

DIGEST OF THE ACTS
OF THE
GENERAL ASSEMBLY OF VIRGINIA
AT THE
1999 SESSION

which commenced at the Capitol in the City of Richmond on January 13, 1999, and adjourned
sine die February 27, 1999.



Published for

THE VIRGINIA CODE COMMISSION
by
THE DIVISION OF LEGISLATIVE SERVICES

Commonwealth of Virginia
Virginia Code Commission
General Assembly Building
Richmond, Virginia 23219
1999

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PREFACE

This Digest of Acts has been prepared to give an overview of the legislation adopted during the 1999 Regular and Reconvened Sessions of the General Assembly of Virginia, prior to publication of the 1999 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 Under each title heading is listed every section within that title which has been amended, added, or repealed, and a brief description of the effect of the General Assembly action.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 1999 General Assembly will become effective on July 1, 1999, 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 1999 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 1999 Regular and Reconvened 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 1.	GENERAL PROVISIONS.	1
TITLE 2.1.	ADMINISTRATION OF THE GOVERNMENT GENERALLY.	1
TITLE 2.1.	MISCELLANEOUS - ADMINISTRATION OF THE GOVERNMENT GENERALLY. ..	5
TITLE 3.1.	AGRICULTURE, HORTICULTURE AND FOOD.	6
TITLE 4.1.	ALCOHOLIC BEVERAGE CONTROL ACT.	7
TITLE 4.1.	MISCELLANEOUS - ALCOHOLIC BEVERAGE CONTROL ACT.	8
TITLE 5.1.	AVIATION.	8
TITLE 6.1.	BANKING AND FINANCE.	8
TITLE 7.1.	BOUNDARIES, JURISDICTION AND EMBLEMS OF THE COMMONWEALTH.	9
TITLE 8.01.	CIVIL REMEDIES AND PROCEDURE.	10
TITLE 8.01.	MISCELLANEOUS - CIVIL REMEDIES AND PROCEDURE.	11
TITLE 8.9.	COMMERCIAL CODE - SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER.	11
TITLE 9.	COMMISSIONS, BOARDS AND INSTITUTIONS GENERALLY.	12
TITLE 10.1.	CONSERVATION.	13
TITLE 11.	CONTRACTS.	16
TITLE 13.1.	CORPORATIONS.	17
TITLE 15.2.	COUNTIES, CITIES AND TOWNS.	17
TITLE 15.2.	MISCELLANEOUS - COUNTIES, CITIES AND TOWNS.	20
	CHARTERS, AUTHORITIES.	20
TITLE 16.1.	COURTS NOT OF RECORD.	22
TITLE 16.1.	MISCELLANEOUS - COURTS NOT OF RECORD	24
TITLE 17.1.	COURTS OF RECORD.	24
TITLE 18.2.	CRIMES AND OFFENSES GENERALLY.	24
TITLE 19.2.	CRIMINAL PROCEDURE.	28
TITLE 20.	DOMESTIC RELATIONS.	29
TITLE 21.	MISCELLANEOUS - DRAINAGE, SOIL CONSERVATION, SANITATION AND PUBLIC FACILITIES DISTRICTS.	30
TITLE 22.1.	EDUCATION.	30
TITLE 22.1.	MISCELLANEOUS - EDUCATION.	43
TITLE 23.	EDUCATIONAL INSTITUTIONS.	44
TITLE 24.2.	ELECTIONS.	46
TITLE 25.	EMINENT DOMAIN.	47
TITLE 26.	FIDUCIARIES GENERALLY.	47
TITLE 28.2.	FISHERIES AND HABITAT OF THE TIDAL WATERS.	48
TITLE 28.2.	MISCELLANEOUS - FISHERIES AND HABITAT OF THE TIDAL WATERS.	49
TITLE 29.1.	GAME, INLAND FISHERIES AND BOATING.	49
TITLE 29.1.	MISCELLANEOUS - GAME, INLAND FISHERIES AND BOATING.	50
TITLE 30.	GENERAL ASSEMBLY.	50
TITLE 31.	GUARDIAN AND WARD.	50
TITLE 32.1.	HEALTH.	50
TITLE 32.1.	MISCELLANEOUS - HEALTH.	55
TITLE 33.1.	HIGHWAYS, BRIDGES AND FERRIES.	55
TITLE 33.1.	MISCELLANEOUS - HIGHWAYS, BRIDGES AND FERRIES.	56
TITLE 34.	HOMESTEAD AND OTHER EXEMPTIONS.	57
TITLE 36.	HOUSING.	57
TITLE 36.	MISCELLANEOUS - HOUSING.	57
TITLE 37.1.	INSTITUTIONS FOR THE MENTALLY ILL; MENTAL HEALTH GENERALLY.	57

TABLE OF CONTENTS

TITLE 37.1.	MISCELLANEOUS - INSTITUTIONS FOR THE MENTALLY ILL; MENTAL HEALTH GENERALLY.	59
TITLE 38.2.	INSURANCE.	59
TITLE 40.1.	LABOR AND EMPLOYMENT.	65
TITLE 42.1.	LIBRARIES.	65
TITLE 43.	MECHANICS' AND CERTAIN OTHER LIENS.	66
TITLE 44.	MILITARY AND EMERGENCY LAWS.	66
TITLE 44.	MISCELLANEOUS - MILITARY AND EMERGENCY LAWS.	66
TITLE 45.1.	MINES AND MINING.	66
TITLE 46.2.	MOTOR VEHICLES.	67
TITLE 51.1.	PENSIONS, BENEFITS, AND RETIREMENT.	70
TITLE 51.5.	PERSONS WITH DISABILITIES.	71
TITLE 52.	POLICE (STATE).	71
TITLE 53.1.	PRISONS AND OTHER METHODS OF CORRECTION.	71
TITLE 54.1.	PROFESSIONS AND OCCUPATIONS.	72
TITLE 54.1.	MISCELLANEOUS - PROFESSIONS AND OCCUPATIONS.	77
TITLE 55.	PROPERTY AND CONVEYANCES.	77
TITLE 55.	MISCELLANEOUS - PROPERTY AND CONVEYANCES.	79
TITLE 56.	PUBLIC SERVICE COMPANIES.	79
TITLE 57.	RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES.	82
TITLE 58.1.	TAXATION.	83
TITLE 58.1.	MISCELLANEOUS - TAXATION.	92
TITLE 59.1.	TRADE AND COMMERCE.	92
TITLE 60.2.	UNEMPLOYMENT COMPENSATION.	93
TITLE 62.1.	WATERS OF THE STATE, PORTS AND HARBORS.	93
TITLE 63.1.	WELFARE (SOCIAL SERVICES).	94
TITLE 64.1.	WILLS AND DECEDENTS' ESTATES.	96
TITLE 65.2.	WORKERS' COMPENSATION.	97
TITLE 65.2.	MISCELLANEOUS - WORKERS' COMPENSATION.	97
	APPROPRIATIONS AND BONDS.	98
	CLAIMS.	98
	CONSTITUTIONAL AMENDMENTS.	99

TITLE 1. GENERAL PROVISIONS.

§§ 1-13.32 and 2.1-7.4 amended. **Definitions of certain words in the Code of Virginia; electronic records.** Expands the definitions of "written," "writing," "writings," and "in writing" in Title 1 of the Code to include electronic representations of words, letters, symbols, numbers, or figures. The bill also permits the Commonwealth's public bodies to accept electronic filing of information. The bill stipulates that unless otherwise provided for in the Code, electronic filing in the courts remains subject to the Rules adopted by the Supreme Court of Virginia. The bill is a recommendation of the Joint Commission on Technology and Science. SB 819; CH. 145.

TITLE 2.1. ADMINISTRATION OF THE GOVERNMENT GENERALLY.

§§ 2.1-1.1, 2.1-1.3, 2.1-1.7, 2.1-20.4, 2.1-51.27, 2.1-51.40, 2.1-563.16, 2.1-563.17, 2.1-563.36, 2.1-563.37, 2.1-563.38, 2.1-563.40, 2.1-563.41, 9-6.14:4.1, 9-6.23, 9-6.25:1, 9-6.25:2, 9-145.53, 9-145.56, 9-253, 9-266.4, 9-361, and 42.1-80 amended; §§ 2.1-51.44 through 2.1-51.50, 2.1-563.28:1, 2.1-563.28:2, and 2.1-563.28:3 added; §§ 2.1-563.28 through 2.1-563.35, 9-145.50 and 9-145.51 repealed. **Secretary of Technology created.** Creates the Secretary of Technology of the Commonwealth, who shall also function as Virginia's Chief Information Officer, and provides for the powers and duties thereof. The bill assigns responsibility to the Secretary for the Department of Information Technology, Innovative Technology Authority, Virginia Geographic Information Network Advisory Board, Virginia Information Providers Network Authority, and the new Department of Technology Planning (DTP), which is also created in the bill. The bill abolishes the Council on Information Management (CIM) and transfers its employees to the new DTP. The bill also repeals the Virginia Technology Council (VTC) and makes technical changes and corrections to accommodate the new Secretariat and the new DTP and the abolishment of CIM and VTC. The bill also contains technical amendments to the various listings of boards, commissions, and councils in Titles 2.1 and 9 that have changed names or been repealed in previous legislative sessions. HB 1727; CH. 412/HB 2188; CH. 433/SB 808; CH. 421.

§§ 2.1-1.1, 2.1-1.3, 2.1-1.5, 2.1-51.15, 2.1-116, 2.1-122, 2.1-373.13, 2.1-703.1, and 2.1-762. See § 37.1-1; SB 1224.

§ 2.1-1.5. See § 10.1-202; HB 1747/SB 1304.

§§ 2.1-1.5, 2.1-116, 2.1-342, and 2.1-344. See § 23-9.4; HB 2339.

§ 2.1-1.5. See § 10.1-2402; HB 2490.

§ 2.1-1.5. See § 9-380; HB 2635/SB 1165.

§ 2.1-1.6. See § 51.1-1200; HB 1735/HB 2023.

§§ 2.1-1.6 and 2.1-20.4. See § 54.1-2900; HB 2367/HB 2547/SB 1191.

§§ 2.1-1.6 and 2.1-20.4. See § 54.1-202; SB 926.

§§ 2.1-1.7 and 2.1-51.21. See § 9-6.23; HB 2558/SB 1257.

§ 2.1-7.4. See § 1-13.32; SB 819.

§ 2.1-20.01:1 amended. **Authority of department directors.** Requires specified department directors in state government to appoint an agency information officer (AIO) from among the department's employees. The AIO would have two specific duties: (i) to ensure the coordinated planning, practical acquisition, effective development, and efficient use of information technology resources and communications services to meet the department's needs and (ii) to serve as the department's liaison to the Office of the Secretary of Technology. The bill is a recommendation of the Joint Commission on Technology and Science. HB 1670; CH. 70/SB 1095; CH. 892.

§ 2.1-20.1. See § 38.2-3407.10; HB 871.

§ 2.1-20.1. See § 38.2-3407.10; SB 1235.

§ 2.1-20.1. See § 38.2-3412.1; SB 430.

§ 2.1-20.1. See § 38.2-3418.1:2; HB 2354.

§ 2.1-20.1:06 added. **Department of Personnel and Training; state health insurance plan.** Provides that part-time state employees shall be entitled to purchase health insurance coverage through a health insurance plan administered by the Department of Personnel and Training. The health insurance coverage automatically terminates upon the occurrence of (i) the applicant's death, (ii) alternate health insurance coverage being obtained by the applicant, (iii) the applicant's separation from state services, or (iv) any applicable condition outlined in the policies and procedures of the Department governing its administration of health insurance plans. The plan for part-time employees may differ from the other plans for state employees and the state shall not contribute to the cost of the premium. To be eligible, part-time employees must work 20 or more hours per week for at least six months. SB 728; CH. 758.

§§ 2.1-20.1:2 and 2.1-20.1:3 amended. **Health insurance credits; retired state employees and teachers.** Increases the health insurance credit for retired state employees and teachers. The amount of each monthly health insurance credit payable under these sections shall increase from \$2.50 to \$4.00 per month for state employees and from \$1.50 to \$2.50 per month for teachers for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of \$120 for state employees and \$75 for teachers. HB 1844; CH. 832.

