performs or supervises construction, removal, repair or improvements when either the total value of the improvements on any single parcel is \$70,000 or more or the total value of all such improvements in a 12-month period is \$500,000 or more, but excludes (a) a person who performs or supervises the construction, removal, repair or improvement of (i) not more than one building upon his own real estate and for his own use during a 24-month period, (ii) a house on his own real property as a bona fide gift to an immediate family member, or (iii) industrial or manufacturing facilities for his own use and (b) any person who contracts with a duly licensed Class A building contractor to perform the work. Categories (i), (ii) and (iii) from the current definition of "owner-developer" are added to the other exemptions from licensure. The bill authorizes the Board to issue Class C licenses to electrical, plumbing and HVAC contractors. Currently, the statute provides for issuing Class C licenses to only building, highway/heavy and specialty contractors. There are technical amendments in this bill. HB 928; CH. 754.

§ 54.1-1103 amended. **Board for Contractors; requirements for licensure; exemption.** Authorizes licensed architects and professional engineers to bid or negotiate design-build contracts and to perform services related to such contracts other than construction services, without being licensed as a contractor. However, the bill provides that performance of the construction services in connection with such contracts must be rendered by a licensed contractor. HB 1415; CH. 271.

§ 54.1-1115 amended. **Board for Contractors: unlicensed activity.** Increases the maximum fine for unlicensed activity from \$200 per day to \$500 per day of violation. HB 809; CH. 691.

§ 54.1-2103 amended. **Real Estate Board; exemptions.** Clarifies the exemption from licensure for salaried employees of real estate licensees. HB 973; CH. 261.

§ 54.1-2103 amended. **Real Estate Board; exemptions from licensure.** Clarifies the exemption from licensure for any person acting without compensation as an attorney-in-fact under a power of attorney. HB 994; CH. 262.

§ 54.1-2105 amended. **Real Estate Board; approval of continuing education courses.** Requires the Board to (i) prepare a comprehensive listing of courses, pre-approved by the Board, related to professional competency requirements of the multifamily residential and commercial office industries; (ii) develop, through regulation, criteria for evaluating and approving continuing education course credits and for awarding credit hours for such courses; and (iii) approve the recommended course titles, content, and hours of continuing education credit developed and published by national professional real estate trade associations, unless the Board documents in writing why they should not be approved, stating the reasons therefor. The bill also expands the subjects for the continuing education required during each licensing term to include ethics and standards of conduct. For effective date, see bill. HB 1338; CH. 268.

§ 54.1-2106.1 amended. **Professions and occupations; Real Estate Board; license requirements.** Redefines the terms "real estate firm," "real estate broker" and "real estate salesperson." HB 1245; CH. 265.

§ 54.1-2108 amended. **Professions and occupations; Real Estate Board; protection of escrow funds.** Clarifies that it is unlawful for any licensee of the Real Estate Board or an agent of such licensee to divert or misuse any funds held in escrow or other funds held by him on behalf of another. HB 1246; CH. 29.

§§ 2.1-1.6 and 9-6.25:2 amended; §§ 54.1-2310 through 54.1-2342 added; §§ 57-35.11 through 57-35.35 repealed. **Department of Professions and Occupations; Cemetery Board.** Creates the Cemetery Board at the Department of Professional and Occupational Regulation for the regulation of certain cemeteries, preneed burials contracts, and perpetual care trust accounts. The bill transfers control of preneed burial contract and the administration of perpetual care trusts from the Department of Agriculture and Consumer Services to this newly created board. The bill prohibits cemetery companies from engaging in in-person solicitations that are misleading, fraudulent or not for the stated purpose. The bill requires the Board for Professional and Occupational Regulation to conduct a study to determine the appropriate level of regulation of cemetery companies and related trust funds. The Board is also required to determine the approximate costs to regulants, the affected businesses and the impact on consumers. The findings of the Board are required to be reported to the Governor and the 1999 session of the General Assembly by December 1, 1998. For effective date, see bill. HB 1077; CH. 721/SB 700; CH. 708.

§ 54.1-2400 amended. **Health regulatory boards; inactive licensure.** Allows health regulatory boards to issue inactive licenses or certificates and promulgate regulations to carry out such purpose. The regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for

reactivation licenses or certificates. SB 516; CH. 469.

§§ 54.1-2712.1 and 54.1-2726.1 amended. **Health; volunteer dentists and dental hygienists.** Requires the sponsorship of a licensed dentist for a volunteer dentist to be able to qualify to receive a restricted license to practice in free clinics in the state and expands patient eligibility for treatment at such clinics. The bill provides that the supervising dentist no longer has to be on the premises during treatment by such volunteer dentist but must review the quality of care provided by him at least every 30 days. The bill also provides that all disciplinary regulations which apply to dentists also apply to volunteer dentists. The same basic provisions are applied to dental hygienists with the exception of the sponsorship clause. HB 1023; CH. 326.

§§ 54.1-2800, 54.1-2825 and 54.1-2973. See § 32.1-307; HB 861.

§§ 54.1-2800 amended; §§ 54.1-2818.1, 54.1-2818.2 and 54.1-2818.3 added; §§ 32.1-305 through 32.1-309 and 54.1-2808 repealed. **Board of Funeral Directors and Embalmers; cremation.** Shifts regulatory control of the operation of crematories from the Commissioner of Health to the Board of Funeral Directors and Embalmers. HB 1078; CH. 867.

§ 54.1-2820 amended. **Preneed funeral contracts.** Clarifies that the creation of an irrevocable inter vivos trust for the purpose of paying the grantor's funeral and burial expenses is allowable, notwithstanding the requirement that the purchaser be refunded all consideration paid or delivered pursuant to a preneed funeral contract with any interest or income accrued if the contract is terminated within 30 days of execution. SB 470; CH. 738.

§§ 54.1-2900, 54.1-2956.1, 54.1-2956.4 and 54.1-2956.5 amended. **Occupational therapists.** Converts the requirements for certification of occupational therapists to requirements for licensure, without adding any additional criteria. SB 599; CH. 593.

§§ 54.1-2900, 54.1-2954, 54.1-2954.1, 54.1-2955 and 54.1-2956 amended; § 54.1-2956.01 added. **Respiratory care practitioners.** Converts the requirements for certification of respiratory therapists to requirements for licensure of respiratory care practitioners. New definitions relating to the practice of respiratory care, etc., are included. The advisory board's authority has been revised to reflect the licensure requirements. Emergency regulations will be required of the Board of Medicine, and anyone who is currently certified will be grandfathered in and licensed. SB 665; CH. 557.

§ 54.1-2900 amended; §§ 54.1-2950.1, 54.1-2951.1, 54.1-2951.2 and 54.1-2951.3 added; § 54.1-2951 repealed. **Practice of physician assistants.** Defines physician assistant and provides licensure under supervision and employment of a licensed doctor of medicine, osteopathy or podiatry; adds the Advisory Committee on Physician Assistants to assist the Board of Medicine in carrying out the statutory provisions pertaining to physician assistants; and adds a provision to permit physician assistants to practice with a restricted license

in free clinics, if such employment is without compensation. SB 690; CH. 319.

§§ 32.1-111.4, 32.1-111.5, 54.1-2901, 54.1-2982, 54.1-2987.1, 54.1-2988 and 54.1-2989 amended. Do Not Resuscitate Orders. Revises the present Emergency Medical Services Do Not Resuscitate Order section to become a general Do Not Resuscitate Order (DNR) provision. The DNR Order must be issued by an attending physician in writing for a patient who is terminal or for whom he has otherwise written such DNR Order and must be consented to by the patient or a person who is authorized to consent for the patient. The Board of Health will continue to designate which emergency medical services personnel may follow these orders in the prehospital setting. Emergency medical services personnel are not authorized to withhold comfort care or alleviation of pain. The DNR Order will follow the patient, i.e., the DNR Order may be followed in the prehospital setting, hospital, nursing home, or other institution. A new order may be issued, with the consent of the patient or his authorized decision-maker, upon the revocation of a DNR. Definitions and exception statutes are amended to be consistent. The liability statute is also amended to clarify that any person consenting to or issuing a DNR will be accorded the same immunity protections as those acting in compliance with the advance directive or DNR. HB 843; CH. 854/SB 630; CH. 803.

§§ 54.1-2901, 54.1-2982 and 54.1-2987.1 amended. Emergency Medical Services Do Not Resuscitate (EMSDNR) Orders. Authorizes licensed hospital personnel, when acting within their scope of practice, to honor EMSDNR orders for 24 hours after admission. Presently, only EMS pre-hospital personnel and hospital emergency department health care providers are authorized to honor EMSDNR orders. After hospital admission, however, the EMSDNR orders have no effect; therefore, a new order must be written--a process which usually takes some hours. This bill provides time to bridge this hiatus between emergency room or EMS transport and the writing of a hospital Do Not Resuscitate order. SB 33; CH. 630.

§ 54.1-2912.2 added. Board of Medicine; chronic pain guidelines. Authorizes the Board of Medicine to endorse, in the furtherance of its responsibility to ensure continued practitioner competency, the Medical Society of Virginia's Guidelines for the Use of Opioids in the Management of Chronic, Non-Cancer Pain, developed and adopted in 1997. "Endorse" is defined as to publicize and distribute such guidelines as an appropriate standard of care; however, the Board's endorsement must not be construed to mean that the chronic pain guidelines must be followed or are regulations or are in any way intended to be enforceable law. SB 549; CH. 496.

§ 54.1-2914 amended. Health professions; selling eyeglasses. Allows practitioners of the healing arts to sell eyeglasses and contact lenses from within the practitioner's office if the practitioner is engaged in the examination of eyes and prescribing of eyeglasses. Only those practitioners of the healing arts who engage in the examination of eyes and

prescribing of eyeglasses may engage in the sale or promotion of eyeglasses. While maintaining the duty of practitioners to inform the patient of his right to have the prescription filled at any establishment, the bill removes the prohibition against offering any inducement or encouragement to patients to have the prescription filled at an establishment owned or partially owned by the practitioner. These activities are more specifically covered under the practitioners' Self-Referral Act. HB 1311; CH. 580.

§ 54.1-2943 amended. Health Professions; physical therapists. Allows licensed physical therapists to practice without referral when providing services to (i) a student athlete participating in a school-sponsored athletic activity, while the student is at such activity, if the physical therapist is certified as an athletic trainer by the National Athletic Training Association or as a sports certified specialist by the American Board of Physical Therapy Specialties, or (ii) employees for the purpose of evaluation and consultation related to workplace ergonomics. Currently, licensed physical therapists are prohibited from practicing except upon referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry or dental surgery. SB 550; CH. 316.

§ 54.1-2961 amended. Practice of surgery. Revises the provisions relating to the practice of interns and residents. This bill clarifies that (i) medical schools as well as hospitals and other organizations may employ interns and residents holding temporary licenses, (ii) the training received by interns and residents must be consistent with the requirements of the national accrediting agencies and the policies and procedures of the hospital, medical school or other organization operating a graduate medical education program, and (iii) interns and residents are only authorized to serve in the graduate medical education program while holding a temporary license for the length of the program. This bill requires the Board of Medicine to adopt guidelines concerning the ethical practice of surgeons and surgery interns and residents in hospitals or other organizations operating graduate medical education programs. These guidelines are not standards of care or regulations and are exempt from the requirements of the Administrative Process Act. The medical schools are required to cooperate with the Board in the development of the guidelines. The guidelines must include, but need not be limited to, matters relating to (i) obtaining informed consent, after the patient has been informed who will perform the surgery; (ii) the need, consistent with the informed consent, for the surgeon to be present during the procedure, except in emergencies and other unavoidable situations; and (iii) policies to avoid situations, unless the circumstances fall within an exception in the Board's guidelines or the policies of the relevant hospital, medical school or other organization, in which a surgeon, intern or resident represents that he will perform a procedure which he then fails to perform. The Board is also required to publish and distribute the guidelines. This bill relates to "ghost surgery." HB 857; CH. 614.

§ 54.1-2987.1 amended. Emergency Medical Services Do Not Resuscitate Orders. Authorizes the issuance of a Do Not

Resuscitate Order by an attending physician for patients who, because of bona fide religious convictions, do not wish to receive medical interventions for cardiac or respiratory arrest. HB 631; CH. 564.

§ 54.1-2987.1 amended. **Emergency Medical Services Orders.** Clarifies that an Emergency Medical Services Do Not Resuscitate Order may be issued by an attending physician for his patient who is diagnosed to be afflicted with a terminal condition or for whom he has otherwise issued a Do Not Resuscitate Order only with the consent of the patient or, if the patient is incapable of making an informed decision regarding consent for such an order, of the person authorized to consent on the patient's behalf. If the patient, or, if the patient is incapable of making an informed decision, the person authorized to consent on the patient's behalf, expresses to such emergency medical services personnel or hospital emergency department health care providers the desire to be resuscitated prior to cardiac or respiratory arrest, the Do Not Resuscitate Order shall not be carried out. "Person authorized to consent on the patient's behalf" is defined as any person authorized by law to consent on behalf of the patient incapable of making an informed decision. SB 429; CH. 628.

§§ 54.1-3000 and 54.1-3005 amended. **Health professions; nursing.** Adds to the definition of professional nursing the ability for professional nurses to delegate selected nursing tasks and procedures to appropriately trained unlicensed persons as provided by regulations promulgated by the Board of Nursing. HB 1055; CH. 458.

§§ 54.1-3301 and 54.1-3303 amended. **Board of Pharmacy.** Extends to optometrists an exception to the pharmacy laws which currently allows physicians and podiatrists, but not optometrists, to provide manufacturers' professional samples to their patients. Qualified optometrists would be those individuals who are certified or licensed to administer therapeutic pharmaceuticals or certified to prescribe diagnostic pharmaceuticals. HB 1102; CH. 101.

§§ 54.1-3404, 54.1-3448 and 54.1-3452 amended. **Drug Control Act.** Amends the inventory provision and Schedules II and IV of the Drug Control Act to conform to recent changes in federal law. This bill clarifies that, upon starting up a business involving the manufacturing, compounding, processing, selling, dispensing or disposing of controlled substances (including the operation of a pharmacy), a person with no controlled substances on hand for the initial inventory must record this fact. After the initial inventory is taken, every person operating one of the regulated businesses must take another inventory at least every two years on any date which is within two years of the previous inventory. This bill also adds Remifentanyl to the list of opiates on Schedule II and moves Pentazocine from the list of depressants on Schedule IV to a new, less specific category of Schedule IV and adds Butorphanol to this new category. Virginia's Drug Control Act mirrors federal law by specifically setting out the drug schedules and other federal requirements; therefore, the federal law or regulation amendments relating to the Food and Drug

Administration frequently require the Commonwealth's law to be revised. HB 1299; CH. 105.

§§ 54.1-3408 and 63.1-73.1 amended. **Visually handicapped.** Changes the name of the Virginia Rehabilitation Center for the Blind to the Virginia Rehabilitation Center for the Blind and Visually Impaired to bring it into conformance with the name of the Department for the Blind and Visually Impaired and with the mission of the Center. HB 858; CH. 112.

§§ 54.1-3415, 54.1-3422, 54.1-3423 and 54.1-3424 amended. **Requirements for controlled substances registration.** Clarifies who may receive Schedule II drugs and who may possess controlled substances without registering; authorizes the Board of Pharmacy to register entities which are not currently so registered (such as hospitals, ambulatory surgery centers, and other facilities not licensed as pharmacies) to hold controlled substances; and requires the surrender of a registration and reapplication upon any change of ownership or control of a business, any change of location of the controlled substances stock, the termination of authority by or of the person named as the responsible party on a controlled substances registration, or a change in the supervising practitioner. Within 14 days of surrendering the registration, the registrant must file a new application and, if applicable, name the new responsible party or supervising practitioner. The bill also adds licensed pharmacists, permitted pharmacies and licensed practitioners of medicine, osteopathy, podiatry, dentistry or veterinary medicine to the list of those who may receive Schedule II drugs. HB 1300; CH. 490.

§ 54.1-3420.2 added. **Delivery of prescription drugs.** Requires certain conditions whenever any pharmacy permitted in Virginia and any nonresident pharmacy registered to do business in the Commonwealth delivers a prescription drug order by mail or common carrier or delivery service, when the drug order is not personally hand-delivered directly to the patient or his agent at the person's residence or other designated location, i.e., written notice be placed in each shipment alerting the consumer that under certain circumstances chemical degradation of drugs may occur and written notice be placed in each shipment providing a toll-free or local consumer access telephone number which is designed to respond to consumer questions pertaining to chemical degradation of drugs. SB 654; CH. 597.

§ 54.1-3806.1 amended. **Animal medical care facility disclosure forms.** Requires that the form currently required to be provided by veterinary facilities to disclose that overnight care is not provided be separate from any other form or information provided by the facility. The bill also states that only one form per client shall be required. HB 1153; CH. 158.