§§ 2.1-20.1:2, 2.1-20.1:3, and 51.1-600 amended; §§

2.1-20.1:5 and 51.1-606 added. Retired state employees, and teachers health insurance credit; health insurance program; deferred compensation program. Allows former state employees and teachers with at least 15 years of creditable service to receive the retiree health insurance credit if, after leaving state service, they worked for a local government which does not elect to provide a retiree health insurance credit. Persons who have been ineligible to receive the credit under the existing law, but would have been eligible if this measure had been in effect, may enroll within 180 days following this measure's effective date to receive the credit prospectively. The measure also allows any former state employee who is receiving VRS annuity payments and participating in the state retiree health benefits program on July 1, 1999, to elect to cease receiving the VRS annuity payments until reapplying for such benefits at a later date and to continue participating in the retiree health insurance program. Technical and clarifying changes are made to the provisions relating to the health insurance credit for state retirees. The bill also authorizes the Virginia Retirement System to establish a plan into which employers can make contributions to deferred compensation accounts. Effective January 1, 2000, the Commonwealth, political subdivisions participating in the VRS-administered deferred compensation plan, and sponsors of a plan established under § 403 (b) of the Internal Revenue Code shall transfer funds to the institution holding investments under the plan. The amounts credited to accounts of participants in the deferred compensation plan shall not exceed, on a semi-monthly basis, the lesser of \$50 or 50 percent of the participants contribution, provided the employee is contributing at least \$10 per pay period in the plan. HB 1704; CH. 980/HB 1756; CH. 984. (effective-see bill).

§ 2.1-20.1:5 added. Health insurance credits; local social service employees, constitutional officers and sheriff's deputies. Provides that local social service employees, sheriff's deputies, and constitutional officers shall receive a health insurance credit to their monthly retirement allowance, which shall be applied to reduce the retired member's health insurance premium cost, provided the retiree's employer elects to participate in the credit program. The amount of each monthly health insurance credit payable under this section shall be one dollar for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of \$30. HB 1843; CH. 989.

§ 2.1-20.1:5 added. Supplemental health insurance payments for state retirees. Allows retiring state employees to have the amount of their accrued annual leave and sick leave that would otherwise be paid to them in a lump sum to be credited to a supplemental health insurance credit account. Money in the account will be withdrawn to supplement the existing health insurance credit for retirees, in order to cover the full amount of a retiree's monthly health insurance premium. HB 2397; CH. 385 (effective-see bill).

§ 2.1-27.11 added. Landscape Architecture Week. Establishes the second full week in April as Landscape Architecture Week in Virginia, in recognition of the many

contributions of landscape architecture to the preservation of the physical beauty of the Commonwealth. HB 1449; CH. 164.

§ 2.1-32.1. See § 23-38.12; HB 2255.

§ 2.1-51.6:5 amended. Governor's Development Opportunity Fund. Provides that the Governor may reduce the minimum number of new jobs required to be created, as a condition for eligibility for assistance from the Governor's Development Opportunity Fund, when the average wage of the new jobs created is at least twice the prevailing wage for that locality or region. The Governor may reduce the number of new jobs required to be created to no less than one-half the number of jobs that would otherwise be required to be created. HB 2381; CH. 787/SB 1247; CH. 816.

§§ 2.1-51.12:1 and 2.1-51.12:2 amended. Tributary plans; sediments and suspended solids. Adds sediment and suspended solids as pollutants which are to be the subject of tributary plans. Currently, tributary plans are to include provisions to reduce the flow of nutrients into the Chesapeake Bay and its tributaries. This bill would require the plans to include, as is the current requirement with nutrients, specific strategies, goals, commitments and methods of implementation to achieve reductions in sediment and suspended solids from nonpoint sources sufficient to achieve living resource goals, particularly those related to habitat conditions necessary to support submerged aquatic vegetation. HB 2267; CH. 548.

§ 2.1-51.18:3. See § 18.2-251.01; HB 2159/SB 1077.

§ 2.1-51.39:3 added. Secretary of Commerce and Trade; additional duties. Requires the Secretary of Commerce and Trade to report to the General Assembly biennially summarizing major state programs and policies affecting urban areas and identifying sources of funding for projects in fiscally stressed urban areas. HB 1635; CH. 519.

§ 2.1-64.34:1 added. Capital Access Fund for Disadvantaged Businesses. Creates a permanent, nonreverting fund to be used to provide loan guarantees, loan loss reserves, and interest rate write-downs for economically disadvantaged businesses. The Virginia Small Business Financing Authority and the Director of the Department of Minority Business Enterprise shall jointly develop Fund guidelines. HB 2506; CH. 791/SB 1127; CH. 765.

§ 2.1-68 amended. Secretary of the Commonwealth; information on General Assembly members. Requires the Secretary of the Commonwealth to include information and photographs of members of the General Assembly in the Secretary's annual report to the Governor, and requires the Clerks of the House of Delegates and Senate to maintain these materials for the Secretary's use in the annual report. There are also technical amendments. HB 1905; CH. 51.

§§ 2.1-114.5 and 2.1-804 amended. Powers and duties of the Department of Personnel and Training (DPT); acceptable Internet use policy for state employees. On and after December 1, 1999, requires DPT to establish an

acceptable Internet use policy (AIUP) for state employees as part of its existing statutory duty to develop state personnel policies. The AIUP is required to (i) prohibit use of the state's computers and communications services for sending, receiving, viewing, or downloading illegal material and (ii) establish strict disciplinary measures for violations thereof. Agency heads may supplement the Department's AIUP as they deem appropriate. The bill also amends the Restrictions on State Employee Access to Information Infrastructure Act by including the term "lasciviousness" within the definition of "sexually explicit." In a second enactment clause, heads of state agencies whose officers and employees are exempt from the Virginia Personnel Act are required to adopt the Department's AIUP for their employees. The bill is a recommendation of the Joint Commission on Technology and Science. HB 2343; CH. 384.

§ 2.1-116. See § 37.1-42.2; SB 1055.

§§ 2.1-116.05, 2.1-340.1, 2.1-341, 2.1-341.1, 2.1-342, 2.1-343, 2.1-343.1, 2.1-343.2, 2.1-344, 2.1-344.1, 2.1-346, 2.1-346.1, 15.2-1722, 19.2-368.3, 23-50.16:32, 32.1-283.1, 52-8.3 and 54.1-2517 amended; §§ 2.1-341.2, 2.1-342.01, and 2.1-342.2 added; §§ 2.1-342.1 and 2.1-345 repealed. **Freedom of Information.** Rewrites the Freedom of Information Act as follows: (i) clarifies the definitions of "public body" and "public records"; (ii) adds a requirement that public officials read and familiarize themselves with FOIA; (iii) clarifies the procedure to be used by public bodies in responding to FOIA requests; (iv) clarifies what charges may be assessed by a public body for supplying requested records; (v) clarifies that public records maintained by a public body in an electronic data processing system or database shall be made available to a requester at reasonable cost; (vi) clarifies that excision of exempt fields of information from a database or conversion of data from one available format to another is not the creation of a new public record; (vii) creates a new section within FOIA to deal exclusively with the release of criminal records; (viii) clarifies the scholastic records exemption; (ix) narrows the working papers exemption for the Governor, Lieutenant Governor, Attorney General, members of the General Assembly, and other high-ranking government officials by defining (a) "working papers" as those records prepared by or for named public officials for their personal or deliberative use and (b) "Office of the Governor" as the Governor, his chief of staff, counsel, director of policy, cabinet secretaries, director of the Virginia Liaison Office, and those individuals to whom the Governor has delegated his authority in accordance with law, and by providing that no record which is otherwise open to inspection shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence; (x) clarifies the exemptions for legal opinions of local government attorneys and legal memoranda compiled specifically for use in litigation; (xi) combines current exemptions for the Virginia Museum of Fine Arts, the ABC Board, and the Department of Corrections relating to security manuals, surveillance techniques, and architectural/engineering drawings of their facilities, etc., into a single

exemption; (xii) adds a requirement that notice of meetings of public bodies be placed in a prominent public location at which notices are regularly posted and in the office of the clerk or chief administrator of the public body, with the use of electronic postings encouraged; (xiii) narrows the real property open-meeting exemption to discussions or considerations of the acquisition (and not the condition or use) of real property; (xiv) clarifies the consultation with legal counsel exemption for open meetings by defining the term "probable litigation"; (xv) clarifies the procedure to be followed by a public body in convening in a closed session; (xvi) provides that, in a FOIA enforcement action in general district court, a corporate petitioner may appear through its officer, director or managing agent without the assistance of counsel; (xvii) provides that, in a FOIA enforcement action, the public body shall bear the burden of proof to establish an exemption by a preponderance of the evidence; and (xviii) increases the penalties for FOIA violations from a minimum of \$25 to \$100, and for a subsequent violation, from a minimum of \$250 to \$500 and increases the maximum penalty for a subsequent violation from \$1,000 to \$2,500. The bill contain numerous technical amendments. HB 1985; CH. 726/SB 1023; CH. 703.

§ 2.1-116.07 amended. **State grievance procedure; decisions of hearing officers.** Provides that in grievances arising out of the Department of Mental Health, Mental Retardation and Substance Abuse Services which challenge allegations of patient abuse, the Director of the Department of Employee Relations Counselors shall determine whether the decision is consistent with law. SB 1302; CH. 713.

§ 2.1-118 amended. **Opinions of the Attorney General.** Adds city and town attorneys to those persons authorized to request an official opinion from the Attorney General. County attorneys are already so authorized. HB 1645; CH. 14.

§ 2.1-328. See § 26-39; HB 841.

§§ 2.1-342 and 2.1-344. See § 58.1-322; HB 1600/SB 919.

§§ 2.1-342 and 2.1-344. See § 32.1-283.2; HB 2128.

§§ 2.1-342 and 2.1-344. See § 32.1-283.2; HB 2185/SB 1035.

§ 2.1-342. See § 3.1-611; HB 2566.

§ 2.1-342 amended. **Freedom of Information Act; procedure for responding to requests for records.** Allows public bodies, when responding to request for information, to post requested records on a website or to deliver the records through an electronic mail address provided by the requester. HB 2638; CH. 438.

§ 2.1-342 amended; §§ 2.1-548.53 through 2.1-548.68 added; §§ 2.1-548.29:01, 2.1-548.29:02, and 2.1-548.29:03 repealed. **Virginia Tourism Authority Act.** Creates the Virginia Tourism Authority to, among other things, issue periodicals and carry and charge for advertising therein; raise money in the corporate, nonprofit, and nonstate communities to finance the Authority's activities; support and encourage each locality to foster its own tourism development programs; enter into agreements with public or private entities that provide

participating funding to establish and operate tourism centers, funded jointly by the entity and the authority, as shall be determined by the Executive Director, and as approved by the Authority; encourage, stimulate, and support tourism in the Commonwealth by promoting, marketing, and advertising the Commonwealth's many tourist attractions and locations; encourage, stimulate and support the film industry in the Commonwealth; and do all things necessary or proper to administrate and manage the Governor's Motion Picture Opportunity Fund. All rights of the Authority shall be exercised by a board of directors consisting of the Secretary of Commerce and Trade, the Secretary of Finance, and 11 members appointed by the Governor, subject to confirmation by the General Assembly. The bill also provides for the Governor to appoint the Executive Director of the Authority, who shall serve as the President and chief executive officer of the Authority. The Executive Director shall report to, but not be a member of, the Board of Directors. Under the bill, the Authority is granted an exemption from the Public Procurement and Personnel Act, as well as being exempt from taxation. The newly created Authority will perform the tourism functions currently exercised by the Virginia Economic Development Partnership Authority. HB 2702; CH. 881/SB 1142; CH. 852.

§ 2.1-343 amended. Virginia Freedom of Information Act; notice of public meetings. Permits public bodies to employ methods of electronic notice of meetings in lieu of, or in addition to, U.S. mail notification (e.g., posting on website, electronic mail notification, and list service). The bill is a recommendation of the Joint Commission on Technology and Science. SB 806; CH. 696.

§§ 2.1-373, 11-45 and 57-60 amended. Department for the Aging; duties; exemption from the Public Procurement Act. Provides for the Department for the Aging to contract for the administration of the ombudsman program with (i) a not-for-profit Virginia corporation with statewide experience in conducting a state long-term care ombudsman program granted tax-exempt status under §501 (c) (3) of the Internal Revenue Code or (ii) designated area agencies on aging. The bill also authorizes the Department to contract with such entity or entities, without competitive sealed bidding or competitive negotiation (an exemption to the Public Procurement Act), to administer elder rights programs under Public Law 89-73. The bill contains technical amendments. HB 2632; CH. 1021.

§ 2.1-373 amended. Department for the Aging; powers and duties. Adds to the mission of the Department, the responsibility of assisting state, local and nonprofit agencies in identifying opportunities to improve services to the elderly. SB 1265; CH. 712.

§ 2.1-379 amended. Privacy Protection Act; definitions. Clarifies that the definition of "information system" includes information collected or managed by means of the Internet. HB 2152; CH. 41.

§ 2.1-440.1 amended. Division of Purchases and Supply; procurement of computers and related peripheral

equipment. Provides that blanket purchasing agreements for computers and related peripheral equipment emphasize performance criteria, including price, quality, and delivery, without regard to brand name. HB 2564; CH. 436.

§ 2.1-447.1 added. State purchasing contracts; charitable corporations. Allows the Division of Purchases and Supply to permit § 501 (c) (3) corporations which operate to provide primary health care services to indigent and uninsured persons to purchase directly from contracts established for state agencies and public bodies if they meet certain criteria. This is a recommendation of the Joint Commission on Health Care. HB 2229; CH. 784.

§ 2.1-457.2 amended. Commonwealth's surplus motor vehicles; welfare reform. Permits sale of the Commonwealth's surplus motor vehicles, prior to a public sale or auction, to local social service departments for resale at cost to TANF recipients. This would help the individuals achieve self-sufficiency and continued employment. HB 1987; CH. 911/SB 971; CH. 629.

§ 2.1-457.2 amended. Volunteer rescue squads and fire departments; participation in public auctions of surplus materials. Permits sale of the Commonwealth's surplus materials prior to a public sale or auction to any volunteer rescue squad or volunteer fire department established prior to July 1, 1984, or after July 1, 1984, as approved by the governing body of the locality. SB 1109; CH. 578.

§ 2.1-457.2 amended. Department of General Services; disposition of surplus materials. Provides for the Department of General Services to establish procedures for permitting surplus tangible property to be sold by departments, divisions, institutions, and agencies of the Commonwealth to Virginia charitable corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured, and organized for the delivery of primary health care services (i) as federally qualified health centers or (ii) at a reduced or sliding fee scale or without charge. SB 1111; CH. 159.

§ 2.1-548.29. See § 23-38.19:3. HB 2189.

§§ 2.1-548.43:1 through 2.1-548.43:6 added. Economic development; Virginia Investment Partnership Act. Establishes two grant programs to be paid, subject to appropriation, from the Virginia Investment Partnership Grant Fund. One program provides for a grant of \$25 million to an eligible Virginia manufacturer who makes an investment of \$100 million that results in the creation of at least 1,000 new permanent, full-time jobs. The terms of the grant are to be set forth in a memorandum of agreement, subject to review by the House Appropriations and Senate Finance Committees. The grant will be payable over a period of five to seven years, beginning the sixth year after the investment is complete and verified. The second program provides grants for existing Virginia manufacturers making a capital investment of at least \$25 million but who do not qualify for the first grant program. The amount of the grant an eligible manufacturer may receive

will be determined by the Secretary of Commerce and Trade, based on recommendations of the Virginia Economic Development Partnership and approved by the Governor. The grant amount determination will be made by applying guidelines, to be reviewed by the chairmen of the House Appropriations and Senate Finance Committees, that take into account the number of new jobs created, their wages, the amount of the investment, the net present value of benefits to Virginia, and other factors. The amount of a grant any eligible manufacturer is eligible for shall not exceed \$3 million or 10 percent of the amount appropriated to the program's subfund. No more than \$6 million in grants shall be approved in any year. An overall cap of \$30 million in grant awards outstanding at any time is established. These grants will be payable, subject to appropriation, over five years beginning in the sixth year after the investment is completed and verified. HB 2460; CH. 875/SB 1143; CH. 961.

§ 2.1-738 amended. Department of Veterans' Affairs; hiring preference for veterans. Clarifies that the Director of the Department of Veterans' Affairs shall give a preference to veterans in hiring personnel for the Department in accordance with existing law. HB 2245; CH. 342.

§§ 2.1-746, 2.1-751, 2.1-752, 2.1-754, 2.1-755, 2.1-757, 2.1-758 and 16.1-286 amended. Comprehensive services act. Adds oversight responsibilities to the State Executive Council for the Comprehensive Services Act (CSA) for At-Risk Youth and Families, to improve review of services provided to children under the Act. The Council would be responsible for overseeing implementation of a uniform assessment instrument, development of case management standards, and adoption of other quality assurance measures. Localities would be required to use multi-disciplinary teams in developing treatment plans, except for routine foster care cases. The CSA executive council would also be granted authority to withhold funding to local management teams that did not comply with the Act. HB 2075; CH. 669.

§§ 2.1-751 and 2.1-753 amended. Comprehensive services; membership requirements. Allows parents who are employed by public or private programs which receive funds from the CSA or agencies represented on a community and policy management team to be parent representatives on community policy and management teams and family assessment and planning teams, provided that they do not interact directly on a regular basis with the children. Notwithstanding this restriction, foster parents may serve as parent representatives. Current law prohibits parents employed by these entities from being parent representatives. SB 1241; CH. 644.

§ 2.1-760 amended; § 2.1-768.1 added. Early intervention services. Clarifies that early intervention services provided to infants and toddlers with disabilities in accordance with Part C of the Individuals with Disabilities Education Act are not home health services, and thus the organizations providing those services are not required to be licensed as home care organizations. HB 2569; CH. 684/SB 1196; CH. 640.

§§ 2.1-807 through 2.1-811 added. Information technology access by individuals who are blind or visually impaired. Creates the Information Technology Access Act to secure the benefits of access to information technology for individuals who are blind or visually impaired through the procurement of such technology in accordance with standards for equivalent access by both visual and nonvisual means. HB 1115; CH. 773/SB1327; CH. 769.

TITLE 2.1. MISCELLANEOUS - ADMINISTRATION OF THE GOVERNMENT GENERALLY.

New Year's Day 2000. Provides that state offices shall be closed on Monday, January 3, 2000, to commemorate Virginia's legal holiday of New Year's Day. Since January 1, 2000, falls on a Saturday, the current statute provides that state offices would be closed on Friday, December 31, 1999. By moving the legal holiday to Monday, January 3, 2000, this bill provides a three-day weekend completely within the year 2000 to permit state agencies to deal with any computer glitches which may arise as a result of the century date change, without disrupting services to the public. The bill is a recommendation of the Joint Commission on Technology and Science. HB 2153; CH. 206.

State employees transferred to local health departments; continuation of benefits. Provides that persons transferred from state employment to city employment as a result of a contract between the City of Richmond and the State Board of Health will receive state retirement health benefits. SB 843; CH. 619.

Virginia Freedom of Information Act (FOIA); electronic communication meetings. Exempts from FOIA's restrictions on electronic communications meetings (i) any public body (a) in the legislative branch of state government or (b) responsible to or under the supervision, direction, or control of the Secretary of Commerce and Trade or the Secretary of Technology or (ii) the State Board for Community Colleges. The bill does not apply to any session of the General Assembly. The bill adopts the basic requirements of nonelectronic communication public meetings as the required procedure for holding electronic communication meetings. The bill (i) defines "electronic communication means," "emergency," and "meeting"; (ii) requires that, except in an emergency, notice of a meeting must be provided no less than seven days before the meeting in a manner reasonably calculated under the circumstances to apprise the public of the meeting information; (iii) requires that notice for emergency meetings be given contemporaneously with notice provided to members of the public body or Board in a manner reasonably calculated under the circumstances to apprise the public of the meeting information; (iv) for purposes of establishing the participation requirement, requires that every location where a member of

the public body or Board is physically present must be in Virginia and open and accessible to the public; (v) after the presence of three members or a quorum is established, permits members of the public body or the Board who are not physically present in Virginia or at a location open and accessible to the public to participate in the meeting and vote; and (vi) requires public bodies and the Board, when they use the provisions of this bill, to file reports thereon by October 15, 2000. The bill expires on July 1, 2000, and is a recommendation of the Joint Commission on Technology and Science. SB 1026; CH. 704 (effective 3/28/98).

TITLE 3.1. AGRICULTURE, HORTICULTURE AND FOOD.

§ 3.1-17.1 amended. Century Farm Program. Allows farms that do not meet the requirement of an annual income of \$2,500 but are being used for a bona fide silvicultural purpose to be recognized under the program. HB 2659; CH. 346.

§§ 3.1-336.1 and 3.1-336.2 added. Tobacco Master Settlement Agreement. Requires any tobacco product manufacturer selling cigarettes after July 1, 1999, who does not participate in the Master Settlement Agreement between the Commonwealth and certain tobacco product manufacturers, to make deposits into a qualified escrow fund. The amount required to be placed in escrow is determined by multiplying the number of units (cigarettes or their equivalent) sold in a year by an amount that increases from \$.0094241 in 1999 to \$.0188482 in 2007 and thereafter, as adjusted for inflation. Funds may be withdrawn from escrow to pay judgments or settlements on certain claims, if the amount deposited exceeds the Commonwealth's allocable share of payments it would be required to make under the master settlement agreement, or, if not sooner released, 25 years after they were deposited. Failure to make the required escrow deposits shall be subject to civil penalties, and on a second violation shall be barred from selling cigarettes in the Commonwealth. The Department of Taxation is required to promulgate regulations necessary to ascertain the amount of excise tax paid on the cigarettes of tobacco product manufacturers. HB 2608; CH. 754/SB 1318; CH. 714.

§§ 2.1-342, 3.1-611 through 3.1-618, 3.1-621 3.1-624, 3.1-626, 3.1-627, 3.1-629, 3.1-630, 3.1-632, 3.1-634, 3.1-635 and 3.1-636 amended; § 3.1-634.1 added; § 3.1-619, 3.1-620, 3.1-628, 3.1-631, 3.1-633, and 3.1-637 through 3.1-646 repealed. Apples. Changes the way members of the Virginia State Apple Board are elected, combines excise taxes currently paid by apple producers and apple packers so that the tax is paid only by apple producers, and updates provisions relating to the Board, the excise tax and the packing and labeling of apples. The penalty for shipping apples that have been improperly marked and prohibited from being shipped by the Board of Agriculture and Consumer Services is increased from

\$500 to the regular penalty for a Class 1 misdemeanor. Apple producers are required to submit semiannual reports rather than yearly reports to the Board. The Board can require that the records producers are currently required to keep be submitted to the Board, and failure to make the records available to the Board is a Class 3 misdemeanor. The fund into which the excise taxes are paid, the Apple Merchandising Fund, is renamed the Apple Fund. The Fund is administered by the Board, which currently has six members representing six apple-producing districts; under the bill, it will have nine members representing three apple-producing districts. Of the three members representing each district, one will be elected in a referendum in which each eligible producer has one vote, one will be elected in a referendum in which each producer has one vote for each 500 bushels he produced, and one will be elected in a referendum in which each producer has one vote for each \$100 in excise taxes he paid. The bill also provides an exemption from the Freedom of Information Act for apple producer reports and records submitted to the Board. The bill contains technical amendments. HB 2566; CH. 793.

§§ 3.1-796.76, 3.1-796.122, 18.2-144, 18.2-403.1, 18.2-403.2 and 19.2-8 amended. Cruelty to animals. Makes a second or subsequent animal cruelty offense (currently a Class 1 misdemeanor) within five years a Class 6 felony if either offense resulted in the death or euthanasia of an animal. Lawful hunting, fishing, wildlife management and farming activities are not prohibited. The bill also removes the five-year statute of limitations on prosecutions. SB 851; CH. 620.

§ 3.1-796.93:2 added. Authority to prohibit training of attack dogs. Allows Fairfax County (described by form of government) to enact an ordinance which prohibits persons from training dogs on residential property to attack. SB 918; CH. 848.

§ 3.1-796.94:1 amended. Local regulation of animals. Allows localities to charge a fee to owners of poisonous or exotic animals found running at large to cover the locality's cost in capturing the animal. HB 1906; CH. 663.

§§ 3.1-796.96 and 3.1-796.126:3 amended. Confinement and disposition of stray animals. Allows stray animals to be adopted by any person. Currently, such animals may only be adopted by residents of the locality for which the pound or animal shelter is operated or an adjacent locality. The bill requires that animals that are adopted by persons who are not residents of the locality for which the pound or shelter is operated or an adjacent locality must be sterilized prior to adoption. The bill also increases the fine for failure to comply with a sterilization agreement signed when adopting an animal from \$50 to \$150. HB 2155; CH. 672/SB 935; CH. 627.

§ 3.1-796.106:1 amended. Humane investigators. Allows a circuit court to revoke the appointment of a humane investigator for good cause shown. Currently, such appointments may only be revoked if the person is no longer able to perform the duties of a humane investigator, or has been convicted of a felony, Class 1 misdemeanor, or violation of any law regarding animals. HB 1982; CH. 376.

§§ 3.1-796.115 and 3.1-796.124 amended. Animal welfare. Allows localities to require owners of animals seized due to suspected violations of animal care requirements to post bond for the cost of boarding the animals until the matter is adjudicated, and allows courts to prohibit those convicted of violating the prohibition against dogfighting from owning other companion animals. The bill also prohibits aiding or abetting or permitting on one's property any of the acts currently prohibited by the dogfighting statute. These acts are Class 6 felonies, as are the acts currently included in the section. HB 1654; CH. 113.

§ 3.1-796.122 amended. Cruelty to animals. Allows a court to require any person convicted of an animal cruelty violation to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted. HB 2322; CH. 209.

§ 3.1-796.122 amended. Cruelty to animals. Prohibits killing dogs and cats for their fur. The offense is a Class 1 misdemeanor and a second or subsequent offense is a Class 6 felony. SB 1259; CH. 645.

§ 3.1-796.128:2 added. Selling garments containing dog or cat fur. Prohibits the selling of such garments. The offense is punishable by a fine of up to \$ 10,000. HB 2323; CH. 678/SB 1260; CH. 646.