§§ 54.1-3900, 54.1-3919, 54.1-3922, 54.1-3925.1, 54.1-3926, 54.1-3928 and 54.1-3931 amended. **Certificates authorizing practice of law.** Allows the Supreme Court to transfer to the Board of Bar Examiners responsibility for issuing certificates for out-of-state lawyers to practice law without taking an examination under the current reciprocity provisions. SB 488; CH. 796.

§ 54.1-3925 amended. **State Bar examination.** Requires bar exam applicants to mail their applications postage prepaid by registered or certified mail to the Secretary of the Board of Bar Examiners and that the applications be mailed or otherwise filed by May 10 for the July exam and December 15 for the February exam. HB 16; CH. 71.

§ 54.1-3926 amended. **Attorneys.** Allows persons who read for the bar to complete their required three years of study with a retired circuit court judge who served as a judge for at least 10 years and who has not been retired for more than five years at the time that the law reading program commences. The bill also defines the annual minimum requirements for the law reading program to be 40 weeks of at least 18 hours per week for each of the required three years. HB 384; CH. 119.

§ 54.1-3935 amended. **Procedure for revocation of attorney's license to practice law.** Amends the procedure for attorney license revocation to require the use of the same procedures adopted by the Supreme Court for lawyer discipline. The bill also expands sanctions available to the court hearing the revocation matter to include those available to the Disciplinary Board and establishes a definitive process for appeal of the court's decision. Under current law and this bill, when an attorney's license is revoked, upon appeal, his privilege to practice is suspended. This bill allows the Supreme Court to stay an order of suspension and requires that an order of reprimand be stayed. HB 446; CH. 339.

§ 54.1-3935 amended. **Attorney disciplinary proceedings.** Provides that when a rule to show cause is issued in disciplinary proceedings by the Supreme Court or the Court of Appeals, it is returnable to the Circuit Court of the City of Richmond. The Chief Justice is to designate three circuit court judges to hear and decide the case and if the rule is issued by the Court of Appeals or a circuit court, the judges must be from a circuit other than the one in which the case is pending. This bill is recommended by the Judicial Council. SB 181; CH. 637.

§§ 54.1-4000 through 54.1-4005, 54.1-4008, 54.1-4009 through 54.1-4014 and 59.1-200 amended; §§ 54.1-4006 and 54.1-4007 repealed. **Professions and occupations; pawnbrokers.** Increases the penalty for unlicensed activity to a Class 1 misdemeanor. The bill also provides that a license shall not be issued to a person who has been convicted of a felony or a crime involving moral turpitude within the preceding 10 years and requires the pawnbroker to maintain a bond in the amount of \$50,000. The bill also allows pawnbrokers to sell pawned or pledged items in the ordinary course of business. Currently, the law requires such sales to be done through public auction by a licensed auctioneer. The bill also deletes current requirements regarding notice of sale and requires the record of each transaction kept by the pawnbrokers to itemize all fees charged. HB 769; CH. 848.

TITLE 54.1. MISCELLANEOUS.

Second enactment of Chapter 757 of the Acts of Assembly of 1996 repealed. Funeral establishments. Eliminates the July 1, 2000, sunset on the hardship provision for an operator of two establishments which allows the Board to waive the requirement of having a licensed funeral director at each establishment. HB 6; CH. 169.

TITLE 55. PROPERTY AND CONVEYANCES.

§ 55-19 amended. **Property; estates in trust.** Increases the maximum value of a trust estate which may be made exempt from the liabilities of the beneficiaries from \$600,000 to \$1,000,000 (conforms to federal tax law). HB 644; CH. 214.

§ 55-19.5 amended. **Irrevocable preneed funeral trusts.** Clarifies that irrevocable inter vivos trusts, to the extent created for the purpose of paying a grantor's funeral and burial expenses, are not against public policy. The provisions of this bill expire on July 1, 2001. SB 54; CH. 735.

§ 55-58.1 amended. **Addresses of trustees in deeds of trust.** Requires that the full residence or business addresses of trustees be set forth in deeds of trust rather than just the locality address in order to provide greater opportunity to locate a trustee in the event a legal action is necessary. While the bill becomes effective on July 1, 1998, deeds of trust, mortgages and other recorded instruments recorded without such address prior to January 1, 1999, are as valid as if the required address was furnished. HB 802; CH. 202.

§ 55-59.4. See § 26-12; HB 665.

§§ 55-79.44, 55-79.52, 55-79.54, 55-79.57, 55-79.73, 55-79.73:1, 55-79.77, 55-79.97, 55-508, 55-511, 55-512, 55-514, 55-515.1 and 55-516.2 amended; § 55-515.2 added. **Condominium and Property Owners' Association Acts; powers and duties of such associations.** Authorizes the board of directors of a property owners' association to convey common areas taken by eminent domain. Currently, the association is the party in interest in such a proceeding and the board of directors has the power to negotiate with the condemning authority and agree to an award or payment amount for the condemned common areas. This bill goes a step further by allowing the board of directors to convey the subject common area and the president of the association to unilaterally execute and record the deed of conveyance for the subject common area to the condemning authority. The bill also reduces, from 90 to 60 days, the time that consent of a mortgagee is presumed to be received by an association. The bill authorizes associations to send notice of amendments to governing documents requiring the consent of mortgagees to the address filed in the land records or the local tax assessor's

office, where the mortgagee has not filed an address with the association, and provides that no mortgagee consent is required if the governing documents are silent on that issue and if the amendment does not specifically affect the rights of the mortgagee. In addition, the bill provides that limited common elements once assigned to a particular unit may be unassigned and converted to common elements with the agreement of the unit owners affected by the reassignment and that the declarant may unilaterally record an amendment to the declaration converting a limited common element appurtenant to a unit owned by the declarant into a common element as long as the declarant continues to own the unit. Current law provides the process by which limited common elements are assigned and reassigned. Additionally, the bill conforms the resale disclosure requirements of the Condominium and Property Owners' Association (POAA) Acts. The bill also (i) eliminates the restriction in the Condominium Act that a proxy terminates at any recess or adjournment of a meeting held within 30 days, (ii) clarifies the purposes for which a board of directors of a POAA may levy a special assessment, and (iii) clarifies the applicability of the POAA to homeowners associations. The bill also contains numerous technical amendments. HB 1390; CH. 32.

§§ 55-79.52, 55-79.80:3 and 55-79.97 amended. **Condominium Act; limitation on occupancy.** Removes the provision that an occupancy limitation imposed on a unit owner by the unit owners' association be no more restrictive than the applicable local zoning ordinance. As a result, such limitation need only be reasonable. The bill contains a cross-reference to the nondiscrimination section of the Condominium Act and requires disclosure of any such limitation upon resale of the unit. The bill also contains technical amendments. SB 590; CH. 454.

§§ 55-79.97, 55-484, 55-512 and 55-530 amended. **Real Estate Board; filing of annual reports by certain associations.** Clarifies that sellers under the Condominium, Real Estate Cooperative, and Property Owners' Association Acts must certify that they have filed the required annual report with the Real Estate Board and which certification must indicate the filing number issued by the Real Estate Board upon the filing of the annual report. Currently, the law incorrectly refers to a registration number issued by the Real Estate Board. HB 1357; CH. 463.

§ 55-169 amended. **Escheators' bonding requirements.** Makes changes to conform the section with the 1996 amendments to the escheats statutes. The 1996 amendments require one escheator per judicial circuit and that each escheator must reside within that circuit. The bill requires the escheator to post a \$3,000 bond in the circuit court for the locality where he resides. If property escheats in another locality within the circuit, he must give bond in the circuit court for that locality. While the penalty of the bond must be a percentage of the property's assessed value, the percentage amount is unspecified in the bill. HB 835; CH. 215.

§§ 55-186.2 and 55-200. See § 42.1-1; HB 822.

§ 55-243 amended. **Landlord and tenant; prevention of judgment of forfeiture.** Clarifies that a tenant may pay all rent in arrears at the first court return date in an action of unlawful detainer seeking possession of a residential dwelling based upon a default in rent. Currently, it must be paid before. HB 1367; CH. 269.

§ 55-246.1 amended. **Landlord and tenant; who may recover rent or possession.** Corrects a scrivener's error. Eff. 4/14/98. SB 385; CH. 452.

§ 55-248.6 amended. **Virginia Residential Landlord and Tenant Act; notice to tenants.** Requires notice to be served at the tenant's last known place of residence. Currently, notice to a tenant is deemed received when it is served at the address of the dwelling unit or at the tenant's last known place of residence. HB 830; CH. 260.

§ 55-248.11 amended. **Virginia Residential Landlord and Tenant Act; interest on security deposits.** Clarifies that a landlord shall pay interest on security deposits at an annual rate equal to the Federal Reserve Discount Rate as of January 1 of each year beginning January 1, 1995. The bill removes the requirement that interest be accrued in six-month increments. HB 1355; CH. 462.

§ 55-248.38:1 amended. **Virginia Residential Landlord and Tenant Act; abandoned property.** Removes the requirement that a landlord store personal property left in the premises after the rental agreement has terminated and delivery of possession has occurred and eliminates the tenant's right of reclamation. The landlord may dispose of the property provided 10 days' written notice is given to the tenant. HB 1247; CH. 461.

§§ 55-362, 55-366 through 55-371, 55-374, 55-376, 55-380, 55-382, 55-386, 55-389, 55-391.1, 55-394.1 and 55-396 amended. **Virginia Real Estate Time-Share Act.** Adds and clarifies certain definitions, especially "material change." The bill also (i) changes the term "amenities" to "common elements;" (ii) removes the requirement that time-share associations be incorporated under the Virginia Nonstock Corporation Act; (iii) removes the ability of a time-share purchase to have a recordable statement of any unpaid regulator or special assessments levied against the time-share; (iv) limits attendance at board meetings to those members eligible to vote and in good standing in the association; (v) removes the requirement that the developer, during the developer control period, prepare and distribute the annual report, and instead makes the association responsible for this; (vi) relieves the developer of the obligation to maintain general liability insurance and places that responsibility on the association; and (vii) exempts any product registered with the Real Estate Board from the Virginia Home Solicitation Sales Act and the Prizes and Gifts Act. HB 1105; CH. 460.

§§ 15.2-2257, 55-508 and 55-509 amended. **Property and conveyances; Subdivided Land Sales Act.** Provides that the Subdivided Land Sales Act is superceded by the Property Owners' Association Act. As a result, homeowner associations created under the former Subdivided Land Sales Act will be

governed by the provisions of the Property Owners' Association Act. The bill also contains technical amendments. HB 1356; CH. 623.

§ 55-514 amended. Property Owners' Association Act; special assessments. Clarifies the board's power to levy a special assessment if the purpose in doing so is found by the board to be in the best interests of the association and the proceeds are used primarily for upkeep and maintenance of the common areas and such other areas of association responsibility which are expressly provided for in the declaration. HB 834; CH. 751.

§ 55-519 amended. Virginia Residential Property Disclosure Act. Requires the disclosure and disclaimer forms used by owners selling real property to contain a notice to purchasers that they should exercise whatever due diligence they deem necessary with respect to information on any sexual offenders registered pursuant to Title 19.2 and notice on how to obtain such information. HB 1204; CH. 384.

§ 55-519. See § 32.1-176.5:1; SB 483.

§ 55-527 amended. Broker's liens. Provides that a purchaser acquiring fee simple title to commercial real estate and having actual knowledge of terms of a lease agreement which provide for the payment of brokerage fees due and payable to a real estate broker shall be liable for payment thereof, regardless of whether the real estate broker has perfected the lien in accordance with this chapter. The bill excludes from the term "purchaser" a trustee under or a beneficiary of a deed of trust, a mortgagee under a mortgage, a secured party or any other assignee under an assignment as security, or successors, assigns, transferees or purchasers from such persons or entities. HB 1242; CH. 617.

TITLE 55. MISCELLANEOUS.

Property lease. Authorizes the Department of Conservation and Recreation to lease 32.1 acres of property, known as the Smiley Block Company property, to Amherst County. HB 455; CH. 36/SB 240; CH. 282.

Property conveyance. Authorizes the Virginia Marine Resources Commission to convey certain formerly submerged lands of the James River to Chesterfield County for the county to use as a wildlife management area. HB 779; CH. 40.

Property conveyance. Authorizes the Department of Conservation and Recreation to convey Fort Boykin State Park to Isle of Wight County for maintenance and use as a public recreation area. A reversion is included. HB 821; CH. 41.

Property conveyance; property held by VPI&SU. Allows for the lease of property to the Town of Saltville by VPI&SU and provides that at any time within the next 20 years, Saltville may purchase the property for \$64,500. The property is approximately 64 acres located on the north side of the Town

of Saltville in Smyth County and must continue to be maintained for educational, historical, cultural or public purposes. Virginia Polytechnic Institute and State University once used the property as a field station, but it is now used by the town for the Museum of the Middle Appalachians. The conveyance of this property to the town is subject to approval of the Governor and Attorney General. HB 879; CH. 632.

Property exchange. Authorizes the Department of Conservation and Recreation to engage in an approximately acre-for-acre exchange of land in Natural Tunnel State Park with owners of land adjacent to the park. Following current surveys, the bill would require cash payments from one party to the other to equalize any differences in fair market value. HB 976; CH. 185.

Property transfer. Authorizes the Department of Mental Health, Mental Retardation and Substance Abuse Services to transfer certain property to the Shenandoah Business Incubator & Technology Center and requires that the property be reconveyed to the Department if the Technology Center moves to a new location. The property to be transferred includes the "Gore-Cline Plot" west of I-81, and other unspecified property. The terms, including the consideration, if any, are not specified. HB 1312; CH. 267.

Property conveyance; National Guard Armory. Conveys the existing National Guard Armory, located in Richlands, to the Town of Richlands after the construction of the new National Guard Armory on the grounds of the Southwest Virginia Community College is completed. The town will pay all costs. The conveyance of this property to the town is recommended by the Governor's Commission on Conversion of State-Owned Property. SB 24; CH. 273.

Transfer of property from the Virginia Retirement System to the Science Museum of Virginia. Directs the transfer of a rail car and related artifacts formerly owned by RF&P Corporation from the Virginia Retirement System to the Science Museum of Virginia. SB 59; CH. 244.

Lease of property by Department of Conservation and Recreation. Authorizes the Department of Conservation and Recreation to lease a portion of the Mason Neck State Park in Fairfax County to the Chesapeake Bay Foundation. Under the terms of the lease, the Foundation is required to make substantial renovations to existing improvements and to conduct environmental education programs on the property. SB 411; CH. 248.

Chamberlin Hotel. Gives the consent of the Commonwealth to the extension of the lease for the operation of the Chamberlin Hotel at Fort Monroe. SB 718; CH. 809.

TITLE 56. PUBLIC SERVICE COMPANIES.

§§ 56-77, 56-82, 56-209, 56-210, 56-212, 56-217, 56-218, 56-225, 56-226 and 56-229 amended; § 56-217.1 added.

Electric cooperatives and other public service companies; business activities. Modifies statutory provisions governing public service companies' relationships with affiliated entities, and the business activities of distribution cooperatives and their affiliates, as follows: 1. The Virginia State Corporation Commission is required to approve or disapprove, within 60 days of their filing with the Commission, (i) proposed contracts or arrangements between public service companies and affiliated entities for management, supervisory, construction, and other services, and (ii) proposed loans and other financial transactions between such companies and affiliates. This period may be extended for up to 30 days by order of the Commission. Any such filing will, however, be deemed approved if the Commission fails to act within 60 days, or within any extended period ordered by the Commission. 2. Distribution cooperatives are prohibited from providing, within their certificated service territories, specified energy and engineering services (e.g., sales and service of HVACR equipment, sales of propane fuel oil, etc.) prior to July 1, 1999. 3. Distribution cooperatives are permitted to engage in any activities that (i) have received State Corporation Commission approval prior to February 1, 1998, (ii) such cooperative is ordered or required to undertake by any jurisdictional court or regulatory authority, (iii) were lawfully undertaken prior to February 1, 1998, (iv) are specifically permitted by statute, or (v) are undertaken by any other regulated public service company or its unregulated affiliate within such cooperative's territory. However, under the bill's provisions, a cooperative or its affiliate may not undertake the activities described above within the certificated service territory of another public service company unless these activities are undertaken by the public service company or its unregulated affiliate within the cooperative's certificated service territory. 4. Distribution cooperative subsidiaries are permitted to engage in any business activity not prohibited by law, (i) subject to SCC approval of such business activity, and (ii) further subject to the same limitations on business activity imposed on distribution cooperatives. 5. Any voluntary code or standard of conduct adopted or agreed to by a cooperative relating to limitations on the terms and conditions under which it will undertake a business activity other than one pursuant to its principal purpose will also apply to its undertaking any other kind of business activity that is not pursuant to its principal purpose. SB 687; CH. 707.