§§ 3.1-1081, 3.1-1092, 3.1-1093, 3.1-1094, 3.1-1098, and 3.1-1099 amended. Virginia Cotton Board. Designates an eighth production area, consisting of Accomack and Northampton Counties, adds an eighth member to the Board, and changes the definition of "handler" so that businesses that gin cotton rather than purchasers of cotton must collect the assessment and keep the records required under the Cotton Board law. HB 2511; CH. 751.

TITLE 4.1. ALCOHOLIC BEVERAGE CONTROL ACT.

§ 4.1-100 amended. Definitions. Includes in the definition of "member of a club" any auxiliary or squadron composed of direct lineal descendants of a bona fide member, whether such member is alive or deceased. The bill would authorize the women's auxiliary and the Sons of the American Legion, as well as auxiliary or squadron subunits of the Veterans of Foreign Wars, to obtain an ABC license. HB 1596; CH. 171/SB 872; CH. 481.

§ 4.1-100 amended. Definitions. Expands the definition of resort complex to include a facility owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public (Wintergreen Resort). Wintergreen would have to meet the size requirements for this type of ABC license and would

be subject to the same requirements the ABC Board sets for hotels. The bill also decreases the number of rooms from 150 to 140 required of resort complexes so as to include Massanutten Ski Resort. HB 1891; CH. 93 (effective 3/15/99).

§§ 4.1-111 and 4.1-119 amended. Regulations of the ABC Board; credit card purchases by licensees. Requires the ABC Board to adopt regulations which prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges. The bill also requires the ABC Board to promulgate emergency regulations on this issue on or before July 1, 1999, and to adopt final regulations on or before June 30, 2000. The bill contains a technical amendment. HB 2249; CH. 98 (effective 3/15/99).

§ 4.1-111 amended. Regulations of the ABC Board. Requires the ABC Board by regulation to establish reasonable requirements related to the issuance of banquet licenses to nonprofit corporations or associations in charge of special events where alcoholic beverages are sold to the public. Such requirements shall require that any banquet licensee subject to these regulations file a report of the income and expenses associated with the event on a form prescribed by the Board, when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the licensee. The bill requires the ABC Board to adopt these final regulations on or before July 1, 2000. SB 1229; CH. 641.

§§ 4.1-206, 4.1-231 and 4.1-233 amended. Equine sporting event license. Authorizes the issuance of an equine sporting event license to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. The bill also sets out the privileges of, and the state and local taxes on, this new license. HB 2485; CH. 325.

§ 4.1-227 amended. Civil penalties for violation. Establishes a civil penalty of \$2,500 for the first violation and \$5,000 for subsequent violations when the suspension of an ABC license resulted from the sale of alcoholic beverages to underage, intoxicated or interdicted persons. Standard civil penalties otherwise are \$1,000 and \$2,500 respectively. SB 1322; CH. 648.

§ 4.1-230 amended. Applications for licenses. Provides for the payment of an additional \$15 fee for each criminal history records search, conducted as a part of a background investigation on each applicant for a license. The search formerly was requested by the applicant who paid the State Police directly, but the waiting period was extensive. This will allow the ABC Board to do the checks directly through the State Police and will shorten the waiting period. HB 1631; CH. 112.

§ 4.1-230 amended. Museum licenses. Exempts applicants for museum licenses from the posting and background

investigation requirements for ABC licenses. HB 2684; CH. 756

TITLE 4.1. MISCELLANEOUS - ALCOHOLIC BEVERAGE CONTROL ACT.

Adoption of regulations. Requires the ABC Board to promulgate emergency regulations to implement the provisions of Chapters 549 and 563 of the 1995 Acts of Assembly and Chapter 40 of the 1997 Acts of Assembly to be effective July 1, 1999, with final regulations effective on or before June 30, 2000. Chapters 549 and 563 required the Board to promulgate regulations concerning the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation. Chapter 40 required the Board to promulgate regulations requiring retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. HB 2248; CH. 380 (effective 3/24/99).

TITLE 5.1. AVIATION.

§§ 62.1-199 and 62.1-203 amended; §§ 5.1-30.1 through 5.1-30.10 added. Virginia Airports Revolving Fund. Establishes a revolving loan fund, to be administered by the Virginia Resources Authority, to make loans for the development of airport projects. The loan fund is similar to existing revolving loan funds for water supply, wastewater, and solid waste and recycling projects. SB 1203; CH. 897.

TITLE 6.1. BANKING AND FINANCE.

§ 6.1-2.9:8 added. Medical savings accounts. Authorizes financial institutions within the Commonwealth of Virginia to establish medical savings accounts in accordance with federal law. The bill also requires the Joint Commission on Health Care, assisted by the Board of Insurance and the Department on Taxation, to study the current federal and state taxation and insurance laws to determine the feasibility of licensing group self-insurance associations that will pool their liabilities for the purpose of offering high deductible, catastrophic health insurance coverage to holders of medical savings accounts. The Joint Commission on Health Care will submit its findings to the Governor and the 2000 General Assembly. HB 2708; CH. 331.

§§ 6.1-2.10 and 6.1-2.13:1 amended. Settlement agents; kickbacks. Allows owners of a settlement service provider to

receive payments based on ownership interests, as well as payments representing a bona fide salary or compensation or other payments for services actually performed for the business of the settlement service provider. Presently, these payments are only afforded to owners of a settlement agent. HB 1579; CH. 109.

§ 6.1-2.13:2 added. Real estate settlements; disclosure of affiliated business by settlement service providers. Requires any person making a referral to an affiliate settlement service provider to disclose the affiliation in accordance with the federal Real Estate Settlement Procedures Act of 1974 (RESPA), and to provide such disclosure regardless of the amount of the person's actual ownership interest in the affiliated provider. The disclosure is not required where such ownership is one percent or less of the capital stock of a corporation or entity with a class of securities registered under the Securities Exchange Act of 1934 (14 U.S.C. § 78a et seq.). HB 2600; CH. 688.

§§ 6.1-2.30, 6.1-2.31, and 6.1-2.32 added. Real estate settlement practices; real estate settlement agent registration. Establishes the Real Estate Settlement Agent Registration Act, governing the qualifications and financial responsibility obligations of persons conducting real estate settlements not covered by the Consumer Real Estate Settlement Protection Act (CRESPA). Under the provisions of this bill, lay settlement agents (defined as a person who is not a licensed attorney or a party to a real estate transaction and provides closing or settlement services in a real estate transaction) must comply with the requirements of CRESPA. SB 1278; CH. 647.

§ 6.1-5 amended; §§ 6.1-32.31 through 6.1-32.45 added. Multistate trust institutions. Enables Virginia trust companies, trust subsidiaries and state banks to open trust offices in other states and permits out-of-state trust institutions and national banks whose home state is other than Virginia to open trust offices in Virginia. An out-of-state trust institution or national bank whose home state is other than Virginia can begin to engage in providing trust services in Virginia, either through acquisition of an existing Virginia trust company or by establishing its own trust offices or bank branches. The home state of the out-of-state trust company or bank seeking to enter Virginia must offer reciprocity to Virginia trust companies and banks. Applications for Virginia trust companies and banks to open offices in other states and for out-of-state trust companies and banks planning to open offices in Virginia must be approved by the State Corporation Commission. The State Corporation Commission is authorized to examine the records of an out-of-state trust company or bank in Virginia. The State Corporation Commission will promulgate regulations to implement the provisions of this bill. HB 2251; CH. 835.

§ 6.1-39.3 amended. Bank branches. Allows the State Corporation Commission ("SCC") to authorize banks to establish branches when the SCC is satisfied that (i) the "safety and soundness" of the bank will not be impaired by the expansion and (ii) such authorization will not be detrimental to

the public interest. Under current law, the SCC applies a "public interest" test prior to approving such expansion. The bill also establishes SCC timetables for action on any such branching application. HB 2250; CH. 545.

§ 6.1-58.1 amended. Investment in stock or securities of controlled subsidiary corporations. Clarifies that all controlled subsidiaries of Virginia banks may charge such interest, finance charges, etc., as the parent bank could charge, and that this ability is not limited to bank subsidiaries engaged in international banking. SB 897; CH. 60.

§ 6.1-125.15 amended. Joint accounts; required disclosures. Requires financial institutions to provide disclosure forms informing persons opening joint accounts of the disposition of such accounts upon a party's death. Disclosures concerning a "Joint Account With Survivorship" must inform such persons that on the death of a party to the account, the deceased party's ownership in the account passes to the surviving party or parties to the account. Disclosures concerning a "Joint Account--No Survivorship" must inform such persons that on the death of a party to the account, the deceased party's ownership in the account passes as a part of the party's estate under the party's will or trust, or by intestacy. HB 2074; CH. 125 (effective 6/1/2000).

§ 6.1-194.2. See § 46.2-100; HB 2016.

§ 6.1-194.12 amended. Certificate of authority of a savings association to do business. Eliminates the requirement that organizing savings institutions establish a separate capital account labeled "reserve for operation" prior to 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). HB 1938; CH. 95.

§§ 6.1-225.2, 6.1-225.14, 6.1-225.16, 6.1-225.23, 6.1-225.27 and 6.1-225.53 amended; § 6.1-225.23:1 added. Credit unions; membership. Revises provisions of the Virginia Credit Union Act relating to fields of membership and eligibility for membership in state credit unions, so as to attain substantial parity with the Federal Credit Union Act (as amended by HR 1151, in August, 1998). The changes permit multiple common-bond fields of membership, within limits; restrict community-based fields of membership to "well-defined, local communities, neighborhoods or rural districts"; and make persons within the "immediate family" or "household" of individuals who are eligible for credit union membership also eligible. The bill also directs the State Corporation Commission (Bureau of Financial Institutions) to consider federal agency rules and policies on these subjects, but allows the State Corporation Commission discretion in applying such rules and policies. SB 1019; CH. 63.

§ 6.1-330.60 amended. Charges by banks and savings institutions; installment loans. Provides that notwithstanding any statute or law relating to interest or usury, including the deferral and capitalization of interest, any loan made by a bank

or savings institution to defray educational expenses, including, but not limited to, tuition, fees, books, supplies, room, board, and personal expenses, shall be lawfully enforced as agreed in the contract of indebtedness. HB 2494; CH. 610.

§ 6.1-330.77 amended. Finance charges under closed-end installment plans. Allows, under a closed-end installment plan, a seller of commercial vehicles and equipment to charge and collect from a purchaser a document fee for the preparation, handling and processing of documents relating to the purchase of such vehicle or equipment. The fee is not considered a finance charge. HB 1949; CH. 373.

§ 6.1-330.77 amended. Finance charges by sellers of goods and services; discharge of security interests of liens; premiums for property insurance. Stipulates that with regard to a closed-end installment plan established in connection with the sale of goods or services: (i) the amount paid by a seller to discharge a security interest or lien on property traded in may be made subject to finance charges, (ii) the payment by a lessor to discharge a security interest or lien on the property traded in may be included in the gross capitalized cost of the goods leased, and does not constitute a loan, and (iii) premiums for vendor's single interest property insurance on goods leased or purchased will not be treated as additional charges for the extension of credit, if the seller or lessor (a) discloses the cost of the insurance if purchased from or through the seller or lessor and (b) advises the buyer or lessee that he may purchase such insurance from the person of his choice. SB 959; CH. 62.

§ 6.1-378.3 added. Money order sales; designation of payees. Prohibits the sale of money orders with face amounts of \$750 or more that do not specify the name of the payees. This bill is not applicable to travelers checks, electronic instruments, stored value products, or other similar instruments. Insured financial institutions are exempt from the provisions of the bill. SB 1071; CH. 355.

§§ 6.1-433 and 6.1-435 amended. Registered check cashers. Requires registered check cashers to give 10 days' advance notice of office openings, closings, and relocations. The bill changes the one-time "registration" fee to an application fee, and provides for annual registration fees not exceeding \$250 to be set by the State Corporation Commission. HB 1879; CH. 529.

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

§ 7.1-40.11 added. Emblems of the Commonwealth; state artisans center. Designates the "Artisans Center of Virginia," located in the City of Waynesboro, as the official artisans' center of the Commonwealth. HB 1593; CH. 69/SB 1027; CH. 336.

**TITLE 8.01. CIVIL REMEDIES AND
PROCEDURE.**

§ 8.01-4 amended. Local court rules. Limits the rules that circuit and district courts may prescribe to only those absolutely necessary to promote proper order and decorum and the efficient use of the courthouse facilities and clerks' offices and invalidates any rule which is not so necessary. The bill states that it is the clear intent of the General Assembly that there be no local rules and that any docket control procedures not affect the substantive rights of the litigants. The Courts of Justice Committees and the Supreme Court are asked to review and recommend to the 2000 General Assembly which matters are docket control procedures and which are local rules. HB 2522; CH. 839 (effective 7/1/00).

§ 8.01-6.2 added. Amendment of pleading; relation back to original pleading; confusion in trade name. Provides that the statute of limitations is tolled whenever a party incorrectly asserts a claim against the wrong party because the trade name of the incorrectly named party is substantially similar to the trade name of the intended party. The party (or its agent) to whom the plaintiff intended to assert the claim must have notice of the claim, and the incorrect claim must have been asserted before the expiration of the applicable limitations period. The bill also provides for tolling of the statute of limitations when a pleading against the estate of a decedent is served or attempted on the executor who, at the time of service, had no authority to accept service. HB 2582; CH. 686.

§ 8.01-9. See § 46.2-356; HB 1812/SB 841.

§ 8.01-9 amended. Civil actions. Provides that if the defendant is indigent, the Commonwealth must pay for the guardian ad litem appointed for an incarcerated felon who is sued by a crime victim. The Commonwealth is entitled to be reimbursed. SB 996; CH. 955.

§ 8.01-44.1. See § 23-9.4; HB 2339.

§ 8.01-44.5 amended. Exemplary damages for persons injured by intoxicated drivers. Makes a technical amendment to the law by specifying how blood alcohol is measured. HB 2412; CH. 324.

§ 8.01-225. See § 32.1-111.1; HB 2097.

§ 8.01-225. See § 22.1-274; SB 889.

§ 8.01-226.5 added. "Year 2000" immunity for certain employees. Provides that civil actions may not be brought against any officers or employees of the Commonwealth or its political subdivisions, constitutional officers, finance directors or jail superintendents based upon the failure of a computer, software program, database, network, or information system operated by or on their behalf to interpret, produce, calculate, generate or account for a date which is compatible with the "Year 2000" date change. HB 2158; CH. 1002.

§ 8.01-226.5 added. Child restraint devices; immunity. Provides that any person who has successfully met the minimum required training standards for installation of child restraint devices established by the U.S. Department of Transportation, who in good faith and without compensation installs, or inspects the installation of, a child safety seat is not liable for any damages resulting from an act or omission related to such installation or inspection in the absence of gross negligence or willful misconduct. SB 1329; CH. 293.

§§ 8.01-227.1, 8.01-227.2, and 8.01-227.3 added. Limiting liability and damages for economic loss in connection with the Year 2000 date change. Stipulates liability and damage rules for civil actions based on "Year 2000 problems." The rules are: (i) no person shall be liable to any person who (a) is not in privity of contract with him, (b) has not been extended an express warranty by him, or (c) in the case of a trust, is not the beneficiary of a trust administered by him; (ii) no person shall be liable for damages caused by a delay or interruption in performance, or in the delivery of goods or services, resulting from or in connection with a Year 2000 problem, to the extent such problem was caused by a "third party" or a third party's Y2K problem; (iii) no employee, officer, or director shall be liable in his capacity as such to any person; (iv) no person shall be liable for consequential or punitive damages; and (v) total damages shall not exceed actual direct damages in any Y2K liability case. The bill does not affect the right of recovery for damages in connection with wrongful death or injuries to persons or property. SB 983; CH. 954.

§§ 8.01-241 and 8.01-242 amended. Enforcement of deeds of trust. Clarifies that a secured party may extend the enforcement period of a deed of trust beyond the 20 years provided by statute by obtaining a certificate, signed by the borrower, and recording it in the clerk's office. The bill also extends the time period for the enforcement of a credit line deed of trust from 20 to 40 years. HB 2451; CH. 788.

§ 8.01-243.2 amended. Limitations of actions by confined persons; exhaustion. Requires persons confined in local correctional facilities to exhaust all administrative remedies before bringing any personal action relating to the conditions of their confinement. HB 1522; CH. 47.

§ 8.01-262 amended. Permissible venue. Makes abundantly clear that venue lies in any county or city wherein any of the plaintiffs reside if all of the defendants are unknown or are nonresidents of the Commonwealth. The current statute has been judicially interpreted to mean that such venue is allowed only if no other permissible venue is available. HB 1899; CH. 73.

§ 8.01-262.1 amended. Place for bringing action under a contract related to construction. Makes unenforceable any provision in a construction contract mandating that any action on the contract be brought in a location outside the Commonwealth. HB 2431; CH. 130.

§ 8.01-273.1. See § 38.2-5003; HB 1555.

§ 8.01-316 amended. **Service by publication.** Provides that the cost of such publication may be paid initially by the party seeking service. However, such costs shall ultimately be recoverable by the party seeking service if that party is given final judgment. SB 941; CH. 353.

§ 8.01-328.1. See § 18.2-152.2; HB 1668/HB 1714/SB 881.

§ 8.01-335 amended. **Certain cases struck from dockets after certain period.** Allows a court to dismiss an action without notice to the parties if the case has been on the docket for three years with no orders or proceedings, except for continuances. The bill also requires that the clerk shall provide notice to the parties after dismissal and that the parties have one year to reinstate it. HB 1565; CH. 652.

§ 8.01-341.1 amended. **Exemptions from jury service.** Makes clear that persons eligible to claim an exemption from jury service may serve if they wish but are exempt from such service upon their request. Current language only provides that such person may claim the exemption. SB 967; CH. 153.

§ 8.01-343 amended. **Juror selection.** Increases the maximum number of jury commissioners for each judicial circuit from nine to 15. HB 2753; CH. 221.

§ 8.01-357 amended. **Jury selection.** Eliminates provision which allows a party to move for selection of jurors by lot. Jurors will be selected randomly. The bill is recommended by the Judicial Council. SB 187; CH. 3.

§ 8.01-418.3 added. **Year 2000 assessment privilege.** Provides that Year 2000 "assessments" and "documents" shall not be discoverable or admissible in evidence unless ordered by the court for good cause shown. The purpose of the bill is to encourage people and businesses to conduct assessments of their Year 2000 readiness and take timely and adequate measures to solve Year 2000 problems without fear that such documents will create opportunities for litigation. The bill is a recommendation of the Joint Commission on Technology and Science. HB 1663; CH. 17.

§ 8.01-425.1 added. **Release of liability; right of rescission.** Provides that a personal injury plaintiff or claimant who executes a release of liability within 30 days of the incident giving rise to the claim who is not represented by counsel may rescind the settlement until midnight of the third business day after the day the release was executed. The rescission must be in writing and any settlement proceeds returned. HB 2560; CH. 326.

§ 8.01-471 amended. **Time period for issuing writs of possession in unlawful entry and detainer; when returnable.** States that writs of possession shall be issued within one year of the entry of judgment for possession in unlawful entry and detainer actions, unless the landlord has accepted rent payments without reservation. HB 2552; CH. 683.

§ 8.01-502.1 amended. **Serving notice of lien on financial institution.** Requires a financial institution to respond within 21 days to a notice of lien from a judgment creditor or

judgment creditor's attorney, and indicate the amount of money held by the financial institution pursuant to the notice of lien. HB 1527; CH. 48.

§ 8.01-508. See § 19.2-80.2; HB 1691/SB 820.

§ 8.01-581.15 amended. **Medical malpractice limit.** Raises the amount recoverable from \$1 million to \$1.5 million, exclusive of interest. The \$1.5 million limit will increase by \$50,000 annually until June 30, 2007. The annual increase on July 1, 2007, and the annual increase on July 1, 2008, shall be \$75,000 per year. Each annual increase shall apply to the act or acts of malpractice occurring on or after the effective date of the increase. The July 1, 2008, increase shall be the final annual increase. SB 1230; CH. 711 (effective 8/1/99).

§ 8.01-582 amended. **Appointment of general receivers; their duties; audit of funds.** Ensures that all funds held by a general receiver who was appointed by a clerk of the circuit court are protected as "public funds" pursuant to the requirements of the Virginia Security for Public Deposits Act. HB 2036; CH. 198.

TITLE 8.01. MISCELLANEOUS - CIVIL REMEDIES AND PROCEDURE.

Voluntary disclosure and free exchange of "Year 2000" readiness information. Provides immunity from liability for damages to any person for injury resulting from disclosing information, in good faith, about "the Year 2000 problem," or "a Year 2000 failure," affecting computer systems and programs. The bill would not, however, limit liability for those persons who disclose Year 2000 information for profit or which is material and false, inaccurate, or misleading, as specified; nor would it affect any other remedy available. The bill contains an emergency clause and is a recommendation of the Joint Commission on Technology and Science. HB 1671; CH. 859 (effective 3/29/99).

TITLE 8.9. COMMERCIAL CODE - SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER.

§ 8.9-402 amended. **Uniform Commercial Code; financing statements; electronic filings.** Clarifies that Uniform Commercial Code financing statements and related documents (amendments, continuation statements, termination statements, assignments, and statements of release) may be electronically filed with the State Corporation Commission. HB 2104; CH. 96 (effective 3/15/99).

TITLE 9. COMMISSIONS, BOARDS AND INSTITUTIONS GENERALLY.

§§ 9-6.14:4.1, 9-6.23, 9-6.25:1, 9-6.25:2, 9-145.53, 9-145.56, 9-253, 9-266.4, 9-361, 9-145.50 and 9-145.51. See § 2.1-1.1; HB 1727/HB 2188/SB 808.

§ 9-6.14:4.1 amended. Administrative Process Act; exemptions and exclusions. Exempts the Board of Health from compliance with the Administrative Process Act (§ 9-6.14:1.1 et seq.) when promulgating the list of diseases that must be reported to the Department of Health. The Board must continue to file any new regulations with the Registrar of Regulations for publication. There is also a technical amendment. HB 2191; CH. 603.

§ 9-6.14:4.1. See § 23-9.4; HB 2339.

§ 9-6.23 amended; § 9-171.1 added. School Resource Officer Grants Program and Fund. Establishes, from such funds as may be appropriated, the School Resource Officer Grants Program and Fund. The Criminal Justice Services Board is to disburse moneys from the Fund to award matching grants to school boards to employ uniformed school resource officers (SROs) in middle and high schools within the relevant school division. Certified law-enforcement officers, these SROs are to be employed to help ensure safety and to prevent violence in schools. HB 1445; CH. 512.

§§ 2.1-1.7, 2.1-51.21, 9-6.23, 9-6.25:1, 9-6.25:2, 9-329.1, 9-329.2, and 63.1-133.45 amended; § 60.2-112 and 63.1-133.44 repealed. **Statewide Workforce Training Council; membership; powers.** Changes the name of the Statewide Workforce Training Council to the Virginia Workforce Council and establishes the Council as a policy-making entity. The membership is increased from 23 members to 43. The bill provides for (i) the Secretary of Commerce and Trade and the Council to assist the Governor in complying with the provisions of the federal Workforce Investment Act (P.L. 105-220), referred to in the bill as "WIA," including the creation of Virginia's Workforce Development Program; (ii) the Governor to select the chairman and vice-chairman of the Council from among the 22 business representatives; (iii) the Virginia Employment Commission and the Virginia Community College System to serve as staff to the Council as directed by the Secretary of Commerce and Trade; and (iv) the Virginia Employment Commission to act as fiscal agent for the Council. The bill also abolishes the Advisory Commission on Welfare Reform and the State Advisory Board for the Virginia Employment Commission. In addition, the bill provides that the existing appointments, who shall serve at the pleasure of the Governor, are not affected and that any new appointments made after July 1, 1999, shall be made in accordance with the act. The bill contains technical amendments. HB 2558; CH. 840/SB 1257; CH. 855.

§ 9-6.25:1. See § 54.1-2900. HB 2367/HB 2547/SB 1191.

§ 9-6.25:2. See § 51.1-1200; HB 1735/HB2023.

§ 9-6.25:2. See § 54.1-202; SB 926.

§ 9-49 amended. Appointment and terms of Commissioners for the Promotion of Uniformity of Legislation in the United States. Changes the terms of office from two to four years and commences the term on October 1, instead of July 1, to avoid potential conflict with the annual meeting of the National Conference. The bill further provides that members shall serve until their successors are appointed. SB 1089; CH. 338.

§§ 9-53, 9-54, and 9-55 amended; §§ 9-57.1 and 9-59 repealed. **Virginia Commission on Intergovernmental Cooperation; membership; duties.** Increases the House and Senate membership on the Commission from five from each body to six from each body. The bill also includes the clerks of the Senate and House of Delegates as ex officio, nonvoting members of the Commission. The bill (i) provides that the Commission shall have the power to establish such committees as deemed advisable and designate the members of every such committee, (ii) removes the approval of the Governor for appointments made by the Commission, (iii) eliminates the Commission's annual reporting requirement to the Governor and General Assembly, and (iv) clarifies that the Commission is a legislative agency. SB 1056; CH. 850 (effective-see bill).

§ 9-55 amended. Commission on Intergovernmental Cooperation; membership. Provides for the membership of the Commission on Intergovernmental Cooperation to consist of the members of the Commission on Interstate Cooperation of the Senate, the members of the Committee on Interstate Cooperation of the House of Delegates, and the Clerk of the House of Delegates and the Clerk of the Senate, who shall serve as ex officio, nonvoting members. The bill also removes the approval of the Governor for appointments made by the commission. HB 2629; CH. 879.