§ 56-240 amended. Public service companies; certificate to furnish public utility service; refund or credit for excessive charges. Clarifies the State Corporation Commission's authority to order refunds with interest for rates charged by public service companies that are unlawfully operating without a certificate of convenience and necessity. If the State Corporation Commission finds that the utility is operating without a certificate of convenience and necessity, the rates charged shall be deemed interim and subject to refund, with interest, until the State Corporation Commission has determined the appropriateness of the rates. SB 295; CH. 63.

§ 56-265.2 amended. Public utilities; certificate of convenience and necessity; acquisition of new facilities.

Allows the State Corporation Commission (SCC) to permit the construction and operation of electrical generating facilities which are not to be included in the rate base of any regulated utility. Such construction will be permitted when the SCC finds that such generating facility and associated facilities, including transmission lines and equipment, (i) will have no material adverse effect upon the rates paid by customers of any regulated public utility in the Commonwealth, (ii) will have no material adverse effect upon reliability of electric service provided by any regulated public utility, and (iii) are not otherwise contrary to the public interest. Additionally, the SCC shall give consideration to the effect of the proposed facility and associated facilities, including transmission lines and equipment, on the environment, and shall establish such conditions as may be necessary to minimize adverse environmental impact. Eff. 3/13/98. HB 755; CH. 92.

§§ 56-458 and 56-462 amended; §§ 56-468.1 and 56-468.2 added. Public rights-of-way; mileage-based fees; costs of relocating telecommunication facilities in public rights-of-way. Establishes the Public Rights-of-Way Use Fee (the "Fee"), to be used for the collection of fees from certificated providers of local exchange telecommunications service for the use of public rights-of-way. This fee will replace any and all fees of general application for use of public rights-of-way for localities whose public streets and roads are maintained by the Virginia Department of Transportation. Localities that maintain their own roads may impose the fee by ordinance. Localities imposing the fee and the Commonwealth Transportation Board will collect, in an equal amount each month, an annual amount calculated by charging an established amount for (i) number of miles of public highway and (ii) number of feet of new installations installed in existing public rights-of-way. The fee is determined by dividing the sum of the total amount from highway mileage and new installations by the total number of access lines in participating localities. The amount is included, as a separate item, on each consumer's monthly local exchange billing statement in an amount of no less than 50 cents per access line. The certificated provider of local exchange service will remit the amount collected directly back to localities that maintain their own public streets and roads and that impose the fee by ordinance. In localities whose roads are maintained by the Virginia Department of Transportation (VDOT), the fees shall be remitted to VDOT and then apportioned back to such localities on a population basis. Cities or towns electing not to impose the fee by ordinance may not impose on certificated providers of local exchange service restrictions on the use of the rights-of-way that (i) are unfair or unrecoverable or (ii) are any greater than those imposed on other nonpublic providers of public services. The bill also establishes a schedule for the reimbursement to telecommunications service providers for expenses related to the relocation of existing facilities when the expense is incurred at the direction of the locality or the Virginia Department of Transportation. The provisions of this bill are not applicable to Henrico County. HB 957; CH. 758/SB 577; CH. 742.

§ 2.1-1.5 amended; §§ 56-484.8 through 56-484.11 added.

Wireless Enhanced Public Safety Telephone Service Act. Requires Virginia's cellular telephone and personal communications systems providers to collect monthly billing surcharges of 75 cents upon each telephone number assigned by a provider to a commercial mobile radio service number (which includes cellular telephone service and personal communication service) to their customers for the purpose of establishing and maintaining a federally mandated emergency 911 system for these customers. These surcharges are paid into a wireless 911 fund and then distributed to counties and municipalities that operate public safety answering points and to service providers to defray capital costs and operating expenses incurred in providing service to wireless E-911 calls. The bill also establishes an advisory board which will assist in the administration of the wireless 911 fund, oversee the distribution of funds, and advise the General Assembly, no later than December 1, 2001, on the adequacy of the fund to make qualifying payments. The bill has a sunset clause; the provisions expire on July 1, 2002. HB 1331; CH. 165.

§ 56-502 amended; §§ 56-501 and 56-501.01 repealed. Public service companies; rates and services for telephone cooperatives. Removes from the State Corporation Commission (the Commission) the authority to regulate the service rates charged by a telephone cooperative to its members. Presently, the Commission must promulgate rules to provide that the service rates charged by telephone cooperatives are nondiscriminatory, reasonable and just. This bill also removes from the Commission (i) the authority to suspend the enforcement of proposed telephone cooperatives' rates, (ii) its jurisdiction over service quality and types of service offerings, and (iii) the authority to investigate the reasonableness or justice of the proposed rates whenever a protest or objection to a rate schedule is filed by the lesser of 150 or five percent of the customers subject to the rate. HB 464; CH. 252.

§ 56-531 amended. Small investor-owned telephone utilities. Redefines "small investor-owned telephone utility" to mean an investor-owned public utility which serves fewer than 100,000 access lines in Virginia and which owns, manages, or controls any plant or equipment or any part of a plant or equipment within the Commonwealth for the conveyance of telephone messages, either directly or indirectly, to or for the public. This new definition shifts these utilities' defining characteristics from gross operating revenues to numbers of access lines. Under current law, these utilities are defined as investor-owned public utilities (i) having a gross annual operating revenue which does not exceed \$10 million or (ii) having a gross annual operating revenue greater than \$10 million and less than \$30 million and that are not subsidiaries of an interstate utility holding company. SB 330; CH. 64.

TITLE 56. MISCELLANEOUS.

Electric Utilities; wholesale and retail competition. Establishes a schedule for Virginia's transition to retail

competition in the sale of electricity, as follows: 1. The State Corporation Commission, and entities with interests in electric generation and transmission facilities and the sale of electricity in Virginia, will work to establish independent system operators and regional power exchanges by January 1, 2001. 2. The transition to retail competition and the deregulation of generation facilities (as will be defined and determined by the General Assembly and, thereafter, by regulation of the State Corporation Commission) will commence in Virginia on January 1, 2002. 3. Retail competition, as defined and determined by the General Assembly and, thereafter, by regulation of the State Corporation Commission, will commence in Virginia on January 1, 2004. 4. Just and reasonable net stranded costs will be recoverable, and appropriate consumer safeguards related to stranded costs and stranded benefits will be implemented, as defined and determined by the General Assembly and, thereafter, by regulation of the State Corporation Commission. 5. In implementing this bill, the General Assembly and the State Corporation Commission are required to ensure reliable electric service at reasonable and just rates to all classes of consumers with due regard to the protection of the environment. 6. The General Assembly, in implementing this bill, is also required to give due regard to the unique regulatory and taxation structures of all electric utilities and power supply cooperatives in Virginia. 7. The enactment is declared to have no effect on any pending litigation at the State Corporation Commission or in any court in the Commonwealth, or on any power or duty of the Commission granted by law or the Constitution of Virginia. HB 1172; CH. 633.

Senate Joint Resolution 126 (1985) and Senate Joint Resolution 278 (1993); annual monitoring and reporting requirements; abolishment. Extinguishes the annual monitoring and reporting requirements contained in SJR 126 (1985) and continued by SJR 278 (1993). These two study resolutions currently require the Department of Health and the State Corporation Commission to monitor and annually report on ongoing research on the health effects of high voltage transmission lines. The bill also requires the Department of Health to report to the General Assembly on the results of a federal study of this issue expected to be reported to Congress by the end of 1998. SB 379; CH. 764.

TITLE 57. RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES.

§ 57-15 amended. Religious and charitable matters; property held for religious purposes. Authorizes the court, in cases where a religious congregation has ceased to occupy property as a place of worship, and at the request of the surviving trustees, to make an order to gift such property to any willing local, state or federal entity, or a willing private, nonprofit 501 (c) (3) organization, provided the court finds that the property includes a historic landmark or building and the

purpose of the gift is historic preservation of the property. Eff. 4/7/98. HB 707; CH. 258.

§§ 57-35.11 through 57-35.35. See § 54.1-2310; HB 1077/SB 700.

§§ 57-60 and 57-63 amended. **Solicitation of contributions; exemptions.** Adds community health centers and rural health clinics to the health care institutions exemption from registration requirements by redefining "health care institutions" to include (i) facilities designated by the Health Care Financing Administration (HCFA) as federally qualified health centers or (ii) certified by HCFA as rural health clinics. The exemption currently applies to health care institutions granted tax exempt status under § 501 (c) (3) of the Internal Revenue Code and any supporting organizations. This bill also contains technical amendments. This bill is identical to SB 512; however, the versions vary in technical amendments made. HB 1269; CH. 104.

§§ 57-60 and 57-63 amended. **Solicitation of contributions; exemptions.** Adds community health centers and rural health clinics to the health care institutions exemption from registration requirements by redefining "health care institutions" to include (i) facilities designated by the Health Care Financing Administration (HCFA) as federally qualified health centers or (ii) certified by HCFA as rural health clinics. The exemption currently applies to health care institutions granted tax exempt status under § 501 (c) (3) of the Internal Revenue Code and any supporting organizations. This bill is identical in substance to HB 1269; however, the versions vary in technical amendments made. SB 512; CH. 232.

TITLE 58.1. TAXATION.

§ 58.1-3 amended; § 58.1-339.4 added. **Earned-income tax credit.** Allows an earned-income tax credit for low-income families with children. The amount of the credit is equal to the greater of (i) 75 percent of their federal earned-income credit or (ii) \$300 per eligible child. The credit is nonrefundable. The credit is available to individuals whose family Virginia adjusted gross income does not exceed a limit based on the federal poverty guideline amounts. The limit ranges from \$10,850 for a two-person family to \$27,650 for a family of eight or more. The limits will be adjusted annually to reflect changes in the federal poverty guidelines. The bill will become effective upon notice from the federal Department of Health and Human Services that the tax credit qualifies as a portion of Virginia's maintenance of effort under its TANF plan. The credit will be available for taxable years beginning on and after January 1, 1998. For effective date, see bill. HB 848; CH. 855.

§ 58.1-322. See § 23-38.78; HB 608.

§§ 58.1-322 and 58.1-402 amended. **Virginia taxable income of residents.** Provides a subtraction for all military pay and allowances earned while serving in a combat zone or an area

designated as a qualified hazardous duty area by order of the President. The bill also provides deductions for individuals and corporations for contributions to the Virginia Public School Construction Grants Program and Fund. HB 1147; CH. 874.

§ 58.1-332 amended. **Income tax; credit for taxes paid other states.** Expands the credit for taxes paid to other states by Virginia residents to include business income reported on Federal Form Schedule C from a single state contiguous to Virginia for taxable years beginning on and after January 1, 1998. HB 33; CH. 291.

§ 58.1-332.1 added. **Income tax; foreign source retirement income tax credit.** Allows a credit to individuals for taxes paid to a foreign country on foreign source retirement income. HB 52; CH. 292.

§ 58.1-339.2 amended. **Historic rehabilitation tax credit.** Allows the tax credit for the rehabilitation of certified historic structures to be claimed against the bank franchise tax, the license tax on insurance companies, and the license tax on certain regulated utility companies. Currently, the tax credit may only be claimed against individual, estate and trust, and corporate income taxes. HB 454; CH. 371.

§ 58.1-339.2 amended. **Historic rehabilitation tax credit.** Defines a material rehabilitation, for purposes of determining eligibility for the historic rehabilitation tax credit, as improvement or reconstruction that costs at least 50 percent of the building's assessed value for the year prior to the initial expenditure of rehabilitation expenses. HB 544; CH. 372.

§ 58.1-339.4 added. **Qualified equity and subordinated debt investments tax credit.** Provides a tax credit, beginning January 1, 1999, in an amount equal to 50 percent of the taxpayer's cash investments in the form of equity or subordinated debt in certain qualified businesses. A qualified business must have annual gross revenues of no more than \$5 million, be domiciled in the Commonwealth, be engaged in business primarily or do substantially all of its production in the Commonwealth and not be engaged in certain types of businesses, including banking, credit or finance, accounting, insurance, construction, and business consulting. The credit shall not exceed the lesser of the tax imposed on the taxpayer for the taxable year in which the credit is sought or \$50,000. Any unused credit may be carried over for 15 years. Total credits available for any calendar year shall be \$5 million. If such investments are not held for at least five years, the taxpayer must forfeit used and unused credits, plus penalty, to the Department of Taxation. HB 1359; CH. 491.

§ 58.1-342 amended. **Reciprocal agreements for nonresident income tax liability.** Authorizes the Department of Taxation to enter into reciprocal agreements with other states to exempt nonresidents from the income tax on income distributed to nonresidents by a trust domiciled in the reciprocating state. Currently, the Department is authorized to enter into such reciprocal agreements exempting nonresidents from income tax on compensation paid in the reciprocating state. SB 284; CH. 352.

§ 58.1-346.3:1 amended. Income tax; voluntary contribution to the Family and Children's Trust Fund. Allows taxpayers, for taxable years beginning on and after January 1, 1998, to make contributions to the Family and Children's Trust Fund by making payment to the Department of Taxation if the taxpayer is ineligible for a refund or the taxpayer wishes to make a contribution that is greater than the amount of the refund. HB 1126; CH. 239.

§ 58.1-346.8 added. Voluntary income tax contribution; Historic Resources Fund. Allows individual taxpayers to make a voluntary contribution from income tax refunds to the Historic Resources Fund. HB 438; CH. 51/SB 282; CH. 283.

§§ 58.1-400.1, 58.1-2600 and 58.1-2662.1 amended. License and franchise taxes; telephone and telegraph companies. Revises the definition of gross receipts for purposes of the minimum tax and the special tax by deleting the deduction for the first \$500,000 of billing and collecting revenue. Revenues received from a telephone company from (i) unbundled network facilities; (ii) completion, origination or interconnection of telephone calls with taxpayer's network; (iii) transport of phone calls over taxpayer's network; and (iv) taxpayer's phone services for resale will be included in the company's taxable gross receipts. The bill clarifies that the SCC will eventually assess voice services such as cellular and broadband. These provisions become effective for tax years beginning on or after January 1, 1999. HB 553; CH. 897.

§ 58.1-438.1 amended. Tax credit for vehicles emissions testing equipment. Makes certified motor vehicle emissions testing equipment located in a locality adjacent to a locality with an enhanced vehicle emissions testing program eligible for a tax credit equal to 20 percent of the purchase or lease price of the equipment. This credit is available for taxable years beginning on and after January 1, 1998. The tax credit currently is available only for equipment located within a county, city or town which is required to implement an enhanced testing program. HB 66; CH. 599.

§ 58.1-439 amended. Major business facility job tax credit. Allows two or more affiliated companies to aggregate the number of jobs created for qualified full-time employees in order to meet the requirements for the tax credit. The act currently conditions eligibility on the creation of at least 100 jobs for qualified full-time employees (or 50 jobs if located in an enterprise zone). Companies will be affiliated if (i) one company owns at least 80 percent of the voting power of the other or others or (ii) at least 80 percent of the voting power of two or more companies is owned by the same interests. The measure applies to major business facilities established or expanded on or after January 1, 1997. HB 265; CH. 367.

§ 58.1-439.7 added. Income tax credit for purchase of waste motor oil burning equipment. Establishes a credit against individual and corporate income tax liability for any taxpayer for 50 percent of the purchase price of equipment used to burn waste motor oil. To be eligible for the credit, the taxpayer must operate a business within Virginia which accepts waste motor oil from the public. The maximum amount of the credit that can

be claimed in any year is \$5,000. HB 513; CH. 896.

§§ 58.1-439.7 and 58.1-439.8 added; § 58.1-445.1 repealed. Tax credits for machinery and equipment for processing recyclable materials. Establishes a corporate income tax credit equal to 10 percent of the purchase price paid in any taxable year for machinery and equipment used in facilities which manufacture items of personal property from recyclable materials. If the corporation has made a \$350 million investment in the Commonwealth before January 1, 2003, the amount of the credit allowed in any taxable year is capped at 60 percent of the taxpayer's tax liability, and unused credits may be carried forward for 20 years. This credit is available for taxable years beginning on and after January 1, 1998. A corporation is not eligible for both this tax credit and the existing tax credit for purchases of machinery and equipment used in facilities which manufacture items of personal property from recyclable materials. The existing tax credit, which is limited to 40 percent of the taxpayer's tax liability and has a 10-year carry-forward, is renumbered in the Code. For effective date, see bill. HB 554; CH. 253.

§ 58.1-439.7 added. Tax credit for certain employers hiring recipients of Temporary Assistance to Needy Families (TANF). Provides a tax credit, beginning January 1, 1999, to employers that hire TANF recipients. To be eligible, an employer must have not more than 100 employees. The amount of the credit per qualified employee is five percent of his annual salary or \$750 per year, whichever is less. The employer must provide written evidence to the Tax Commissioner that the employee meets the qualifications. Any employer receiving a grant under the Virginia Targeted Jobs Grant Program shall not be eligible for the TANF tax credit. The tax credits claimed under this bill, when added to the amount of grants under the Targeted Jobs Grant Program, cannot exceed the amount appropriated for the Targeted Jobs Grant Fund. HB 696; CH. 486.

§ 58.1-478 amended. Income tax withholding statements. Changes the date by which employers must file their annual income tax withholding reconciliation statements from January 31 to February 28. This change conforms the date for filing the Virginia statement to the federal filing date for year-end withholding information. This measure is effective for returns required to be filed during calendar years beginning on and after January 1, 1999. SB 475; CH. 335.

§ 58.1-608.3 amended. Portsmouth Hotel and Conference Center. Entitles the City of Portsmouth to sales tax revenue generated from transactions at a conference center, hotel, and related public facilities owned by the city. The revenue will be used to pay debt service on bonds issued by the city between July 1, 1998, and June 30, 1999. HB 161; CH. 497/SB 55; CH. 492.

§§ 30-19.1:3, 58.1-609.1, 58.1-609.4 and 58.1-609.6 through 58.1-609.10 amended. Sales and use taxes. Extends the expiration date for all medical-related, nonprofit civic and community service organization sales and use tax exemptions until July 1, 1999, and authorizes the General Assembly to act

on extensions of such exemptions in odd-numbered year sessions. The measure also grants a sales and use tax exemption from July 1, 1998, through June 30, 1999, to organizations similar to the following: Williamsburg Radiation Therapy Center, the Garden Club of Virginia, Northumberland County Community Center, Goodwill Industries of Danville, Child Health Invest Partnership, Urbanna Swim Team, Inc., Rappahanock, Richmond, and Roanoke Goodwill Industries, Community Concert Association, Shalom Et Benedictus, Oceanwatch, Kiwanis Clubs, KISS Institute for Practical Robotics, Leg up: Therapeutic Riding Center for Handicapped, Inc., Road Runners Club of America, Inc., APTNA, Inc., Tranquility Breast Cancer Foundation, little league baseball organizations, Fredericksburg Area Museum and Cultural Center, The Harris Group, Appomattox Habitat for Humanity, Center for Christian Studies, Inc., People of Praise, Inc., Smithfield Recreation Association, The Lewinsville Retirement Residence, Glen Allen Youth Association, Hadassah, Circuit City Foundation, Virginia Rehabilitation for the Blind, Hanover Domestic Violence Task Force, Hanover Association for Retarded Citizens, Hanover Arts & Activities Center, John Singleton Mosby Heritage Area Association, Hampton History Museum, Downtown Hampton Child Development Center, VII Corps Desert Storm Veterans Association, The Community Law Project, James River Association, Drive Smart Virginia, Inc., Martinsville Uptown Revitalization Association, Serenity House Substance Abuse Recovery Program, Alternative House, Charlottesville-Piedmont Alzheimer's Association and Related Disorders, Downtown Promoters, Inc., Agape Gospel Mission, Alliance for the Chesapeake Bay, Richmond Branch of the English Speaking Union of the United States, Harrisonburg Soccer Association, Roberta Webb Child Care Center, National Industries for the Blind, Virginia Waterfront International Arts, Tazewell Baseball Boosters, Inc., all 4-H Education Centers, Youth Club of Lancaster County, Inc., Von Holtzbrinck Publishing, C. D. Hylton Memorial Chapel Foundation, W. E. S. Flory Small Business Center, Black Data Processing Associates of Richmond, Roanoke Veterans Center, Roanoke Valley Housing Corp., Roanoke Inner City Athletic Association, Chesapeake's Museum and Information Center, Virginia Association of Museums, Northern Virginia Hotline, Earth Force, Inc., National Kidney Foundation of Virginia, Inc., and Vanguard Services, Inc. HB 131; CH. 812.

§ 58.1-609.5 amended. Electronic communication services; exemption from retail sales and use tax. Exempts (i) charges for Internet access and related communications services and (ii) sales of software via the Internet from the retail sales and use tax. This measure codifies two recent decisions by the Tax Commissioner. HB 278; CH. 481.

§ 58.1-609.6 amended. Sales and use tax exemption; media-related exemption for donated books (Von Holtzbrinck Publishing). From July 1, 1998, through June 30, 2002, provides a sales and use tax exemption for textbooks and other educational materials withdrawn from inventory at book-publishing distribution facilities for free distribution to professors and other individuals who have an educational focus.

HB 105; CH. 645.

§ 58.1-609.8 amended. Sales and use tax exemption; nonprofit civic and community service exemptions. Grants a sales and use tax exemption to a nonprofit tax-exempt foundation that operates an approximately 78,000-square-foot facility for the purpose of providing to Virginia's citizens a location for Christian and community events sponsored primarily by other nonprofit organizations. Cecil D. Hylton Memorial Chapel Foundation would be a beneficiary of the exemption. This bill is incorporated into HB 131. SB 81; CH. 544.

§ 58.1-638. See § 29.1-101; HB 38.

§§ 58.1-638 and 58.1-2425. See § 33.1-23.03:2; HB 958/SB 562.

§ 58.1-803 amended. Recordation tax. Defines "existing debt" as the original, secured principal amount for purposes of determining the exemption from additional tax applicable when the debt is refinanced or otherwise modified. SB 234; CH. 349.

§ 58.1-811 amended. State recordation tax. Exempts a deed of trust or mortgage which is given by a local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision. SB 228; CH. 333.

§ 58.1-815.1. See Appropriations and Bonds; HB 1117/SB 566.

§§ 10.1-1176, 58.1-1604, 58.1-1605 and 58.1-1609 amended. Forest products tax. Provides an alternative method of paying the forest products tax based on weight. Currently, the tax is based on various volume measurements, such as board footage, cords, number of pieces, bundle size, etc. It also changes the method used by the State Forester in determining the revenues to be collected from the tax each biennium from an estimate of future revenues to the actual past revenues collected. At the election of the taxpayer, the amounts credited to the Reforestation of Timberlands State Fund may be based on weight. HB 657; CH. 420.

§§ 58.1-1712 and 58.1-1714. See § 26-4; HB 344.

§ 58.1-1813. See § 13.1-1005; HB 906.

§ 58.1-1823 amended. Statute of limitations; tax refunds. Extends the period during which a taxpayer may file an amended state income tax return based on a change in his federal tax liability to one year. Currently, an amended state return must be filed within 90 days after the change in federal tax liability. HB 629; CH. 374.

§ 58.1-1823 amended. Period for filing for amended state tax returns. Extends the period from 90 days to one year during which a taxpayer may file an amended state tax return, based on a change in his federal tax liability. SB 543; CH. 358.

§§ 58.1-1825, 58.1-3981 and 58.1-3984 amended. Statutes of limitations; tax appeals. Extends the period during which a taxpayer may begin litigation contesting state or local tax assessments to one year following the final administrative

determination. The bill also requires commissioners of the revenue to provide written responses to taxpayers' applications for correction of assessments, upon request. HB 630; CH. 529.

§ 58.1-2403. See § 46.2-323; HB 867.

§ 58.1-2500 amended; § 58.1-2510 added. **Retaliatory tax credit.** Provides certain insurance companies headquartered in Virginia with a credit against their Virginia gross premium tax liability in an amount equal to the retaliatory costs incurred. To be eligible for the tax credit, a company must (i) by December 31, 1997, increase the number of permanent full-time employees by at least 325 above the number on December 31, 1996, or (ii) have more than 100 permanent full-time employees in any taxable year beginning on or after January 1, 2001. Members of an affiliated insurance group will be counted as one company for purposes of determining the amount of expenditures and number of employees. Excess credits of up to \$800,000 in any year are refundable. Unused credits may be carried forward for five years. HB 80; CH. 365.

§ 58.1-2508. See § 38.2-415; SB 421.

§§ 58.1-2627 and 58.1-2628 amended. **License taxes; telephone and telegraph companies.** Clarifies that the annual report filed with the State Corporation Commission by telephone and telegraph companies does not need to include leased trucks, leased automobiles and leased real estate effective January 1, 1999. The measure also corrects the cross-reference to the definition of an "affiliated group." Eff 1/1/99. HB 378; CH. 197.

§§ 58.1-3122.2 and 58.1-3172.1 added. **Remote access; public records.** Authorizes commissioners of revenue and treasurers to provide remote access, by means such as the Internet, to public, nonconfidential records maintained by their offices. HB 790; CH. 235.

§§ 58.1-3128, 58.1-3919, 58.1-3934, 58.1-3940, 58.1-3958 and 58.1-3980 amended; §§ 58.1-3927, 58.1-3937 and 58.1-3939.1 repealed. **Collection of local taxes.** Amends several provisions relating to the collection of local taxes. The changes (i) require writs and other legal process issued by treasurers to be served and returned in the same manner as civil process issued by courts; (ii) allow localities to have the sheriff or a tax collector collect delinquent taxes only if they are at least six months delinquent (which is the same limit that applies to hiring an attorney to collect delinquent taxes); (iii) toll the statute of limitations on local tax collections while the taxpayer is in bankruptcy or is in receivership; and (iv) provide that the administrative cost a locality may assess on delinquent taxpayers of up to \$20 is not to be included in the 20 percent cap on the attorney's or collection agency's fees. The bill also repeals provisions requiring county treasurers to keep records of delinquent real estate taxes assessed by towns within the county and authorizing town treasurers to summons taxpayers. HB 730; CH. 648.

§§ 58.1-3129 and 58.1-3306. See § 42.1-1; HB 822.

§§ 10.1-1011 and 58.1-3205 amended. **Valuation of land**

under conservation easement. Clarifies how the value of land is to be determined for tax purposes if the land has been made subject to a permanent conservation easement. The assessed value of the land will not include any value attributable to a use that is not permitted under the terms of the conservation easement. HB 727; CH. 487.

§§ 58.1-3211 and 58.1-3506.2 amended. **Property tax exemptions for elderly and disabled persons.** Allows the governing bodies of Fairfax County and adjacent localities; the Cities of Chesapeake, Leesburg, Manassas, Manassas Park, Portsmouth, Suffolk, and Virginia Beach; and Chesterfield, Fauquier, Henrico and Stafford Counties to raise the maximum income and net financial worth limitations for eligibility under local real property tax exemption or deferral programs and personal property tax rate reduction programs. The income limits are increased from \$40,000 to the greater of \$52,000 or the income limitations on qualifying for federal housing assistance. The net financial worth limits are increased from \$150,000 to \$195,000. SB 677; CH. 361.

§ 58.1-3230 amended; § 58.1-3665 added. **Taxation of wetlands and riparian buffers.** Authorizes local governments to partially or totally exempt from real property taxation wetlands and riparian buffers that are subject to a perpetual easement permitting inundation by water. The measure also redefines "real estate devoted to open-space use," which may qualify for land-use taxation, to include certain wetlands and riparian buffers. HB 1419; CH. 516.

§ 58.1-3237 amended. **Roll-back taxes on property in land use taxation.** Increases the threshold amount for liability for roll-back taxes from two dollars to ten dollars. If the amount of tax due is less than this amount, roll-back taxes will not be due upon a change in the use or zoning of property assessed under a land use taxation program. SB 47; CH. 274.

§ 58.1-3505 amended. **Tax classifications of farm machinery.** Creates a separate classification of farm machinery consisting of such machinery designed solely for the planting, production or harvesting of a single product or commodity. Local governments may exempt this class of equipment or tax it at different rates from the rate imposed on farm machinery generally. SB 109; CH. 332.

§ 58.1-3511 amended. **Situs of personal property.** Fixes the locality where a vehicle with a weight of 10,000 pounds or less is registered as its situs for personal property taxation, if the vehicle is registered in Virginia but normally garaged, docked or parked in another state. Currently, the situs for taxation of vehicles is the jurisdiction where they are normally garaged, docked or parked. HB 1216; CH. 894.

§§ 2.1-155, 22.1-175.1, 22.1-175.2, 22.1-175.3, 46.2-208, 46.2-623, 58.1-3912 amended; §§ 15.2-1636.20, 22.1-175.4, 58.1-3523 through 58.1-3536 and 58.1-3916.01 added. **Personal property tax relief; school construction; Commission on State Funding of Public School Construction.** Requires the Commonwealth to pay, directly to taxpayers for tax year 1998 and to localities for tax years 1999 and thereafter, a portion of

the tangible personal property tax levied on any passenger car, motorcycle, and pickup or panel truck that is used for nonbusiness purposes and owned or leased by a natural person. Reimbursements for tax year 1998 will be 12.5 percent of the tax on the first \$20,000 of value of the qualifying vehicle, based on the tax rate and assessment practices in effect on August 1, 1997. For tax year 1999, the payments to localities will be 27.5 percent of the reimbursable amount. For 2000, the amount will be 47.5 percent of the reimbursable amount; for 2001, 70 percent of the reimbursable amount; and for 2002 and thereafter, 100 percent of the reimbursable amount. The level of payments will not increase under this schedule if (i) actual general fund revenues for a fiscal year are less than projected general fund revenues by one-half of one percent or more; (ii) forecasted general fund revenue growth is less than five percent compared to the preceding fiscal year; or (iii) general fund revenues available for appropriation for either year of a biennial budget are projected to be less than the general funds appropriated for such years. The cost of the program is capped at eight percent of general fund revenues in fiscal year 2000-2001 or thereafter. If the program cost is expected to exceed this limitation, the level of payments will be reduced proportionately. Personal property tax bills for tax year 1999 and thereafter shall state the amount that the Commonwealth will reimburse to the locality, and taxpayers will receive a deduction for this amount. The measure also establishes a mechanism for distributing the funds appropriated to local school divisions for public school construction. Of the available for distribution through the Virginia Public School Construction Grants Program, (i) 30.78 percent will be distributed on the basis of a school division's average daily membership, adjusted for half-day kindergarten enrollment, and further adjusted by the locality's fiscal stress index and percentage of students enrolled in the federal Free Lunch Program; (ii) 34.61 percent will be distributed equally among all school divisions; and (iii) 34.61 percent will be distributed among the school divisions on a pro rata basis according to the school division's average daily membership, adjusted for half-day kindergarten enrollment, and further adjusted by the locality's composite index. Finally, the bill establishes the Commission on State Funding of Public School Construction, which is directed to make recommendations to the Governor and General Assembly regarding future changes to the school construction assistance distribution formula and related issues. Eff. 5/20/98. SB 4005; CH. 2, 1998 Special Session.

§ 58.1-3607. See § 10.1-2212; HB 545.

§ 58.1-3650.749 added. **Property tax exemption; Samaritan House, Inc.** Grants a property tax exemption to the Samaritan House, Inc., (formerly, Virginia Beach Ecumenical Housing, Inc.) for its real and personal property located in the City of Virginia Beach and used by the organization for benevolent purposes. This exemption is retroactive to July 1, 1997. Virginia Beach Ecumenical Housing, Inc., has had a property tax exemption since 1990. HB 157; CH. 336.

§§ 58.1-3650.749 through 58.1-3650.793 added. **Property tax exemption; Omnibus bill.** Grants property tax exemptions

for property owned by: the Williamsburg Land Conservancy, the Benevolent and Protective Order of Elks Lodge No. 875, Our Lady of Perpetual Help Health Center, the Northern Neck Elks Lodge No. 2666, Zulekia Court Number 35, L.O.S.N.A., Virginia Congress of Parents and Teachers, Total Action Against Poverty in Roanoke Valley, Highland County Medical Center, Inc., Shalom Et Benedictus, Robert E. Rose Memorial Foundation, Inc., Marine Spill Response Corporation, the Avenel Foundation, the National D-Day Memorial Foundation, Sophia House, Inc., Virginia Association of Volunteer Rescue Squads, Inc., Good Shepherd Alliance, Inc., Jeremiah House, Inc., Straight Street-Buckingham, Inc., Court House Players, Inc., Chesterfield County Alternatives, Inc., FFA-FHA Camp Association, Incorporated, Equine Rescue League Foundation, Breakthrough, Inc., Good Shepherd Housing Foundation, Eastern Prince William Sports Club, Lee Graham Corporation, Long Branch Swim and Racquet Club, Inc., Kings Ridge Swim Club, Inc., Crossroads Shelter, Inc., Alpha Phi Alpha Building Foundation, Darvilles Community Center, Newport News Link, Inc., Kilmarnock Museum, Inc., Jewish Foundation for Group Homes, Inc., Danville Regional Health System, Community Theatre of the Virginia Peninsula, Rosewell Foundation, Inc., Roanoke Foundation for Downtown, Inc., Foodbank of Southeastern Virginia, Inc., Roberta Webb Child Care Center, Inc., Belle Grove, Inc., Boykins Baptist Church, and Northern Neck Alliance, Inc. HB 240; CH. 646.