§ 9-77.11 amended. Code Commission; title revisions. Provides that a title revision bill that repeals a section of the Code shall not by itself repeal an uncodified enactment affecting the section repealed unless the bill expressly repeals the uncodified enactment. HB 1915; CH. 121.

§ 9-99.4 amended. Frontier Culture Museum. Authorizes the Board of Trustees of the Frontier Culture Museum to elect any past member of the Board of Trustees to the honorary position of trustee emeritus. Trustees emeritii would serve as honorary members for life and would not have voting privileges. HB 1648; CH. 15.

§§ 9-168, 9-170, 9-179 and 15.2-1704 amended. **Department of Criminal Justice Services.** Requires the Department of Criminal Justice Services to establish compulsory minimum training standards and qualifications for certification and re-certification of law-enforcement officers serving as field training officers. The bill also contains technical amendments. SB 1106; CH. 495.

§ 9-170 amended. Department of Criminal Justice Services; powers and duties. Authorizes the Department of Criminal Justice Services to promulgate regulations relating to forensics evidence testing and processing which are administered by the Division of Forensic Sciences. HB 1849; CH. 307 (effective 3/22/99).

§ 9-173.8. See § 63.1-248.3; HB 2394.

§ 9-178.2 amended. Law-enforcement expenditures. Clarifies that existing funds for the regional criminal justice training academies shall not be reduced by either state or local entities as a result of the enactment of Chapter 215 of the Acts of Assembly of 1997. HB 2252; CH. 546 (effective 3/27/99).

§ 9-183.1 amended. Department of Criminal Justice Services; definitions. Clarifies the definition of "electronic security equipment" by eliminating the reference to radio frequency-based technology. HB 1995; CH. 33.

§§ 9-228.1 and 9-228.4 amended. Virginia Export Loan Guarantee Fund. Permits the Virginia Export Loan Guarantee Fund to be used to provide direct loans to exporters. Currently, the Fund is only authorized to provide loan guarantees. The bill also changes the title of the Fund to the Virginia Export Fund. HB 2233; CH. 785.

§ 9-265.1 added. Advanced Communications Assistance Fund created. Creates the Advanced Communications Assistance Fund, to be administered by the Innovative Technology Authority, to help underserved localities in the Commonwealth take full advantage of advanced communications services. The Fund, which may be used for grants or loans, will consist of such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources. HB 2436; CH. 924.

§§ 9-271 and 9-323. See § 37.1-1; SB 1224.

§§ 9-304.1 through 9-304.6 added. Capitol Square Preservation Council created. Creates the Capitol Square Preservation Council. The Council shall have the power, with regard to the architectural, historical, archeological and landscape features of Capitol Square, to: (i) inventory and assess their conditions; (ii) develop plans for preservation and organized enhancement; (iii) recommend activities to enhance interpretive and educational opportunities; and (iv) review all plans for alterations, improvements, additions, renovations or other dispositions. The Council shall have the authority to hire an executive director who will act as curator for Capitol Square. HB 1206; CH. 976.

§ 9-329.6 added. Workforce Training Access Program and Fund. Establishes the Workforce Training Access Program and Fund, administered by the Secretary of Finance, to guarantee payment of workforce training loans made by a national student loan marketing association, consistent with §§ 10 and 11 of Article VIII of the Virginia Constitution. The Secretary of Finance is authorized to enter into an agreement with the national student loan marketing association that will originate, fund and service workforce training loans to persons enrolled

in workforce training courses and programs which the Statewide Workforce Training Council has certified to be responding to the technology needs of business and industry in the Commonwealth pursuant to § 9-329.2. Only persons (i) who are Virginia residents or (ii) who are employed in Virginia and whose employers make loan repayments directly by payroll deduction or tuition assistance, before providing for the training needs of other students in such certified courses, shall be eligible to receive workforce training loans. Nothing herein shall be construed to impose an obligation upon an employer to make loan payments or to continue tuition assistance after termination of the student's employment. If the association ceases to make workforce training loans, the Fund reverts to the general fund of the Commonwealth, after payment of, or provision for, any outstanding obligations the Fund guarantees. HB 2585; CH. 794.

§§ 2.1-1.5 amended; § 9-380 through 9-389, and 32.1-354 through 32.1-365 added. Tobacco Indemnification and Community Revitalization Commission and Fund; Virginia Tobacco Settlement Foundation Fund. Establishes the Tobacco Indemnification and Community Revitalization Commission to administer funds received by the Tobacco Indemnification and Community Revitalization Fund. The Fund shall receive 50 percent of the funds received by the Commonwealth pursuant to the tobacco Master Settlement Agreement. The Commission shall use the moneys in the Fund to make payments to tobacco farmers and for projects in tobacco dependent communities. The bill also creates the Virginia Tobacco Settlement Fund, to receive 10 percent of the funds received by the Commonwealth under the Master Settlement Agreement. This Fund shall be administered by the newly-created Virginia Tobacco Settlement Foundation. This Fund will be used to finance efforts to limit the use of tobacco products by minors. HB 2635; CH. 880/SB 1165; CH 962.

TITLE 10.1. CONSERVATION.

§§ 2.1-1.5, 10.1-202, 10.1-1017, 10.1-1018, 10.1-1020, 10.1-1021 and 10.1-2213 amended; § 10.1-1022.1 added.

Virginia Land Conservation Foundation. Renames the Virginia Conservation and Recreation Foundation, Fund and Board of Trustees as the Virginia Land Conservation Foundation, Fund and Board of Trustees, and requires that unrestricted moneys in the Fund be allocated equally among the following uses: natural area protection, open spaces and parks, farmlands and forest preservation, and historic area preservation. The bill also allows moneys in the fund to be used for matching grants to localities, public bodies and nonprofit organizations for purchasing interests in land for land conservation purposes. Matching grants for natural area protection require a recommendation from the Department of Conservation and Natural Resources, based on specific criteria. This is a recommendation of the Commission on the Future of

Virginia's Environment. HB 1747; CH. 906/SB 1304, CH. 900.

§ 10.1-563 amended. Regulated land-disturbing activities; submission and approval of control plan. Permits the annual filing by certain utilities of erosion and sediment control plans with the Virginia Soil and Water Conservation Board. This bill extends to natural gas and natural gas pipeline companies the same treatment that railroads, and electric and telephone utilities are afforded. Under the bill, if the erosion and sediment control plan filed by the utility is not acted upon by the Board within 60 days, the plan's specifications are deemed to be approved. HB 2443; CH. 555.

§ 10.1-572 amended. Soil survey. Extends the date for completion of the inventory of Virginia's soil resources from the year 2000 to 2006 and makes completion of the survey contingent upon the availability of state and federal resources. SB 1029; CH. 155.

§ 10.1-609 amended. Dam safety. Authorizes the Director of the Department of Conservation and Recreation to order the lowering or complete draining of an earthen impoundment if it has been determined that the impoundment structure is unsafe. Only authorized persons may maintain the impounding structure. HB 1582; CH. 110.

§ 10.1-1105 amended. Forestry technical assistance. Requires the State Forester, in preparing plans and providing technical assistance for the protection, management and replacement of trees, wood lots and timber tracts, and the establishment and preservation of urban forests, to use generally accepted forestry principles. HB 2668; CH. 220.

§ 10.1-1107 amended. Department of Forestry. Clarifies the manner in which the State Forester may accept and manage gifts of land, personal property and money on behalf of the Commonwealth for state forest purposes, and authorizes him to convey or lease land so acquired, with the approval of the Governor and General Assembly. The bill also provides that approval by the General Assembly shall not be required for the sale or harvesting of timber on state forest lands or other lands over which the Department has supervision and control. HB 2081; CH. 201.

§ 10.1-1119.1. See § 58.1-346.9; HB 2047.

§ 10.1-1183 amended. Department of Environmental Quality enforcement. Adds to the purposes of the Department of Environmental Quality that the laws, regulations, and policies which apply to permit and certificate holders be consistently enforced regardless of whether the facility is owned or operated by a public or private entity. HB 2178; CH. 207.

§ 10.1-1197.3 amended. Small Business Environmental Compliance Assistance Fund. Allows money from the Fund to be used to make loans or to guarantee loans for the installation of agricultural best management practices. SB 1146; CH. 893.

§ 10.1-1322.3 amended. Air emissions trading. Authorizes the State Air Pollution Control Board to establish an emissions trading program based upon emission caps. Currently, the Board is authorized to establish a voluntary, or open-market, emissions trading program which does not utilize emission caps. The federal program allows states to use emissions trading to achieve the reduction in air emissions, but the program must be based on emission caps. The new language will allow the implementation of an emissions trading program which will satisfy federal requirements for NOx reduction and should expedite the EPA's approval of the State Implementation Plan. HB 2689; CH. 1022.

§ 10.1-1406 amended. Expedited settlement of waste site liability. Allows the Virginia Waste Management Board to expedite determinations to limit the liability of innocent landowners, de minimis contributors or others who have grounds to claim limited responsibility for a contaminated waste site clean up. HB 2705; CH. 798.

§ 10.1-1408.1 amended; § 10.1-1408.3 added. Caps on landfill disposal. Caps the amount of municipal solid waste that may be disposed of in a landfill at 2,000 tons per day, or the actual amount disposed of in 1998, whichever is greater. An alternative cap calculation method is provided for landfills that have not been operating for a sufficient length of time to provide an equitable cap. The Waste Management Board may allow additional disposal at a facility after considering certain factors and after a public hearing has been held. Waste mined from a substandard landfill for re-disposal in a proper landfill is not to count against the cap. The provisions do not allow for any increased disposal activity above levels that may be set by any other means. Additional requirements are placed on the DEQ Director before he can issue a permit for a new municipal solid waste landfill. HB 2555; CH. 611/SB 1201; CH. 580.

§ 10.1-1408.1 amended; §§ 10.1-1406.2, 10.1-1408.3, 10.1-1410.2, 10.1-1413.2, and 10.1-1454.2 added. Solid waste management. Makes numerous changes to Virginia's laws regulating solid waste. The bill expands the required review and determinations that must be made by the Department of Environmental Quality (DEQ) when it considers permit applications related to solid waste management facilities and the siting of new landfills, including prohibiting new landfills in seven types of environmentally or geologically sensitive areas. The Virginia Landfill Clean-up and Closure Fund is created to make grants to local governments and political subdivisions which exist to provide solid waste management services (public service authorities and sanitary districts) for proper closure of landfills without adequate liner and leachate control systems, whether owned by the local government or political subdivision or abandoned in their jurisdiction. The source of funds for the Fund is the general fund. The bill also requires the development of regulations governing truck transport of municipal solid waste; provides for the incorporation into permits of guarantees for municipal solid waste disposal capacity for Virginia localities in accordance with solid waste management plans; requires agreements between host localities and applicants for new or

expanded landfill operations; requires certification by waste transporters that waste is suitable for disposal at a facility before the facility may accept it; requires DEQ to extend post-closure monitoring and maintenance and financial assurance requirements when necessary to protect human health and the environment; and imposes a one-year moratorium on permit issuance for new landfills except for those permits for which a notice of intent was filed before January 1, 1999. DEQ is also directed to conduct a comprehensive study of waste management practices and needs. There are also technical amendments. HB 2557; CH. 613/SB 865; CH. 947/SB 1309; CH. 584.

§ 10.1-1454.1 amended. Regulation of wastes transported on water. Adds to the directives on the types of regulations to be developed for containers carrying certain wastes by ship, barge or other vessels on the waters of the Commonwealth. To the extent allowable under federal law, the regulations are to include provisions related to: (i) container testing; (ii) manifests on waste suitability for destination disposal facilities; and (iii) number of containers that can be stacked upon each other and how the containers are secured. Facilities may not receive commercially transported wastes from a ship, barge or other vessel until the regulatory program has been developed. Fees for facilities receiving the wastes from a ship, barge or other vessel are to be increased to cover the cost of at least a quarterly inspection program by the Department of Environmental Quality. HB 2430; CH. 608.

§ 10.1-1454.2 added. Water transport of wastes. Provides for the prohibition, to the fullest extent consistent with limitations posed by the Constitution of the United States and as is necessary to protect health, safety and welfare and the environment, the commercial transport of certain types of wastes, by ship, barge or other vessel, on the Rappahannock, James and York Rivers. The Virginia Department of Transportation is to conduct a study on the impact any such prohibition may have on highway safety. HB 2556; CH. 612/SB 1308; CH. 583.

§ 10.1-1455 amended; § 10.1-1408.3 added. Solid waste management and enforcement. Prohibits the issuance of permits for the siting of new municipal solid waste landfills in wetlands. The prohibition does not apply to an expansion into the Great Dismal Swamp sought by the Southeastern Public Service Authority. Routine groundwater monitoring at landfills in wetland areas or within their proximity is doubled unless the Department of Environmental Quality Director finds that less frequent monitoring is necessary. The Virginia Waste Management Board is authorized to issue administrative orders that may include monetary penalties, and may require the violator to take corrective action and cease activities in cases where solid waste management laws, regulations, permits or orders are not being complied with. There is also a technical amendment. HB 2471; CH. 876.