§ 58.1-3650.749 added. **Property tax exemption; Beth Sholom Home of Eastern Virginia.** Exempts the property of the Beth Sholom Home of Eastern Virginia from local property taxes in the City of Virginia Beach. This bill is identical to § 58.1-3650.762 contained in Senate Bill 5. Eff. 1/1/98. HB 318; CH. 601.

§§ 58.1-3650.749 through 58.1-3650.766 added. **Property tax exemption; Omnibus property tax exemption bill.** Exempts the property of Good Shepherd Housing and Family Services, Inc., from local property taxes in Fairfax County; exempts property of Virginia Congress of Parents and Teachers, located in Henrico County from taxation effective January 1, 1998; exempts real property of Shen-Paco Industries, Inc., located in Page County, from taxation; exempts the property of Robert E. Rose Memorial Foundation, Inc., from local property taxes in Frederick County; exempts personal property of Shalom Et Benedictus, located in Frederick County, from taxation; exempts the property of Zulekia Court Number 35, L.O.S.N.A. from local property taxes in the City of Chesapeake; exempts the leasehold interest of Riverfront Management Corporation in any real property located in the City of Richmond, leased to it by the City of Richmond, and used by it exclusively for benevolent, cultural, historical, or public park and playground purposes, from property tax; exempts real property of Sophia House, Inc., located in Louisa County, from taxation; exempts real and personal property of Hospice Support Care, Inc., located in the City of Fredericksburg, from taxation; exempts certain designated property owned by Audubon Naturalist Society of the Central Atlantic States, Inc., located in Fairfax County, from local taxation; grants property

tax exemptions to The Avenel Foundation and The National D-Day Memorial Foundation for property each nonprofit organization owns in Bedford County; grants a property tax exemption to the Williamsburg Land Conservancy for its real and personal property located in James City County and used by the organization for benevolent purposes; exempts property owned by Beth Sholom Home of Eastern Virginia, located in the City of Virginia Beach, from taxation, effective January 1, 1998; exempts from local taxation certain designated property owned by Lend-A-Paw Relief Organization, located in Fairfax County; exempts from local taxation certain designated property owned by the Jewish Foundation for Group Homes, Inc., located in Fairfax County; grants a property tax exemption to Gainesville Ruritan Club for property it owns in Prince William County; are exempts from local taxation property owned by Northern Virginia Family Services, located in Prince William County. SB 5; CH. 343.

§ 58.1-3661 amended. Tax exemption for certified solar energy and recycling property. Allows taxpayers to deduct the amount of the tax exemption for certified solar energy equipment and certified recycling equipment, facilities, or devices from the machinery and tools tax due on such property. Currently, the amount of the tax exemption must be deducted from the real property tax due on the real estate to which the equipment, facilities, or devices are attached. Local governments are authorized to exempt or partially exempt such property from property tax. HB 555; CH. 606.

§ 58.1-3665 added. Property tax exemption for erosion control improvements. Authorizes local governments to partially exempt from taxation real estate that has been improved with bulkheads or other structural improvements installed to control erosion, and is used primarily for the purpose of abating or preventing pollution. The exemption shall not exceed (i) all or a portion of the increase in the assessed value of the real property resulting from the placement of the structural improvements or (ii) 50 percent of the cost of such improvements. HB 1425; CH. 272.

§ 58.1-3713.01 amended. Distribution of local coal and gas road improvement tax for water projects. Removes the requirement that all water supplies in a locality be included in developing the plans for funding water projects from the local coal and gas road improvements tax. HB 1133; CH. 694.

§ 58.1-3714 amended. Business licenses; workers' compensation coverage required. Prohibits localities from issuing or reissuing a business license to any contractor who (i) has not obtained or is not maintaining workers' compensation coverage for his employees and (ii) at the time of application for business license issuance or reissuance, is required to obtain or maintain such coverage. The bill also requires localities to require contractors seeking business licenses to provide written certification of their (i) compliance with the provisions of the Virginia Workers' Compensation Act governing the requirements of workers' compensation coverage and (ii) obligation to remain in compliance with the Act's provision during the effective period of any such licenses. False

certifications are punishable as Class 3 misdemeanors. Finally, the Virginia Workers' Compensation Commission is required to conduct periodic audits of selected contractors to whom business licenses have been issued to ensure the contractors' compliance with the requirements of this law. SB 193; CH. 503.

§ 58.1-3732.3 added. Taxable gross receipts of funeral services providers. Excludes amounts collected by a provider of funeral services on behalf of a third party providing related goods or services from the provider's gross receipts subject to local BPOL taxation. The funeral services provider must identify the payees and the amount of receipts paid to them on its license application. Currently, charges by a third party for the sale of funeral-related goods or services, which are collected by a funeral services provider and remitted to the third party, are taxable as gross receipts of the funeral services provider, regardless of whether the third party is subject to gross receipts tax on the same sale. HB 46; CH. 220.

§ 58.1-3732.3 added. BPOL tax on professional employer organization firms. Exempts from the gross receipts subject to the BPOL tax any wages, salaries, payroll taxes or other employee benefits paid by an employee leasing firm or temporary employee services firm to or for employees employed at a client company. SB 113; CH. 347.

§§ 58.1-3812 and 58.1-3814 amended. Consumer utility tax; exemptions for churches. Provides that the City of Manassas, defined by population brackets, may exempt churches or religious bodies from the consumer utility taxes on telephone and other utility service. The exemption applies only to a church or religious body entitled to a property tax exemption by designation by the General Assembly. Generally, church property is not exempted from taxation by designation because it is exempted by classification under § 58.1-3617. HB 198; CH. 337.

§ 58.1-3818 amended. Admissions tax. Allows Brunswick County to levy an admissions tax. Currently, Fairfax, Arlington, Dinwiddie, Prince George, and Culpeper Counties are authorized to levy such a tax. HB 21; CH. 150.

§ 58.1-3818 amended. Admissions tax in certain counties; Nelson County. Allows Nelson County, defined by population brackets, to impose the tax on admissions for any spectator event. The tax may not be levied on admissions charged to participants in any event. The tax shall not exceed 10 percent of the admissions charge. HB 875; CH. 532.

§ 58.1-3819 amended. Transient occupancy tax; Dinwiddie County. Adds Dinwiddie County, defined by population brackets, to the list of counties which may impose a transient occupancy tax of up to five percent, with the excess over two percent dedicated to the promotion of tourism. HB 1423; CH. 729.

§ 58.1-3819 amended. Transient occupancy tax. Authorizes Wythe County to levy a transient occupancy tax at a rate not exceeding five percent. Revenues from the portion of the tax exceeding two percent shall be spent on tourism, marketing of

tourism, or initiatives that, as determined in consultation with local tourism industry organizations, attract travelers to the county and generate tourism revenues. Caroline, Page, James City, Tazewell, and Augusta Counties currently have the same authority. SB 23; CH. 733.

§ 58.1-3823 amended. Transient occupancy tax; additional tax for certain counties. Allows the Counties of Chesterfield, Hanover and Henrico, defined by population brackets, to impose an additional two percent transient occupancy tax. The revenues generated from such additional amount will be spent on expanding the Richmond Centre, a convention and exhibition facility located in the City of Richmond. HB 169; CH. 74/SB 144; CH. 444.

§ 58.1-3916 amended. Filing of tax returns; extensions. Exempts fiduciaries, acting on behalf of taxpayers that are unable to file their own returns, from penalties for failing to timely file a local tax return or pay the tax if the return is filed or the tax is paid within 120 days after the fiduciary qualifies or begins to act. The measure also provides that the failure to file a return or pay a tax due to the taxpayer's death will not be subject to penalty or interest if the return is filed or the tax paid within 30 days of the due date. HB 663; CH. 375.

§§ 46.2-752 and 58.1-3916 amended. Delinquent property taxes. Authorizes any locality that issues local licenses at no cost for certain classes of vehicles, including those owned by members of voluntary rescue squads and volunteer fire departments, or auxiliary police officers, to refuse to issue free decals for such vehicles if the owner is delinquent in the payment of property taxes on the vehicle. The measure also caps the penalty that may be charged on delinquent personal property taxes on vehicles that are taxed under classifications for vehicles owned or leased by members of volunteer fire departments and volunteer rescue squads, or auxiliary police officers, at the greater of (i) the difference between the tax due and that which would have been due if the property had been classified as general personal property, (ii) 25 percent of the tax, or (iii) \$10. HB 731; CH. 649.

§ 58.1-3916 amended. Local taxes; filing dates. Clarifies that localities may continue to bill twice annually for personal property taxes. Eff. 4/15/98. HB 1431; CH. 542.

§ 58.1-4007.1 amended. State lottery; information of lottery tickets. Extends the sunset from July 1, 1998, to July 1, 1999, for the printing of lottery tickets bearing a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers. HB 698; CH. 201.

TITLE 58.1. MISCELLANEOUS.

Second enactment of Chapter 39 of the Acts of Assembly of 1989 and second enactment of Chapter 639 of the Acts of Assembly of 1989 amended. Income tax deduction for

qualified agricultural contributions. Extends the expiration date for the deduction for qualified agricultural contributions for income tax purposes from January 1, 1999, to January 1, 2004. HB 3; CH. 135.

Second enactment of Chapter 5 of the 1994 Acts of Assembly, Special Session I; first enactment of Chapter 185 of the 1995 Acts of Assembly; first enactment of Chapter 203 of the 1995 Acts of Assembly; and first enactment of Chapter 719 of the 1996 Acts of Assembly amended. Accelerated payments for participants in federal retiree settlement programs. Requires the final payment of federal retiree settlement payments to be made on September 30, 1998, if the 1997-1998 general fund revenue surplus is at least \$62.5 million as certified by the Comptroller on August 15, 1998. If the 1997-1998 general fund revenue surplus is less than \$62.5 million, then a special installment payment based on the 1997-1998 general fund revenue surplus divided by \$62.5 million shall be made on September 30, 1998, and the final payment on March 31, 1999. Under the existing Harper settlement legislation, the payments are to be made in annual installments through March 31, 1999. HB 100; CH. 559.

TITLE 59.1. TRADE AND COMMERCE.

§§ 59.1-92.1 through 59.1-92.21 added; §§ 59.1-77 through 59.1-92 repealed. Trademarks. Provides a state system of trademark registration. This bill replaces the current Virginia laws on trademarks, service marks, and case marks with the Model State Trademark Bill, which has been adopted in 46 states. This bill contains the requirements for (i) determining registrability of trademarks, (ii) applying, filing, and issuing a certificate of registration, (iii) renewing a trademark, (iv) assigning a trademark or changing the name of the person for whom the application was filed, (v) recordkeeping and (vi) canceling a registration. All of these functions are performed under the supervision and direction of the State Corporation Commission. The bill requires the State Corporation Commission to establish by regulation a classification of goods and services; provides procedures and remedies for handling fraudulent registration, trademark infringement, and business reputation injury; and retains the Class 2 misdemeanor and Class 6 felony penalties for first and subsequent violations of the trademark infringement provision. The bill also prohibits the infringement of trademarks, tradenames, etc., associated with symbols of the United States and International Olympic Committees. HB 264; CH. 819.

§ 59.1-148.3 amended. Purchase of handguns of certain officers. Authorizes any local fire-department to allow any full-time sworn fire marshal who retires with 20 or more years of service or as a result of a service disability to purchase, for one dollar, the service handgun issued to him. HB 838; CH. 173.

§ 59.1-200. See § 54.1-4000; HB 769.

§§ 59.1-207.11, 59.1-207.13 and 59.1-207.16:1 amended. Motor Vehicle Warranty Enforcement Act; leased vehicles. Extends to consumers who lease automobiles those protections contained within the Motor Vehicle Warranty Enforcement Act ("lemon law"). If a leased vehicle is not conformed to any applicable warranty by repairing or correcting any defect, the leased vehicle must be (i) replaced with a comparable vehicle acceptable to the consumer or (ii) returned and a refund given to the consumer and lessor as their interests may appear. In the event of a replacement or refund, the motor vehicle must be returned to the manufacturer and the lease contract terminated without penalty to the consumer. Leased vehicles returned under the lemon law may not be resold or released without providing the consumer with written notice (i) stating that the vehicle was returned and (ii) describing the nature of the defect. SB 635; CH. 671.

§§ 59.1-280, 59.1-280.1 and 59.1-280.2 amended; § 59.1-274.2 added. Enterprise zones; joint zones. Allows local governing bodies, with approval from the local governing body of a neighboring jurisdiction having the county manager form of government (Henrico County) and in accordance with applicable law and regulations, to create a joint enterprise zone with a contiguous neighboring jurisdiction. The measure also increases the total amount of business tax credits and real property investment tax credits available to small qualified business firms and small qualified zone residents from \$5 million to \$16 million. The amount of such credits available to large qualified business firms and large qualified zone residents remains at \$3 million. The measure also reduces the criteria for designation as a large qualified business firm from making investments of \$25 million that result in 100 new permanent jobs to making investments of \$15 million that result in 50 new permanent jobs. Qualified business firms not designated as large qualified business firms are designated as small qualified business firms. Small qualified business firms are allowed an income tax credit equal to 80 percent of tax liability in the first year and 60 percent in each of the following nine years. The amount of the income tax credit received by large qualified business firms is determined by negotiation between the Department of Housing and Community Development and the firm, not to exceed the amounts available to a small qualified business firm. HB 984; CH. 759.

§§ 9-6.14:4.1, 11-45, 59.1-364, 59.1-365, 59.1-369, 59.1-370, 59.1-371, 59.1-374, 59.1-389, 59.1-390, 59.1-391 and 59.1-392 amended. Virginia Racing Commission; powers; permits. Authorizes the Commission to conduct certain searches of its permit holders and the horses located within the track enclosure. The bill provides that a permit holder irrevocably consents to the authorized search and seizures as a condition of his permit. The bill also authorizes the Commission to make seizures of contraband, documents and records, and to summarily suspend the permit of a person for no more than 90 days where the Commission or its stewards determine the protection of the integrity of horse racing requires emergency action. The bill, however, requires a hearing within 14 business days after the suspension. The bill clarifies when

the permit of an employee of a licensee expires. The bill also (i) clarifies that the award of any prize money for any pari-mutuel wager shall not be deemed to be a part of any illegal gaming contract; (ii) adds definitions of dependent, immediate family member, and racetrack; (iii) clarifies the definition of principal stockholder; (iv) requires the Commission to appoint stewards to oversee the conduct of horse racing; (v) makes certain Commission action exempt from the Administrative Process Act; and (vi) reapportions the retainage formula. The bill also contains technical amendments. HB 1276; CH. 619.

§§ 59.1-365 and 59.1-392 amended. Virginia Racing Commission; retainage on pari-mutuel pools. Reapportions the distribution of the retainage for pari-mutuel pools by adding percentage payments to the Virginia-Maryland Regional College of Veterinary Medicine, the Virginia Equine Center Foundation, and the Virginia Horse Industry Board. As a result, the Commonwealth's portion has been reduced by one-quarter percent to allow for distribution to the entities named in the preceding sentence. The bill also defines a "racetrack." Eff. 7/1/99. HB 590; CH. 608.

§ 59.1-369. See § 18.2-340.19; HB 756.

§§ 2.1-563.31, 59.1-467, 59.1-468, and 59.1-469 amended; second enactment of Chapter 917 of the 1997 Acts of Assembly repealed. Trade and commerce; digital signatures. Repeals the second enactment of Chapter 917 of the 1997 Acts of Assembly, which provided that the Council on Information Management (CIM) adopt final regulations on the use of digital signatures by September 1, 1998. The bill: (i) strikes CIM's authority to promulgate regulations to implement state agencies' and localities' use of digital signatures in favor of setting out criteria in the bill; (ii) changes the term "digital" to "electronic" to encompass signatures created by any electronic method; (iii) makes other necessary definitional changes; (iv) sets out criteria that a trier of fact must assess to determine the evidentiary weight to be given a particular electronic signature; and (v) sets out criteria that state agencies and localities must follow to use electronic signatures (which are the same criteria that a trier of fact must assess). The bill is a recommendation of the Joint Commission on Technology and Science. SB 153; CH. 127.

§§ 59.1-470 through 59.1-474 added. Virginia Assistive Technology Device Warranties Act. Creates a "lemon law" for assistive technology devices. Assistive technology devices are mechanical devices and instruments used by disabled individuals to communicate, see, hear or maneuver, e.g., manual wheelchairs, motorized scooters, hearing aids and communications devices for the deaf, talking software, and Braille printers. The bill's key provisions stipulate that in addition to any express manufacturers' warranties otherwise provided, manufacturers of assistive technology devices impliedly warrant, for a period of at least one year following delivery to consumers, that their products are free of defects substantially impairing their value. During this one-year warranty period, consumers may obtain repairs of their assistive technology devices from manufacturers at no charge. If, within

the 12-month period following delivery, the devices are (i) subject to repair for the same or related problem three times or (ii) not practically usable for a cumulative total of 30 days with no comparable loaner available, the devices must be replaced within 30 days, or the purchaser refunded his full purchase price (plus collateral costs) within 14 days. The bill prohibits the sale or lease of any device previously returned unless the reason for its return is disclosed to its prospective customer or lessee. A consumer's remedies are not limited to the Act's provisions; he may seek civil relief as well. Consumers are also furnished the option of submitting disputes arising under this act to the Dispute Resolution Unit of the Office of Consumer Affairs. A nearly identical version of this bill was approved by the 1997 Session of the General Assembly, with the proviso that its provisions would not become effective unless reenacted by the 1998 Session of the General Assembly. HB 941; CH. 242/SB 402; CH. 67.

TITLE 60.2. UNEMPLOYMENT COMPENSATION.

§§ 60.2-114 and 60.2-623 amended. Freedom of Information Act; release of tax and employment information. Authorizes the Virginia Employment Commission to release information to any agency or political subdivision of the Commonwealth for the purpose of collecting fines, penalties and costs. Violation of the confidentiality restrictions on the use of this information is punishable as a Class 2 misdemeanor. HB 732; CH. 91/SB 704; CH. 745.

§ 60.2-114 amended; § 63.1-274.11 added. Child support enforcement; Virginia New Hire Reporting Center; State Directory of New Hires. Directs Virginia's employers to report information about newly hired employees to the State Directory of New Hires, a database established to aid child support enforcement collection efforts within the Commonwealth. Under current law, new hire information is provided by employers to the Virginia Employment Commission (VEC) which, in turn, reports the information to the Virginia Department of Social Services (DSS) for its use in child support enforcement. This bill requires Virginia's employers to make this report directly to the Virginia New Hire Reporting Center, operated under the authority of the Division of Child Support Enforcement. The Center will compile and maintain the State Directory of New Hires, and is authorized to share information with the VEC. Within three business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the Center is required to furnish this information to the National Directory of New Hires. Information required to be provided under the former and proposed laws includes only that information that is required by federal law. The Board is authorized to promulgate regulations as needed to reduce unnecessary or burdensome reporting. HB 1374; CH. 108.

§ 60.2-618 amended. Unemployment compensation; benefits disqualification. Disqualifies individuals from receiving unemployment compensation benefits on the grounds of employee misconduct where their employment termination results from failing workplace drug tests conducted as part of their employers' enforcement of workplace drug policies. The bill does, however, permit the Virginia Employment Commission to consider evidence of mitigating circumstances in determining whether disqualifying misconduct occurred. The bill also makes technical amendments concerning drug testing laboratory standards. HB 1280; CH. 241.

TITLE 62.1. WATERS OF THE STATE, PORTS AND HARBORS.

§§ 62.1-44.15 and 62.1-44.17:1 amended. Confined animal feeding operations. Modifies permitting requirements for confined animal feeding operations, which are currently covered by a general permit issued by the State Water Control Board. Operations covered by the general permit will be inspected annually by the Department of Environmental Quality instead of once every five years. Proper siting, design and construction of the operation's waste storage lagoon must be certified by a licensed professional engineer or appropriate government official. The owner or operator of the operation must notify neighbors of the proposed operation before submitting the registration statement for the general permit and the Department of Environmental Quality at least 14 days prior to animals being placed in the confined facility. Operators of confined animal feeding operations are required to attend training at least once every three years. The bill authorizes a civil penalty or injunction to be imposed for operating a confined animal feeding operation after July 1, 2000, without a permit. The civil penalty for violating a permit or not having a permit is limited to \$2,500. HB 991; CH. 863/SB 661; CH. 805.

§ 62.1-44.15:4.1. See § 32.1-176.5:1; SB 483.

§ 62.1-44.15:5.2 added. Concrete plant water discharge general permits. Requires that any general permit issued by the State Water Control Board for the discharge of stormwater and process water from activities associated with the manufacture of ready-mix concrete apply to both permanent and portable plants. The general permit may include a requirement that the settling basins constructed before February 1, 1998, for the treatment and control of process wastewater and commingled stormwater, be lined with impermeable material; however, the general permit must require that basins constructed after February 1, 1998, be lined with impermeable material. HB 972; CH. 28.

§§ 62.1-44.34:11, 62.1-44.34:12 and 62.1-44.34:13 amended. Petroleum Storage Tank Fund. Provides that any person or state agency seeking reimbursement from the Petroleum Storage Tank Fund for costs and expenses incurred for oil cleanup must have acted at the direction of the State Water

Control Board in undertaking such cleanup to be eligible to receive funds. The bill deletes an outdated provision relating to access to the Fund by those who reported releases prior to July 1, 1996. The term "moneys expended" is changed to "costs incurred." Use of the Fund is restricted to those who file a reimbursement claim with the Board within two years of the date the Board issues a site remediation closure letter or July 1, 2000, whichever is later. The per occurrence liability of owners and operators for reimbursement is clarified. The Board is directed to adopt regulations that conform to federal requirements for the demonstration of financial responsibility on the part of tank owners and operators. The amounts for which the Fund may be used to demonstrate financial responsibility are set out. Current regulations and requirements for financial responsibility are to remain in effect until the new regulations required by this bill are in force. HB 615; CH. 87.

§ 62.1-44.34:18 amended. State Water Control Law; discharges of oil. Provides that any operator of any facility, vehicle or vessel from which there is a discharge or threat of discharge of oil who incurs costs in responding to the discharge or threat shall have the right to recover such costs in an action for contribution against any person whose acts or omissions caused or contributed to the discharge or threat. Similarly, any person or operator who pays costs or damages because of liability for such a discharge or threat of discharge shall be entitled to recover such costs and damages in an action for contribution against any person whose act or omission has caused or contributed to the discharge or threat. HB 620; CH. 836.

§ 62.1-44.34:18 amended. Containment and cleanup of oil spills. The phrase "deemed necessary in the judgment of the Board" is added to a section of the Code prescribing the steps that one spilling oil must take in addition to, or in lieu of, those that may be found in their oil spill contingency plan. Provisions duplicating federal law and another section of the Code are deleted. HB 716; CH. 90.

§ 62.1-132.20 amended. Craney Island. Authorizes the Commonwealth and the Virginia Port Authority to expend funds to study the feasibility and environmental impact of expanding Craney Island eastward. The terminal could be constructed, subject to the approval of the Governor and General Assembly, if studies show that constructing such a facility, using dredge materials, is in the public interest. SB 56; CH. 543.

§§ 62.1-198, 62.1-199, 62.1-203, 62.1-204, 62.1-206 through 62.1-210, 62.1-213 through 62.1-216 and 62.1-219 amended; § 62.1-216.1 added. Powers of the Virginia Resources Authority. Provides the Virginia Resources Authority (VRA) with the power to establish a credit enhancement surety bond program. VRA is also empowered to use a state aid intercept program when a county, city or town defaults on any local obligations held or credit enhanced by the Authority. SB 487; CH. 399.

TITLE 62.1. MISCELLANEOUS.

Coal loading facilities. Requires the State Water Control Board to require coal loading facilities not regulated under the state's surface mining laws to obtain discharge certificates. HB 1135; CH. 145.

Smith Mountain Lake. Directs the State Water Control Board to seek federal approval to designate Smith Mountain Lake a no-discharge zone for boat sewage. SB 328; CH. 247.

Rappahannock River Basin Commission. Provides a mechanism for the local governments of the Rappahannock River Basin to form a Commission composed of representatives of local government, Soil and Water Conservation Districts and members of the General Assembly expressing a desire to participate. The Commission may be established only if two-thirds of the Basin's local governments pass a resolution agreeing to become members. The Commission's purposes and mission are to provide guidance for the stewardship and enhancement of the water quality and natural resources of the Rappahannock River Basin. In working toward this, the Commission is to be a forum in which local governments and citizens can communicate regarding issues affecting the Basin's water quality and quantity and other natural resources. Through promoting communication, coordination and education, and by suggesting appropriate solutions to identified problems, the Commission is to promote activities by local, state and federal governments, and by individuals, that foster resource stewardship for the environmental and economic health of the Basin. The Commission will have no regulatory powers. SB 598; CH. 553.

TITLE 63.1. WELFARE (SOCIAL SERVICES).

§§ 63.1-14 and 63.1-15 amended. Child care. Requires that the State Board of Social Services shall include a member who is a licensed health care professional. This bill was recommended by the Joint Legislative Audit and Review Commission in its 1997 Follow-Up Review of Child Day Care in Virginia. SB 416; CH. 468.

§§ 32.1-325 and 63.1-25 amended. State Board of Social Services; local impact analysis. Requires that prior to the publication of any regulation in the Virginia Register of Regulations, the State Board of Social Services and the Board of Medical Assistance Services shall prepare a fiscal impact analysis of the proposed regulation on the local boards of social services and provide copies of such analyses to the local boards. SB 676; CH. 558.

§ 63.1-47 amended. Social services boards. Allows cities to pay members of the social services boards an amount to be

decided by the governing body for compensation for service on the board. This amount is in addition to reimbursement for actual expenses. This provision is permissive and discretionary for the local governing body. Current law provides unlimited compensation for members of county social services boards but limits compensation for members of city social services boards to \$600 per year. All funds are local. HB 475; CH. 80/SB 169; CH. 192.

§ 63.1-55.02 added. Adult protective services. Creates the Adult Protective Services Unit within the Adult Services Program in the Department of Social Services. The Adult Protective Services Unit will (i) support, strengthen, and evaluate adult protective services programs at local departments of social services, (ii) assist in developing and implementing programs aimed at responding to and preventing abuse of elders and incapacitated adults, (iii) prepare, disseminate, and present educational programs and materials on adult abuse, neglect, and exploitation, (iv) develop and provide educational programs and materials to persons mandated to report adult abuse, (v) establish standards of training and provide educational opportunities to qualify workers in the field of adult protective services, (vi) develop policies and procedures to guide the work of persons in the field of adult protective services, (vii) prepare and disseminate statistical information on adult protective services in Virginia, (viii) provide training and technical assistance to the adult protective services hotline, and (ix) provide coordination between the adult protective services program and other state social services, medical and legal agencies. This bill was recommended by the Joint Commission on Health Care. SB 498; CH. 149.

§ 63.1-58.2 amended. Social services fraud control program. Establishes the statewide fraud control program to eliminate fraud in benefit programs. The State Board of Social Services is given the authority to promulgate emergency regulations to implement the program. Each local department shall establish fraud prevention and investigation units. The program is funded by a special fund, the Fraud Recovery Special Fund. The Fund shall be comprised of (i) general funds appropriated for this activity, (ii) any federal funds available for this purpose, and (iii) balances in the Fund. The amendments are technical in nature. SB 192; CH. 775.

§ 63.1-73.1. See § 54.1-3408; HB 858.

§§ 63.1-172, 63.1-179.1 and 63.1-180 amended. Adult care residences. Authorizes the Commissioner of the Department of Social Services to issue special orders to adult care residences that fail to comply with provisions of law or regulation, thereby causing an adverse impact on or imminent threat to the health, safety or welfare of the persons cared for therein. The special orders will be issued after a hearing and will be considered a case decision. The special order may include civil penalties of not more than \$500 for each inspection resulting in a finding of violation, a freeze on admission of new residents and/or a reduction in licensed capacity. This bill was recommended by the Joint Commission on Health Care. HB 780; CH. 850.

§§ 63.1-172 and 63.1-174.1 amended. Licensing of homes for

incapacitated persons. Deletes the definitions of "independently mobile," "nonambulatory" and "semimobile." The bill adds a definition for "ambulatory" and provides that buildings licensed for ambulatory residents shall be classified by and meet the specifications for the proper use group as required by the Uniform Statewide Building Code. SB 438; CH. 552.

§§ 63.1-195 and 63.1-211.3 amended. Child care. Authorizes the Commissioner of the Department of Social Services to issue special orders to child welfare agencies that fail to comply with provisions of law or regulation, thereby causing an adverse impact on the health, safety or welfare of children in their care. The special orders will be issued after a hearing and will be considered a case decision. The special order may include civil penalties of not more than \$500 for each violation, may require child welfare agencies to contact custodial parents or guardians in writing regarding health and safety violations, and may restrict such agencies from receiving public funds. This bill was recommended by the Joint Legislative Audit and Review Commission in its 1997 Follow-Up Review of Child Day Care in Virginia. HB 1386; CH. 115/SB 417; CH. 397.

§ 63.1-195 amended. Child care. Revises the statutory definition of family day homes to require that the person licensed or registered as a family day home provider shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. HB 1387; CH. 126.

§ 63.1-196.002 added. Child care; proof of identity. Requires that all regulated child day programs obtain information from the person enrolling the child regarding the child's previous child care and school attendance and proof of identity and age. Regulated child day programs include licensed child day centers and family day homes, certified preschool or nursery school programs, voluntarily registered family day homes and religiously exempt child day programs. Failure to obtain such information within seven business days of initial attendance of the child will trigger the regulated child day program to notify the local law-enforcement agency who will submit an inquiry to the Missing Children Information Clearinghouse if available information warrants and, with the assistance of the local department of social services, determine if the child is missing. HB 946; CH. 860.

§§ 63.1-198, 63.1-198.1, 63.1-198.2, 63.1-198.3 and 63.1-199 amended; § 63.1-198.4 added. Child care. Requires that no person shall be eligible to operate or work in a child welfare agency who is the subject of a founded complaint of child abuse or neglect listed in the Child Protective Services Central Registry. A Child Protective Services Central Registry clearance must be conducted prior to licensure or registration for all child welfare agencies or within 21 days of persons beginning compensated or voluntary employment. The bill expands the list of barrier crimes for licensure as or employment in a child welfare agency, and provides that a person shall not be eligible to operate or work in a child welfare agency if he has been convicted of any felony within the last five years.

However, the Commissioner of Social Services may grant a waiver of the prohibition on a nonbarrier crime conviction if the person is of good moral character and the waiver would not adversely affect the safety of children. Convicted child abusers and sex offenders shall be prohibited from providing family day home care. This bill was recommended by the Joint Legislative Audit and Review Commission in its 1997 Follow-Up Review of Child Day Care in Virginia. HB 1388; CH. 581/SB 419; CH. 551.

§ 63.1-202 amended. Child care regulations. Provides that the State Board of Social Services or the Child Day Care Council shall not require the adoption of a specific teaching approach or doctrine for licensed child caring institutions, child day centers, child day center systems, child placing agencies and family day homes. HB 927; CH. 237.

§§ 63.1-248.3 and 63.1-248.6 amended; § 16.1-241.3 added. Child protective services; newborn infant neglect. Requires certain persons (e.g., physicians) subject to mandatory reporting of suspected abuse to file such a report with child protective services whenever (i) a finding is made by an attending physician within seven days of a child's birth that the results of a blood or urine test conducted within 48 hours of the birth of the child indicate the presence of a controlled substance not prescribed for the mother by a physician, (ii) a finding made by an attending physician made within 48 hours of a child's birth indicates that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms, (iii) a diagnosis by an attending physician is made within seven days of a child's birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a physician for the mother or the child or (iv) a diagnosis by an attending physician is made within seven days of a child's birth that the child has fetal alcohol syndrome attributable to in utero exposure to alcohol. Upon receipt of such a report, CPS will commence an investigation and is authorized to petition the juvenile court and the juvenile court is authorized to enter any order it deems necessary for the protection of the child during the course of the CPS investigation and any subsequent proceedings. HB 803; CH. 716/SB 557; CH. 704.

§ 63.1-248.9 amended. Child protective services; custody. Provides that a child protective services worker or law-enforcement officer may take a child into custody for up to 72 hours without the prior approval of parents or guardians if evidence of abuse is perishable or subject to deterioration before a hearing can be held and other factors are met. HB 1067; CH. 760.

§§ 63.1-249, 63.1-250, 63.1-250.3, 63.1-256, 63.1-257 and 63.1-258.1. See § 20-60.3; HB 1375.

§ 63.1-249.1 amended. Child support enforcement; privatization. Allows for the privatization of child support enforcement field work administrative functions and central office payment processing functions under the supervision of

the State Department of Social Services, previously done only on a pilot basis beginning in 1996. The legislation continues to require the State Board of Social Services to establish guidelines regarding the privatization of such functions. The bill removes the "on a pilot basis" language in the provision that authorizes the Attorney General to contract with private attorneys for the provision of legal services to the Division of Child Support Enforcement. The Department and the Attorney General are to continue to submit annual reports to the Governor and the General Assembly providing a detailed summary and evaluation of the privatization of child support enforcement programs. HB 697; CH. 499/ SB 289; CH. 494.