§ 10.1-1801.1 amended. Open-Space Lands Preservation Trust Fund. Allows the Open-Space Lands Preservation Trust Fund to be used for an appraisal when a grant from the Fund is

being used to purchase a conservation easement. The bill also allows the Board of Historic Resources to be a co-holder of an easement for which a grant is made from the Fund and allows the Virginia Outdoors Foundation to act on a grant application in the event a regional advisory board fails to make a recommendation on the application. HB 2589; CH. 927.

§§ 10.1-2117, 10.1-2128, 10.1-2131 and 10.1-2132 amended. Educational institution Water Quality Improvement Fund grant eligibility. Specifies that institutions of higher education are eligible to receive grants from the Water Quality Improvement Fund. HB 2318; CH. 257 (effective 3/18/99).

§§ 10.1-2129 through 10.1-2132 amended. Water Quality Improvement Act. Specifies minimum public participation requirements to be used in the development of guidelines describing eligibility requirements, priorities, and criteria for grants from the Water Quality Improvement Fund. The Director of the Department of Environmental Quality may, if he finds that sufficient funds are available in the Water Quality Improvement Fund for substantial and continuing progress in implementation of tributary plans, make grants from the Fund for purposes other than nutrient reduction at publicly owned treatment works. The bill also requires notice of proposed grant agreements to be given to those who request it. The bill adds "instructional education directly associated with the implementation or maintenance of a specific nonpoint source reduction initiative" to the nonexclusive list of the types of projects that may receive nonpoint funding. HB 814; CH. 509.

§ 10.1-2132 amended. Suspended solids; Water Quality Improvement Act Grants. Includes suspended solids in the nonexclusive list of pollutants that may be the object of water quality protection efforts funded by nonpoint source pollution-related Water Quality Improvement Act Grants. HB 2268; CH. 549.

§ 10.1-2211 amended. Care of Confederate graves. Adds Emmanuel Episcopal Church at Brook Hill in Henrico County, which maintains 86 Confederate graves, to the list of those entities receiving funds through the Department of Historic Resources for the care of such graves. SB 801; CH. 473.

§§ 2.1-1.5 and 10.1-2402 amended; §§ 10.1-2400 through 10.1-2404 repealed. Historic preservation fund. Authorizes the transfer of the assets of the Historic Resources Revolving Fund, administered by the Board of Trustees of the Virginia Historic Preservation Foundation, to a private organization, the Association for the Preservation of Virginia Antiquities (APVA). Under a trust agreement the assets will be deposited in the newly established Virginia Preservation Trust Fund, which will be managed and administered by APVA. The new trustees are to serve without compensation. The Trust Fund is to consist of any property, gifts, grants, or appropriations made to the Trust Fund. The sole purpose of the new fund is to preserve properties listed or eligible for listing on the Virginia Landmarks Register through the (i) acquisition of such properties, (ii) donation of a perpetual preservation easement on such properties, or (iii) subsequent resale of the protected properties. Certain provisions of the bill seek to ensure that the

Commonwealth's interests are protected during the course of the transfer of the assets. The Director of the Department of Historic Resources will serve as a voting member of APVA's Property Committee, and he will, along with the Attorney General, receive, by November 1 of each year, the annual financial audit of the Trust Fund. The Board of Trustees of the Virginia Historic Preservation Foundation will retain the power to review the operations of the Trust Fund until January 1, 2003. If it finds that the provisions of the trust agreement are not being carried out, it can recommend to the Governor that APVA be removed as the trustee. After January 1, 2003, if the Trust Fund has not been reconveyed to the Board of Trustees, the Board will cease to exist and its powers will be abolished. The Attorney General will retain the power to take any legal action to enforce the trust. HB 2490; CH. 558 (effective-see bill).

TITLE 11. CONTRACTS.

§ 11-9.6 amended. Duties of attorneys-in-fact and agents empowered to act under § 11-9.1. Provides that when a person interested in the welfare of a principal who is unable to attend to his personal affairs requests that the attorney-in-fact for the principal disclose the extent to which he has chosen to act and the actions taken on behalf of such principal, the attorney-in-fact must disclose the actions that occurred within two years of the date of the request or within two years of the date of the death of the principal. The bill also states that any such requests made after the death of the principal must be made within one year of such death. HB 2001; CH. 76.

§ 11-35 amended. Public Procurement Act; exemptions. Exempts the selection of investment management services by the State Treasurer which are related to the external management of funds from the Public Procurement Act. Such selections shall be governed by the standard of care provided by § 2.1-328.14 and competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the Department of General Services. HB 1935; CH. 248.

§ 11-35. See § 22.1-212.2:2; HB 2176.

§ 11-35 amended. Public Procurement Act; exemptions. Exempts the selection of investment management services by the State Treasurer which are related to the external management of funds from the Public Procurement Act. Such selections shall be governed by the standard of care provided by § 2.1-328.14 and competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the Department of General Services. SB 912; CH. 230.

§ 11-40.4. See § 46.2-1500; HB 1917.

§ 11-41 amended. Virginia Public Procurement Act; emergency procurements. Provides that, until January 1, 2001, the procurement of goods and services to remediate computers, software programs, databases, networks,

information systems, firmware, or any other devices which are not compliant with the "Year 2000" date change shall be deemed as "emergency procurements." The purpose of the bill is to assist the efforts of state agencies and localities to find and retain vendors to fix their Year 2000 problems forthwith. The bill contains technical amendments and an emergency clause. The bill is a recommendation of the Joint Commission on Technology and Science. HB 1662; CH. 178 (effective 3/17/99).

§ 11-41.2:3 amended. Public Procurement Act; Design-Build/Construction Management Review Board; membership. Clarifies that the list of representatives of public bodies recommended for membership on the Board shall include at least four persons with design-build or construction-management experience. HB 2138; CH. 127.

§ 11-45 amended. Public Procurement Act; exemptions. Adds an exemption from the Public Procurement Act for public bodies that purchase under the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.). As a result, these public bodies may procure goods or personal services for direct use by the recipients of such programs without competitive sealed bidding or competitive negotiations if the procurement is made for an individual recipient. HB 1990; CH. 194.

§ 11-45. See § 32.1-325; HB 2567.

§ 11-45. See § 2.1-373; HB 2632.

§ 11-45. See § 32.1-325; HB 2717.

§ 11-45 amended. Public Procurement Act; exemptions. Authorizes the Department of Health to enter into contracts without competitive sealed bidding or competitive negotiation for health care services with Virginia charitable corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured organized for the delivery of primary health care services in a community (i) as federally qualified health centers or (ii) at a reduced or sliding fee scale or without charge. SB 1112; CH. 160.

§ 11-47.3 amended. Public Procurement Act; preference for community reinvestment activities in certain contracts. Allows certain high-growth localities as described in § 15.2-2298 to provide for preferences in awarding contracts for community reinvestment activities with qualifying institutions which enhance and preserve agricultural uses and agribusiness activities within the locality. The bill also limits to 50 percent the amount of funds which may be invested. A "high-growth locality" is described in subsection A of § 15.2-2298 as (i) any locality which has had a population growth of 10 percent or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census; (ii) any city adjoining such city or county; (iii) any towns located within such county; and (iv) any county contiguous with at least three such counties, and any town located in that county. The bill has a July 1, 2003, sunset provision. SB 1139; CH. 708.

§ 11-54 amended. Public Procurement Act; withdrawal of bid. Provides that if a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake that was an unintentional arithmetic error or an unintentional omission of quantity of work, labor or material made directly in the compilation of the bid. The clerical mistake must be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. HB 2391; CH. 344.

§§ 11-64, 11-65, and 11-70 amended. Public Procurement Act; decisions of public bodies; standard of review. Applies a consistent standard of review under the Public Procurement Act to prevent public bodies from making not only arbitrary and capricious decisions, but also decisions that violate applicable provisions of the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid. The bill also allows the award of the contract to the appealing bidder, in addition to the currently available relief of finding that the bidder is a responsible bidder, where there has been a determination that the decision of the public body was arbitrary or capricious or not in accordance with the state Constitution and the contract has not been awarded. HB 2393; CH. 1008.

TITLE 13.1. CORPORATIONS.

§ 13.1-514 amended. Securities; exemptions from registration. Authorizes the Virginia State Corporation Commission (SCC) to broaden, narrow or further condition the limited offering exemption contained in the Virginia Securities Act. The bill permits the SCC to exclude by regulation certain categories of investors from the 35-purchaser count and clarifies that registered broker-dealers may participate on behalf of the issuer of the security. Additional provisions authorize the SCC to (i) broaden the exemption section to allow participation of directors (including nonemployee directors) in a covered benefit plan and (ii) create by regulation an exemption for offers and sales solely to "accredited investors." HB 1873; CH. 92.

§§ 13.1-543 and 13.1-1102 amended. Professional corporations; licensed nurse practitioners. Allows nurse practitioners to organize professional corporations and professional limited liability corporations. HB 2539; CH. 83.

§§ 13.1-550, 13.1-552, 13.1-1115 and 13.1-1117 amended. Professional corporations; transfer of shares to charitable remainder trusts. Authorizes shareholders of professional corporations to transfer their shares in such corporations to a charitable remainder trust. The bill conditions such a transfer upon the requirement that the income beneficiaries and trustees of the charitable remainder trust must be eligible to render the same professional services as the shareholders of the

corporation. Additionally, the charitable remaindermen must be domiciled or maintain a local chapter in Virginia. The bill adopts the definitions of "qualified charitable remainder trust" contained in § 664 of the United States Internal Revenue Code of 1986, as amended. The bill also incorporates parallel provisions into the Professional Limited Liability Company act. HB 2408; CH. 100.

§ 13.1-657 amended. Corporations; shareholder action without meeting; prior notice. Streamlines procedures governing the actions of corporate shareholders without a meeting. HB 2441; CH. 416.

§ 13.1-658 amended. Corporations; electronic notification of shareholders' meetings. Authorizes corporations with 300 or more shareholders to notify shareholders of annual and special shareholders' meetings by electronic means. The authorization is effective as to those shareholders who direct such a corporation to send them meeting notices in electronic format. Shareholders are permitted to provide this direction in written or electronic form. HB 2721; CH. 102.

§ 13.1-730 amended. Corporations; dissenter's rights. Prohibits shareholders of tax exempt stock corporations located in a county having a county manager form of government from dissenting and obtaining payment for their shares. SB 958; CH. 288.

§ 13.1-847 amended. Corporations; proxies; electronic and other authorizations. Broadens the proxy provisions of the Virginia Nonstock Corporation Act to permit proxy appointment by written authorization, telegram, cablegram or other electronic means. Under current law, proxy appointment can be accomplished only through written authorizations signed by nonstock corporation members entitled to vote. The bill also stipulates that a fiduciary entitled to vote shares may vote them by proxy. HB 2719; CH. 101.

§ 13.1-1027 amended. Limited liability companies; contributions by members. Establishes conditions under which a member who is a corporation can make its contribution to a limited liability company in the form of assets for which a project application has been approved. SB 1194; CH. 966.

TITLE 15.2. COUNTIES, CITIES AND TOWNS.

§ 15.2-108 added. Localities; immunity for certain computer failures. Provides that tort actions may not be brought against the Commonwealth's counties, cities, towns or entities established by one or more local governments to provide public transportation services, or other political subdivisions, or employees or officers thereof based upon the failure of a computer, software program, database, network, information system, firmware, or other device to interpret, produce, calculate, generate, or account for a date which is

compatible with the "Year 2000" date change. Acts or omissions constituting gross negligence or willful misconduct are excluded from the bill's coverage. The bill is a recommendation of the Joint Commission on Technology and Science. HB 1669; CH. 978.

§ 15.2-502 amended. County executive form of government; vacancies on board of supervisors. Requires an immediate special election to fill a vacancy on the board in Prince William County (described by form of government). The bill provides that the judge of the circuit court shall order the election within 15 days of the vacancy and set an election date within 45 to 60 days of the order with certain restrictions. The local electoral board shall set the candidate filing deadline for the special election. There shall not be a temporary appointment by the remaining board members to fill the vacancy pending the election. However, if the vacancy occurs within the 180 days before the expiration of the term of the office, there shall be no special election, and the remaining board members shall appoint a new member to fill the vacancy for the remainder of the term. HB 1610; CH. 718.

§ 15.2-708 amended. County manager plan; county manager. Eliminates the requirement that the Arlington County (described by form of government) county manager be paid in monthly installments. SB 757; CH. 136.

§§ 15.2-901 and 15.2-906 amended. Waiver of certain liens. Allows localities to waive liens associated with weed or trash removal or property repair or demolition in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed. HB 1630; CH. 174.