§ 63.1-250.2:1. See § 20-49.1; HB 1372.

§ 63.1-250.1:3 added. State Case Registry of child support records. Establishes a State Case Registry within the Department of Social Services which includes information concerning case records concerning services provided by the Division of Child Support Enforcement and all support orders established or modified in the Commonwealth on or after October 1, 1998. The Supreme Court of Virginia shall provide information concerning judicial proceedings and orders relating to paternity establishment and support. The bill provides for information sharing with other state and federal agencies as required by the federal welfare reform legislation and its implementing regulations. HB 1377; CH. 109.

§ 63.1-251.4 amended. Child support. Requires that amounts collected by DSS as a result of an offset under the Federal Tax Refund Offset Program to satisfy non-TANF past-due support from a federal tax return shall be made when the Department is notified that the unobligated spouse's proper share of the refund has been paid or 180 days following receipt of the offset, whichever is earlier. Currently, the statute provides 60 days after notification. Eff. 4/22/98. SB 293; CH. 871.

§ 63.1-252.1 amended. Administrative support orders. Provides the child support obligee the right to an administrative hearing if he or she wishes to contest the administrative support order issued by the Commissioner of the Department of Social Services. HB 1373; CH. 107.

§§ 63.1-252.1 and 63.1-252.2 amended. Administrative orders for support. Clarifies and standardizes the methods by which service of notice of a proposed change in a support order may be accomplished. The methods of service (personal service, service under the long-arm statute, acceptance or waiver of service) are currently authorized to initiate proceedings for an administrative support order. When service by mail is utilized, proof of actual receipt by the addressee is required. HB 1376; CH. 885.

§ 63.1-274.11. See § 60.2-114; HB 1374.

§ 63.1-325. See § 13.1-1005; HB 906.

TITLE 63.1. MISCELLANEOUS.

Child care review and study. Requires the State Board of Social Services to study the quality, affordability, and accessibility of child day care programs in the Commonwealth, and submit an interim report by October 1, 1998, and a final report by October 1, 1999, to the Governor, the Commission on Early Childhood and Child Day Care Program and the General Assembly. SB 595; CH. 629.

TITLE 64.1. WILLS AND DECEDENTS' ESTATES.

§ 64.1-5.1 amended. Inheritance. Provides that when parental rights are involuntarily terminated, the child may still inherit from the parent, but the parent may not inherit from the child. Ancestors of the parent and descendants of ancestors, other than the parent whose rights were terminated, may inherit from the child. These provisions apply unless the termination order states otherwise. HB 490; CH. 603.

§ 64.1-16.1 amended. Augmented estate. Provides that the value of an insurance policy which is included in the augmented estate is determined as of the date of an irrevocable transfer of the policy during the decedent's life and is the cost of a comparable policy on that date or its "interpolated policy reserve." The value of premiums paid on a policy owned by another is the amount of the premiums. HB 761; CH. 234.

§§ 64.1-133, 64.1-134 and 64.1-135. See § 26-12; HB 665.

TITLE 65.2. WORKERS' COMPENSATION.

§ 65.2-101. See § 44-60; HB 459.

§ 65.2-512 amended. Burial expenses. Increases, from \$5,000 to \$10,000, the maximum burial expenses an employer may be required to pay for a deceased worker. The bill also increases, from \$500 to \$1,000, the amount of reasonable transportation expenses an employer may be required to pay for the deceased. HB 1066; CH. 100.

§ 65.2-520 amended. Voluntary payments. Allows employers, when making workers' compensation benefit payments, to deduct from the payments any voluntary payments which were not due and payable. Current law allows deducting the voluntary payments by shortening the time period during which benefits are paid to the injured employee. This bill allows the weekly benefits to be reduced by an amount not to exceed one-fourth of the amount of the compensation for as long as necessary for the employer to recover his voluntary payment.

SB 443; CH. 68.

§ 65.2-525 amended. Payments to minors or incapacitated persons. Increases from \$300 to \$10,000 the amount of compensation payments which may be made to the parent or guardian of a minor. The bill also increases from \$300 to \$10,000 the amount over which the payments shall be made to a guardian or conservator of a minor or an incapacitated adult. HB 812; CH. 94.

§ 65.2-603 amended. Duty to furnish medical attention. Removes wheelchairs from a provision of the Workers' Compensation Act limiting reimbursement for specified medical equipment and modifications to an aggregate cost of \$25,000 for any one accident. Wheelchairs, walkers, canes or crutches would be furnished, fitted, and maintained by the employer as the nature of the injury may require, and not subject to the \$25,000 lifetime cap. This bill also requires that employers provide prosthetic or orthotic appliances, proper fitting and maintenance, and training in the use of the appliance when an accident results in the loss of use of an arm, hand, leg or foot. Under current law, such appliances, maintenance, and training are only required when an accident results in amputation of an arm, hand, leg, or foot. SB 365; CH. 65.

§ 65.2-604 amended. Requirement to provide copies of medical reports. Amends Virginia Workers' Compensation Act to permit a representative of (i) an injured employee, (ii) the employer, or (iii) the insurer to request and receive medical reports from any physician attending an injured employee. HB 878; CH. 431.

§ 65.2-705 amended. Receipt of notice or awards; rehearing. Modifies provisions governing the deadline for receipt by the Virginia Workers' Compensation Commission of an application for Commission review of a Deputy Commissioner's award. Under current law, such an application must be made within 20 days of the date of the award. This bill computes the 20-day period from the date the parties receive their notice of the award by registered or certified mail, as currently required by § 65.2-704. HB 813; CH. 95.

§ 65.2-715 added. Notice. Requires the Workers' Compensation Commission in all proceedings in connection with awards to provide copies of any written notice, opinion, order or award regarding a specific case to the employee, the employer and the compensation carrier, and, if represented, their counsel, at the same time and in the same manner. HB 909; CH. 143.

§ 65.2-1201 amended; third enactment of Chapter 99 of the Acts of Assembly of 1997 repealed. Uninsured Employer's Fund; payment of tax. Increases the maximum premium tax for the uninsured and self-insured employer fund. Under current law, the Workers' Compensation Commission may not assess premium tax for this fund in excess of one-quarter of one percent. This bill establishes one-half of one percent as the ceiling for this tax, a rate that will revert to one-quarter of one percent on January 1, 2000. The bill also directs the Commission to conduct a study of the uninsured employee's

fund focused on: (i) the fund's revenue needs, (ii) administration of claims, and (iii) oversight of self-insured employees. The Commission will report its study results to Senate Commerce and Labor and the House Labor and Commerce Committees by December 1, 1998. Eff. 4/12/98. SB 16; CH. 388.

APPROPRIATIONS AND BONDS.

Budget bill. Amends Appropriations Act of 1997, Chapter 924. Eff. 5/7/98. HB 29; CH. 889.

Budget bill. Makes appropriations for the 1998-00 biennium. HB 30; CH. 464.

Budget bill. Amends the 1998 budget bill. HB 4001; CH. 1, 1998 Special Session.

Commonwealth of Virginia Higher Educational Institutions Bond Act of 1998. Authorizes the issuance of general obligation bonds in the amount of \$89,997,400, plus the cost of issuance, for capital projects of certain institutions of higher education. The bonds, including bond anticipation notes, are issued for revenue-producing projects pursuant to Article X, Section 9 (c) of the Constitution of Virginia and are backed by the full faith, credit, and taxing power of the Commonwealth. Eff. 4/14/98. HB 31; CH. 473/Eff. 4/16/98. SB 31; CH. 734.

Transportation Contract Revenue Bond Act. Repeals the Commonwealth of Virginia Transportation Contract Revenue Bond Act of 1990. The Act authorized the issuance of \$95 million in bonds for the Route 234 Bypass in Prince William County. HB 467; CH. 747/SB 567; CH. 741.

§§ 33.1-221.1:3 and 58.1-815.1 and § 2 of Chapter 391 of the Acts of Assembly of 1993 amended. Northern Virginia Transportation District Program Bonds. Authorizes an additional \$95.9 million (from \$271 million to \$366.9 million) in Commonwealth of Virginia Transportation Revenue Bonds to finance the cost of the projects included in the Northern Virginia Transportation District Program. The measure authorizes public rights-of-way use fees to be used as an additional source of repayment of this debt. HB 1117; CH. 761/SB 566; CH. 740.

CLAIMS.

Calloway, Gracie. Provides \$2,079.67 for the relief of Gracie Calloway. Ms. Calloway's daughter died in a fire which the City of Roanoke fire marshal initially determined was caused by an accident. A subsequent investigation by the Bureau of Alcohol, Tobacco and Firearms determined the fire was caused by arson and therefore Ms. Calloway's daughter was murdered.

The fire marshal's ruling that the fire was an accident resulted in Ms. Calloway being ineligible for victims' compensation from the Criminal Injuries Compensation Fund. Ms. Calloway did subsequently file a claim but it was denied because it was not received within two years of the death. HB 87; CH. 474.

Conner, Alan W. and Cindy. Provides \$4,500 in relief to Alan W. Conner and Cindy Conner for property damage resulting from the flooding of their basement. The flooding was caused by water backing up from a blocked storm drain. The Virginia Department of Transportation, which has responsibility for maintaining the storm drain, did not have sufficient manpower on duty on the evening of the flooding to clear the blockage. HB 373; CH. 476.

Duncan, Donna, et al. Provides relief, not to exceed \$4,134, for Donna Duncan and 13 other former employees of Buster Brown Apparel who were ruled to have improperly received unemployment compensation benefits. The ruling was overturned on appeal made by other former Brown Apparel employees, but these 14 claimants did not timely file an appeal. HB 413; CH. 409.

Henderson, Jean. Provides \$1,386.28 in relief for Jean Henderson. Mrs. Henderson's husband died before the Harper settlement was reached and she has no record of receiving settlement notices from the Tax Department. HB 238; CH. 562.

Johnson, Yvonne C. Provides \$28,000 in relief for Yvonne C. Johnson. Ms. Johnson was incarcerated between 1988 and 1990 for a crime which she did not commit. She was pardoned by the Governor after the complaining witness recanted her testimony. HB 190; CH. 475.

Moore, Johnny Beth. Provides a lump sum payment of \$39,199.10, and monthly 100 percent survivorship option retirement payments beginning July 1, 1998, for the relief of Johnny Beth Moore. Mrs. Moore is the widow of Dr. Raymond K. Moore, a Radford University professor who died in November 1995. Dr. Moore had an appointment on the day preceding his death to execute his VRS retirement documents, but was unable to keep the appointment. The VRS has refused to approve Mrs. Moore's request for the 100 percent survivorship retirement benefits that he intended to select because his retirement application was not signed before he died. The lump sum payment represents the difference between the monthly death-in-service survivor benefits Mrs. Moore has received and the monthly payments she would have received if her husband's retirement documents had been signed before he died. HB 127; CH. 811.

Nalwasky, Richard M. Provides \$15,000 for the relief of Richard M. Nalwasky who unknowingly purchased a stolen vehicle from an employee of a licensed automobile dealership. The claim will be paid from the Motor Vehicle Transaction Recovery Fund. Eff. 4/22/98. HB 164; CH. 814.

Settle, Kenneth J., and family. Provides for the payment of \$100,000, plus up to \$40,000 to cover litigation expenses, to Kenneth J. Settle, Sr., Dana Powell-Settle, Dana L. Settle, and

Kenneth J. Settle, Jr. Mr. Settle, his wife, and their two minor children were injured when an ambulance, running a red light at a high rate of speed, struck their vehicle in an intersection. At trial, the ambulance driver was provided sovereign immunity against his negligent actions. SB 89; CH. 390.

Shirey, Betty and Ralph G. Provides \$3,500 in relief to Ralph G. Shirey and Betty Shirey for property damage resulting from the flooding of their basement. The flooding was caused by water backing up from a blocked storm drain. The Virginia Department of Transportation, which has responsibility for maintaining the storm drain, did not have sufficient manpower on duty on the evening of the flooding to clear the blockage. HB 374; CH. 477.

participating localities. Fiscal commitments to finance the development and maintenance of areas under the jurisdiction of the special governing body will not constitute debt of the participating localities. SJ 1; CH. 769. See also SB 2; CH. 387 which provides for a voter referendum on this amendment.

Constitutional amendment (second resolution); disabled and unfit judges. Amends the Constitution to provide that proceedings and documents of the Judicial Inquiry and Review Commission may be confidential as provided by the General Assembly in general law. The present Constitution states that Commission proceedings "shall be confidential." SJ 2; CH. 770. See also SB 3; CH. 730 which provides for a voter referendum on this amendment.

CONSTITUTIONAL AMENDMENTS

Constitutional amendment (second resolution); property tax exemptions. Allows the General Assembly by general law to give local governments the option of eliminating, in whole or in part, either the BPOL or merchants' capital tax, or both. HJ 14; CH. 766. See also HB 41; CH. 151 which provides for a voter referendum on this amendment.

Constitutional amendment (second resolution); debt of local governments. Provides that the General Assembly may authorize one or more cities, towns, or counties, or any combination thereof, to contract debt as the result of an agreement to share therevenue, tax base, or the benefits of economic growth. This class of debt is exempted from the ceiling on local debt for cities and towns and from the requirement for a local referendum for counties. HJ 125; CH. 767/SJ 52; CH. 771. See also HB 733; CH. 613, SB 322; CH. 587 which provide for a voter referendum on this amendment.

Constitutional amendment (second resolution); qualifications of voters; overseas employees. Authorizes the General Assembly to provide by law that overseas employees, their spouses and dependents living with them, otherwise qualified to vote in the Commonwealth, may continue to vote in the Commonwealth although they relinquish their Virginia place of abode while overseas. The Constitution's definition of residence for purposes of voter qualification now requires both domicile and "a place of abode." HJ 201; CH. 768. See also HB 1094; CH. 186 which provides for a voter referendum on this amendment.

Constitutional amendment (second resolution); agreements for sharing revenues and costs of designated areas; special governing bodies. Authorizes the General Assembly to provide by general law or special act for county-city-town agreements to share the revenues and costs associated with a particular land area designated by the agreement. The law shall provide for a special governing body to be selected by the governing bodies of the localities and for the powers of the special governing body. The law may provide for adoption of the agreement upon approval of the governing bodies of the

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
HB3	135	78
HB6	169	67
HB13	5	61
HB16	71	67
HB18	402	8
HB19	472	56
HB20	136	18
HB21	150	77
HB29	889	85
HB30	464	85
HB31	473	85
HB33	291	72
HB36	674	60
HB37	137	18
HB38	320	40
HB42	6	23
HB46	220	77
HB49	152	38
HB51	138	19
HB52	292	72
HB63	72	33
HB66	599	73
HB67	710	57
HB72	293	57
HB77	7	11
HB80	365	75
HB85	139	18
HB87	474	85
HB89	294	57
HB94	249	19

BILL	CHAPTER	PAGE NO.
HB95	403	59
HB96	153	38
HB100	559	78
HB101	140	55
HB103	116	23
HB104	8	23
HB105	645	74
HB108	560	58
HB113	221	17
HB115	295	57
HB116	366	19
HB126	296	46
HB127	811	85
HB130	321	45
HB131	812	74
HB133	813	60
HB134	176	60
HB138	73	28
HB139	222	13
HB142	193	60
HB157	336	76
HB161	497	73
HB164	814	85
HB169	74	78
HB173	2	20
HB174	3	22
HB184	815	28
HB190	475	85
HB198	337	77
HB208	75	21

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
HB209	76	48
HB211	816	32
HB218	194	15
HB219	561	18
HB224	233	13
HB225	170	18
HB227	449	36
HB232	817	5
HB233	818	62
HB238	562	85
HB240	646	76
HB244	171	19
HB246	526	25
HB250	195	2
HB255	297	57
HB260	675	60
HB262	676	60
HB264	819	78
HB265	367	73
HB266	527	18
HB271	196	60
HB272	746	61
HB273	338	45
HB275	892	23
HB276	250	14
HB277	820	8
HB278	481	74
HB288	821	23
HB290	251	26
HB291	677	21

BILL	CHAPTER	PAGE NO.
HB295	298	56
HB299	678	61
HB300	822	60
HB306	711	19
HB313	600	27
HB314	566	24
HB318	601	76
HB324	712	3
HB327	404	57
HB333	405	26
HB335	906	15
HB338	190	22
HB339	568	16
HB341	823	15
HB343	368	38
HB344	117	39
HB345	406	41
HB347	407	61
HB351	824	19
HB352	118	4
HB356	567	33
HB368	528	17
HB369	408	60
HB372	900	29
HB373	476	85
HB374	477	86
HB375	21	3
HB378	197	75
HB384	119	67
HB386	679	24

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
HB388	450	44
HB390	299	58
HB391	569	23
HB392	570	22
HB396	369	15
HB401	177	18
HB409	602	30
HB411	825	24
HB413	409	85
HB418	370	57
HB426	901	29
HB428	680	48
HB431	902	29
HB432	826	33
HB438	51	73
HB439	22	14
HB443	9	7
HB444	10	7
HB445	300	58
HB446	339	67
HB448	178	16
HB449	498	3
HB453	508	57
HB454	371	72
HB455	36	69
HB457	340	45
HB458	77	6
HB459	52	55, 84
HB461	681	59
HB462	682	59

BILL	CHAPTER	PAGE NO.
HB464	252	71
HB465	212	55
HB466	78	37
HB467	747	85
HB468	79	35
HB469	827	59
HB470	57	24
HB471	828	29
HB475	80	82
HB486	179	40
HB487	410	39
HB489	213	39
HB490	603	84
HB491	180	15
HB495	301	5
HB496	713	38
HB498	411	58
HB501	223	16
HB502	224	16
HB509	53	11
HB510	81	23
HB511	829	20
HB512	482	20
HB513	896	73
HB517	604	27
HB518	483	35
HB519	830	20
HB521	412	35
HB530	831	26
HB532	225	13

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
HB533	413	16
HB534	302	57
HB535	110	41
HB537	605	39
HB539	37	48
HB542	631	53
HB543	748	32
HB544	372	72
HB545	172	13
HB547	82	12
HB553	897	73
HB554	253	73
HB555	606	77
HB556	58	10
HB560	83	8
HB561	647	14
HB563	833	17
HB565	414	50
HB566	607	9
HB567	11	54
HB568	683	17
HB570	834	25
HB571	484	26
HB575	509	41
HB576	563	40
HB577	84	40
HB580	478	37
HB583	684	21
HB585	415	40
HB588	416	38

BILL	CHAPTER	PAGE NO.
HB589	85	36
HB590	608	79
HB591	254	38
HB592	255	14
HB594	417	58
HB595	86	12
HB596	455	48
HB599	23	7
HB600	485	24
HB602	456	33
HB603	835	45
HB604	418	59
HB607	256	35
HB608	373	36
HB610	257	44
HB615	87	81
HB619	198	16
HB620	836	81
HB622	199	9
HB623	38	22
HB626	714	12
HB627	685	58
HB628	510	3
HB629	374	74
HB630	529	75
HB631	564	66
HB632	715	11
HB634	749	57
HB635	303	9
HB638	39	36

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
HB640	181	58
HB641	686	17
HB642	750	8
HB644	214	67
HB648	182	16
HB649	837	12
HB650	609	16
HB651	687	22
HB653	903	31
HB654	419	58
HB656	88	39
HB657	420	74
HB658	838	4
HB659	839	3
HB660	54	21
HB662	688	23
HB663	375	78
HB664	840	23
HB665	610	39
HB669	689	60
HB670	893	21
HB673	120	53
HB675	12	50
HB676	341	45
HB677	376	15
HB678	121	36
HB681	611	47
HB682	421	58
HB693	841	46
HB694	226	22

BILL	CHAPTER	PAGE NO.
HB695	200	25
HB696	486	73
HB697	499	83
HB698	201	78
HB700	89	7
HB703	842	11
HB705	422	58
HB706	565	45
HB707	258	72
HB710	843	33
HB716	90	81
HB717	612	27
HB726	377	35
HB727	487	75
HB728	488	21
HB729	844	24
HB730	648	75
HB731	649	78
HB732	91	80
HB734	304	46
HB735	423	58
HB738	424	59
HB740	690	46
HB742	530	25
HB755	92	70
HB756	845	24
HB757	846	24
HB761	234	84
HB764	898	46
HB768	847	24

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
HB769	848	67
HB770	849	57
HB777	259	8
HB779	40	69
HB780	850	82
HB781	24	52
HB782	25	52
HB783	425	16
HB785	426	45
HB790	235	75
HB791	183	8
HB792	650	15
HB793	378	24
HB794	651	22
HB798	184	18
HB799	511	57
HB802	202	67
HB803	716	83
HB804	851	1
HB807	93	12
HB808	305	14
HB809	691	63
HB812	94	84
HB813	95	84
HB815	479	13
HB816	717	12
HB817	531	41
HB820	852	32
HB821	41	69
HB822	427	55

BILL	CHAPTER	PAGE NO.
HB825	13	11
HB826	306	46
HB827	55	37
HB830	260	68
HB834	751	69
HB835	215	68
HB836	428	25
HB838	173	78
HB843	854	65
HB845	752	16
HB848	855	72
HB849	111	36
HB850	753	13
HB851	899	10
HB852	457	17
HB854	26	52
HB855	154	52
HB857	614	65
HB858	112	66
HB859	113	35
HB861	718	44
HB865	122	11
HB867	322	56
HB868	429	58
HB872	430	57
HB875	532	77
HB877	323	57
HB878	431	84
HB879	632	69
HB883	141	51

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
HB884	142	49
HB888	856	21
HB889	123	8
HB893	379	34
HB896	96	31
HB897	324	17
HB899	236	39
HB903	533	40
HB904	857	41
HB905	512	40
HB906	432	14
HB909	143	84
HB912	155	44
HB915	858	53
HB916	513	42
HB918	719	29
HB924	534	4
HB925	433	46
HB927	237	83
HB928	754	63
HB930	27	63
HB935	755	47
HB938	97	54
HB939	489	5
HB940	434	20
HB941	242	80
HB943	380	16
HB945	535	6
HB946	860	82
HB948	451	25

BILL	CHAPTER	PAGE NO.
HB949	307	14
HB950	756	15
HB952	615	25
HB957	758	70
HB958	907	45
HB961	861	9
HB963	862	2
HB964	757	2
HB967	238	6
HB968	435	33
HB972	28	80
HB973	261	63
HB976	185	69
HB977	308	32
HB978	692	56
HB984	759	79
HB990	571	44
HB991	863	80
HB992	98	39
HB993	114	39
HB994	262	64
HB995	381	58
HB1001	382	38
HB1003	203	8
HB1009	536	4
HB1010	436	25
HB1013	325	59
HB1014	124	57
HB1016	572	38
HB1019	864	17

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
HB1023	326	64
HB1027	537	40
HB1028	99	5
HB1030	574	59
HB1031	125	28
HB1038	437	57
HB1040	327	14
HB1041	538	21
HB1042	328	16
HB1045	720	26
HB1047	309	28
HB1048	575	46
HB1054	616	27
HB1055	458	66
HB1060	904	34
HB1064	865	15
HB1066	100	84
HB1067	760	83
HB1073	866	37
HB1075	908	53
HB1077	721	64
HB1078	867	64
HB1079	652	16
HB1081	576	20
HB1082	263	3
HB1083	868	55
HB1084	459	44
HB1085	653	44
HB1091	144	40
HB1100	869	18

BILL	CHAPTER	PAGE NO.
HB1102	101	66
HB1103	693	47
HB1104	870	34
HB1105	460	68
HB1106	577	9
HB1108	480	6
HB1110	156	12
HB1111	871	34
HB1112	342	45
HB1113	500	8
HB1114	872	14, 22
HB1117	761	85
HB1121	873	47
HB1124	102	28
HB1126	239	73
HB1128	204	62
HB1132	578	12
HB1133	694	77
HB1135	145	81
HB1136	310	46
HB1141	14	15
HB1144	722	8
HB1145	723	9
HB1147	874	72
HB1148	762	16
HB1149	157	55
HB1153	158	66
HB1154	579	22
HB1155	438	3
HB1168	439	58

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
HB1172	633	71
HB1174	539	5
HB1175	695	56
HB1190	240	62
HB1191	383	2
HB1195	264	38
HB1196	187	37
HB1200	103	32
HB1202	875	45
HB1203	876	3
HB1204	384	69
HB1209	216	39
HB1216	894	75
HB1220	227	56
HB1221	228	56
HB1222	229	56
HB1223	159	56
HB1228	540	45
HB1232	654	57
HB1234	146	52
HB1236	205	13
HB1237	696	16
HB1240	329	46
HB1242	617	69
HB1244	160	40
HB1245	265	64
HB1246	29	64
HB1247	461	68
HB1253	877	49
HB1254	30	55

BILL	CHAPTER	PAGE NO.
HB1256	618	27
HB1264	161	39
HB1265	162	6
HB1267	266	20
HB1269	104	72
HB1273	163	59
HB1276	619	79
HB1278	620	33
HB1280	241	80
HB1281	164	50
HB1282	440	25
HB1286	441	45
HB1287	621	35
HB1288	878	31
HB1289	879	27
HB1292	724	49
HB1294	622	10
HB1295	514	40
HB1297	880	46
HB1298	188	18
HB1299	105	66
HB1300	490	66
HB1301	881	10
HB1306	311	62
HB1311	580	65
HB1312	267	69
HB1314	206	4
HB1331	165	71
HB1335	697	13, 19
HB1336	882	26

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
HB1338	268	64
HB1339	883	56
HB1340	106	31
HB1342	442	47
HB1343	655	34
HB1344	725	31
HB1349	763	58
HB1353	726	51
HB1354	656	20
HB1355	462	68
HB1356	623	69
HB1357	463	68
HB1359	491	72
HB1360	31	11
HB1364	207	4
HB1367	269	68
HB1372	884	26
HB1373	107	83
HB1374	108	80
HB1375	727	27
HB1376	885	83
HB1377	109	83
HB1378	624	9
HB1380	443	41
HB1381	515	41
HB1386	115	82
HB1387	126	82
HB1388	581	83
HB1390	32	68
HB1391	772	42

BILL	CHAPTER	PAGE NO.
HB1396	385	17
HB1399	386	1
HB1403	886	9
HB1405	728	18
HB1408	541	62
HB1411	270	38
HB1413	625	53
HB1415	271	63
HB1419	516	75
HB1420	887	22
HB1423	729	77
HB1425	272	77
HB1426	888	56
HB1427	312	46
HB1428	634	47
HB1430	189	5
HB1431	542	78
HB4001	1*	85
HJ14	766	86
HJ125	767	86
HJ201	768	86
SB1	59	46
SB5	343	77
SB9	501	58
SB11	731	26
SB13	1	37
SB14	582	37
SB15	191	37
SB16	388	85
SB20	657	61

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
SB22	732	4
SB23	733	78
SB24	273	69
SB26	330	45
SB31	734	85
SB32	344	19
SB33	630	65
SB34	331	46
SB36	502	15
SB37	243	19
SB38	658	61
SB39	389	61
SB40	15	49
SB41	16	51
SB47	274	75
SB52	626	18
SB53	659	19
SB54	735	67
SB55	492	73
SB56	543	81
SB58	17	49
SB59	244	69
SB61	345	15
SB62	346	17
SB64	230	50
SB65	660	60
SB67	4	29
SB72	517	18
SB81	544	74
SB87	18	6

BILL	CHAPTER	PAGE NO.
SB88	19	7
SB89	390	86
SB94	583	15
SB95	33	7
SB100	773	25
SB105	584	9
SB106	167	12
SB107	545	58
SB108	174	58
SB109	332	75
SB111	275	18
SB112	34	7
SB113	347	77
SB120	627	30
SB121	175	57
SB125	661	60
SB126	774	61
SB143	635	18
SB144	444	78
SB152	636	1
SB153	127	79
SB157	895	63
SB169	192	82
SB170	276	14
SB172	698	2
SB173	699	1
SB174	128	31
SB180	277	22
SB181	637	67
SB185	278	21

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
SB192	775	82
SB193	503	77
SB195	504	3
SB196	279	8
SB199	518	23
SB208	280	26
SB218	348	18
SB222	281	22
SB224	129	54
SB226	638	27
SB228	333	74
SB231	334	45
SB232	208	6
SB234	349	74
SB236	168	12
SB237	350	62
SB238	776	62
SB239	546	58
SB240	282	69
SB243	231	7
SB245	35	1
SB246	245	3
SB247	60	50
SB248	42	49
SB249	313	16
SB251	43	54
SB252	777	3
SB258	547	59
SB261	20	3
SB262	778	12

BILL	CHAPTER	PAGE NO.
SB263	519	25
SB265	493	8
SB267	61	36
SB270	351	32
SB273	585	17
SB275	662	24
SB276	779	20
SB281	736	6
SB282	283	73
SB284	352	72
SB286	586	5
SB288	62	35
SB289	494	83
SB290	780	12
SB291	445	26
SB293	781	83
SB295	63	70
SB301	284	58
SB302	465	46
SB306	130	49
SB308	391	59
SB309	520	17
SB310	285	57
SB313	44	7
SB315	663	58
SB316	246	38
SB317	783	23
SB318	890	32
SB319	466	4
SB321	392	39

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
SB327	737	9
SB328	247	81
SB330	64	71
SB335	548	18
SB336	393	59
SB338	664	47
SB340	588	19
SB341	784	36
SB343	639	9
SB344	133	58
SB346	45	37
SB351	394	5
SB352	395	28
SB354	700	12
SB357	353	25
SB358	354	37
SB362	355	34
SB364	521	21
SB365	65	84
SB367	640	15
SB369	785	25
SB372	356	54
SB373	549	38
SB378	217	44
SB379	764	71
SB381	589	10
SB382	786	37
SB383	701	10
SB384	396	36
SB385	452	68

BILL	CHAPTER	PAGE NO.
SB388	550	20
SB391	467	4
SB394	787	1
SB397	66	35
SB401	765	41
SB402	67	80
SB409	286	57
SB410	209	20
SB411	248	69
SB414	314	9
SB415	446	47
SB416	468	81
SB417	397	82
SB419	551	83
SB421	590	49
SB422	46	51
SB423	47	51
SB425	702	28
SB426	788	22
SB429	628	66
SB431	287	29
SB435	134	58
SB437	789	58
SB438	552	82
SB440	591	4
SB442	790	2
SB443	68	84
SB445	791	13
SB447	48	6
SB449	210	19

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
SB451	218	28
SB452	398	24
SB454	357	13
SB457	792	57
SB458	147	56
SB462	148	52
SB463	453	4
SB464	793	3
SB465	665	1
SB466	794	43
SB467	166	49
SB469	666	13
SB470	738	64
SB475	335	73
SB478	641	5
SB480	642	17
SB481	592	26
SB483	795	44
SB484	703	43
SB487	399	81
SB488	796	66
SB490	522	57
SB495	447	47
SB498	149	82
SB500	797	38
SB501	667	48
SB503	798	62
SB510	739	63
SB512	232	72
SB514	219	45

BILL	CHAPTER	PAGE NO.
SB516	469	64
SB523	799	11
SB527	800	33
SB540	495	20
SB542	400	13
SB543	358	74
SB548	315	43
SB549	496	65
SB550	316	65
SB551	317	43
SB552	448	22
SB553	49	52
SB554	69	6
SB557	704	83
SB558	131	31
SB560	470	63
SB562	905	45
SB563	50	11
SB566	740	85
SB567	741	85
SB568	288	58
SB570	801	17
SB577	742	70
SB578	643	16
SB579	743	56
SB585	505	42
SB588	802	56
SB590	454	68
SB591	506	42
SB595	629	84

**BILLS PASSED
DURING 1998 SESSION OF THE GENERAL ASSEMBLY**

BILL	CHAPTER	PAGE NO.
SB598	553	81
SB599	593	64
SB601	554	44
SB603	289	43
SB604	290	14
SB606	132	36
SB607	359	4
SB608	594	48
SB614	523	11
SB615	471	11
SB616	668	17
SB621	211	19
SB624	555	58
SB625	595	28
SB626	318	49
SB629	669	8
SB630	803	65
SB631	670	24
SB633	401	58
SB635	671	79
SB641	556	39
SB642	672	2
SB645	804	2
SB648	596	8
SB651	360	37
SB654	597	66
SB657	705	12
SB660	744	44
SB661	805	80
SB664	507	3

BILL	CHAPTER	PAGE NO.
SB665	557	64
SB667	806	34
SB672	70	28
SB676	558	81
SB677	361	75
SB679	56	54
SB680	362	36
SB681	524	5
SB683	706	5
SB684	598	6
SB686	525	45
SB687	707	70
SB690	319	65
SB694	807	11
SB696	363	24
SB699	808	4
SB700	708	64
SB704	745	80
SB705	709	54
SB707	673	18
SB712	891	42
SB716	364	5
SB718	809	69
SB4005	2*	76
SJ1	769	86
SJ2	770	86
SJ52	771	86

* 1998 Special Session