§ 15.2-905 amended. Inoperable vehicles. Amends provisions allowing certain localities by ordinance to require screening or removal of inoperable vehicles to permit such localities to apply such ordinance to areas used for residential purposes, even if not zoned for such use. SB 1326; CH. 901.

§ 15.2-926. See § 22.1-266; HB 2697.

§ 15.2-926.1 added. Bounties for coyotes. Authorizes localities to permit the killing of coyotes within their boundaries and pay bounties for coyotes killed. SB 949; CH. 487.

§ 15.2-953 amended. Donations by localities. Permits localities to make monetary gifts and donations to state colleges and universities providing services to the locality's residents. HB 1825; CH. 430.

§ 15.2-1104.1. See § 58.1-3818; HB 1810.

§ 15.2-1127 amended. Vacant building registration. Amends provisions which allow localities by ordinance to impose a \$25 annual registration fee on owners of vacant buildings to provide that failure to register vacant buildings located in conservation and rehabilitation districts or in

blighted areas shall be punishable by a civil penalty not exceeding \$250. HB 1962; CH. 250.

§ 15.2-1242 amended. Minutes of meetings for counties. Allows counties to fulfill minutes-of-meetings requirements of regularly occurring meetings at which no official action is taken by tape or sound recording. HB 2111; CH. 126.

§ 15.2-1500. See § 56-484.12; HB 2277.

§ 15.2-1505 amended. Residency requirements for certain local employees. Amends provisions prohibiting localities from conditioning employment on the basis of residency in a particular locality by adding two additional exceptions: (i) employees participating in a local police cadet program and (ii) employees participating in a local homesteading program. The new exceptions apply only to the Cities of Petersburg and Hopewell (described by population). HB 1963; CH. 375.

§ 15.2-1517 amended. Insurance for local government employees and former employees. Clarifies that localities which offer group health plans to its employees may provide in the plan that any participating retiree who subsequently terminates his coverage may not thereafter rejoin a group health plan provided by the locality. However, the bill also provides a period of time, expiring on July 1, 2000, for former members to rejoin such programs. HB 2693; CH. 797.

§ 15.2-1518 amended. Local liability insurance. Allows localities to provide liability insurance to members of commissions and boards, in addition to employees and volunteers. SB 937; CH. 151.

§ 15.2-1535 amended. Local governing body members. Allows a member of a local governing body to serve as a member of a board of directors of a Regional Industrial Facility Authority. SB 1149; CH. 811.

§ 15.2-1605.1 amended. Supplemental salary of the clerk of circuit court. Removes a conflict in the law that authorizes localities to supplement the salaries of the clerk of the circuit court. The provision is in conflict with the current general appropriation act (Item 71), which authorizes localities to supplement the salaries for all constitutional officers except the clerk, and § 17.1-287, which requires the full salary of the clerk to be set out in the general appropriation act. The conflict arose during the repeal of Title 14.1 and recodification of Title 17 when the existing law was inadvertently changed. SB 821; CH. 283.

§ 15.2-1627.3. See § 17.1-275; SB 444.

§ 15.2-1636.20 amended. Car tax relief; reimbursement of administrative costs. Provides that 100 percent of the fair and reasonable administrative costs incurred by the localities in implementing the car tax relief shall be reimbursed to them. HB 1806; CH. 185/SB 879; CH. 148 (effective 3/17/99).

§ 15.2-1704. See § 9-168; SB 1106.

§ 15.2-1706 amended. Law-enforcement officer certification. Provides that all entry-level, law-enforcement officers seeking certification on or after July 1, 2001, shall

successfully complete statewide certification examinations developed and administered by the Department of Criminal Justice Services. The bill provides that the Department may delegate the administration of the examinations to an approved criminal justice training academy. SB 1107; CH. 635.

§ 15.2-1717.1 added. Trespass; local ordinances. Authorizes localities to establish a procedure, by ordinance, permitting a property owner to designate the local law-enforcement authority to enforce trespass violations occurring on the property. HB 1862; CH. 275.

§ 15.2-1722. See § 2.1-116.05; HB 1985/SB 1023.

§ 15.2-1730.1 added. Interjurisdictional law-enforcement authority. States that in counties where no police department had been established and the sheriff is the chief law-enforcement officer, the sheriff may enter into agreements and may furnish and receive interjurisdictional law-enforcement assistance for all law-enforcement purposes. Sheriffs providing or receiving such assistance shall have all the authority, benefits, immunity from liability and exemptions from laws, ordinances and regulations as officers acting within their own jurisdictions. SB 930; CH. 352.

§ 15.2-1738 amended. Special police officers. Eliminates the requirement that a person appointed as a special police officer reside in the Commonwealth during his tenure of office. HB 2035; CH. 278.

§ 15.2-2019 amended. Street names. Provides that renaming streets on previously recorded and filed site plans or subdivision plats shall not cause vacation of such site plans or subdivision plats. Upon receipt of a certified copy of such action, the clerk of the circuit court shall record or file the certified copy. HB 2110; CH. 671.

§ 15.2-2021 amended. Curb ramps. Amends the provision requiring curb ramps at intersections to provide that such ramps are required only when they connect to accessible routes for pedestrian use. HB 2515; CH. 417/SB 1045; CH. 409.

§ 15.2-2118 amended. Liens for water and sewer charges. Adds the City of Petersburg and Stafford County to the list of localities which may by ordinance provide that taxes or charges incurred for water or sewers or use thereof within or outside such county or city shall be a lien on the real estate served by such waterline or sewer. HB 1965; CH. 311.

§ 15.2-2118 amended. Liens for water and sewer charges. Adds the City of Richmond to those localities authorized to place a lien on real estate for unpaid water and sewer charges. HB 2598; CH. 841.

§ 15.2-2118 amended. Liens for water and sewer charges. Adds the Cities of Richmond, Newport News and Petersburg to those localities authorized to place a lien on real estate for unpaid water and sewer charges. SB 1254; CH. 767.

§ 15.2-2247. See § 46.2-100; HB 2016.

§ 15.2-2286 amended. Zoning violations. Provides that each 10-day period during which a zoning violation continues after

the conviction or court-ordered abatement period has ended shall constitute a separate offense punishable by a fine of not less than \$100 nor more than \$1,500. Currently, each 30-day period of violation is punishable by a fine of up to \$1,000. HB 2532; CH. 792.

§ 15.2-2288.1 added. Special use permits for certain residential uses. Provides that no local ordinance shall require as a condition of approval of a subdivision plat, site plan, or plan of development, or issuance of a building permit, that a special use permit be obtained for construction of residential dwellings at the use and density permitted by right under the ordinance. Certain exceptions to the bill are provided. HB 2324; CH. 1042 (effective 1/1/00).

§ 15.2-2308 amended. Board of zoning appeals. Provides that in Virginia Beach (described by population) the board of zoning appeals shall be appointed by the governing body, rather than the circuit court. HB 2519; CH. 838.

§ 15.2-2403 amended. Road maintenance fees in certain county subdivisions. Provides that the powers of service districts include the construction, maintenance and general upkeep of streets and roads that are not under the jurisdiction of VDOT, upon petition of over 50 percent of the property owners who own not less than 50 percent of the property to be served. HB 581; CH. 295.

§§ 15.2-2404 and 15.2-2413 amended. Service districts. Provides that, with regard to the installation of street lights, a locality may provide by ordinance that upon a petition of at least 60 percent of the property owners within a subdivision, or such higher percent as provided by ordinance, the locality may impose taxes or assessments upon all owners within the subdivision who benefit from such improvements. The taxes or assessments shall not be in excess of the peculiar benefits resulting from the improvements to such property owners. If an assessment is made for the installation of street lights, the locality making the assessment may provide by ordinance that the actual costs of installing, maintaining and operating such street lights be charged to and collected from each landowner as a separate component of the locality's billing system for any public utility. HB 2474; CH. 386.

§ 15.2-3201 amended. Annexation moratorium. Extends the current moratorium on annexation proceedings until the sooner of July 1, 2010, or such time as the General Assembly fails to appropriate a yearly sum of money for aid to localities with police departments under the program initiated by House Bill 599 of 1979. HB 2340; CH. 744/SB 724; CH. 692/SB 1053; CH. 705.

§ 15.2-3209 amended. Annexation; agricultural operations. Provides that the annexation court shall consider the adverse impact on agricultural operations in its deliberations and may fix terms and conditions in the annexation order to protect agricultural operations. HB 2624; CH. 345.

§ 15.2-4902 amended. Industrial Development and Revenue Bond Act. Amends the Act to conform with 1994 changes in the Internal Revenue Code, thus enabling an IDA to

issue enterprise zone facility bonds for projects which are presently prohibited. HB 2177; CH. 379.

§ 15.2-4903 amended. Industrial development authorities. Provides that in any county with the county manager form of government (Henrico County), the authority may be called an economic development authority. SB 1065; CH. 157.

§ 15.2-4904 amended. Industrial Development and Revenue Bond Act. Allows the Wise County board of supervisors to appoint eight members to an authority created under such act, rather than seven. HB 1828; CH. 414/SB 893; CH. 408.

§ 15.2-4904 amended. Industrial development authorities; compensation. Raises the cap from \$50 to \$200 for the amount that directors of an industrial development authority board may receive for attendance at meetings. Directors receive no salary for service on the board. SB 1066; CH. 337.

§ 15.2-5102 amended. Virginia Water and Waste Authorities Act; exemption from Utility Facilities Act. Exempts from the operation of the Utilities Facilities Act (§ 56-265.1 et seq.) an authority, or any subsidiary thereof, organized pursuant to the Virginia Water and Waste Authorities Act to operate a refuse collection and disposal system that, pursuant to statute, is specifically authorized to include in the system (i) facilities for processing solid waste as a fuel and (ii) facilities for generating steam and electricity for sale. However, the exemption is conditioned on a requirement that electricity generated at such facilities be sold only to federal agencies whose primary responsibilities are national defense, and that the energy is delivered directly from the generator to customer facilities or to a public utility. HB 2455; CH. 925/SB 1202; CH. 896.

§ 15.2-5601 amended. Public recreational facilities authorities. Includes land conservation projects among the projects that may be undertaken by such authorities. Currently, public recreational facilities authorities may construct and operate fairgrounds, campgrounds, sports facilities, gardens, parks, zoos and other projects. This is a recommendation of the Commission of the Future of Virginia's Environment. HB 1878; CH. 528/SB1219; CH. 502.

§ 15.2-6400 amended. Virginia Regional Industrial Facilities Act. Adds Smyth County to those localities authorized to participate in the creation of an authority under the Act. Bland and Wythe Counties are also listed, and their population descriptions are deleted. HB 2096; CH. 540.

§ 15.2-6400 amended. Virginia Regional Industrial Facilities Act. Adds Planning District 12 (West Piedmont) to those areas of the state where localities may create an authority under the Virginia Regional Industrial Facilities Act. HB 2411; CH. 837/SB 974; CH. 804.

§§ 15.2-6400, 15.2-6402, and 15.2-6403 amended. Virginia Regional Industrial Facilities Act. Adds the area within the boundaries of Planning Districts 11 and 12, without regard to population, to those areas permitted to create an authority

under such Act. With regard to Planning Districts 11 and 12, the governing bodies of any two or more localities within the region, as opposed to three localities under current law, may create such authority. Also, with regard to any authority created by Planning Districts 11 and 12, only members of the appointing governing body of each member locality shall be appointed to the board. HB 2734; CH. 882/SB 1301; CH. 820.

TITLE 15.2. MISCELLANEOUS - COUNTIES, CITIES AND TOWNS.

Biennial election of Giles County supervisors; initial terms. Authorizes the Giles County Board of Supervisors to provide by ordinance that, in the event the board adopts an ordinance providing for biennial elections of the board for staggered for four-year terms, the initial terms of members elected from districts shall be four years and those of members elected at large shall be two years. General law requires that the assignment of initial terms to establish the staggered election schedule be done by lot. These provisions will also apply to the elected school board, whose terms are tied by law to those of the supervisors. HB 1692; CH. 89 (effective 3/15/99).

Speed limit in residence district. Authorizes the governing body of the town of Vienna to enact an ordinance that provides for a mandatory, minimum fine of \$100 for going 20 mph or more in excess of the speed limit in a residential area. HB 2039; CH. 865.

Sheriffs and deputies. Repeals Chapter 261 of the 1938 Acts of Assembly requiring sheriffs and their deputies to wear a uniform while in the performance of their duties. Current statutory law (§§ 15.2-1610 and 19.2-78) requires sheriffs and their deputies to wear a uniform while in the performance of their duties. HB 2171; CH. 316.

Section 4 of Chapter 230 of the 1950 Acts of Assembly, as amended by Chapter 211 of the 1973 Acts of Assembly, amended. Assessments of real property in certain counties. Deletes provisions requiring the treasurer of Arlington County (described by population density in § 1 of the original uncodified act of 1950) to maintain a firmly bound book recording the names of property owners against whom certain sidewalk and sewer assessments have been levied. SB 938; CH. 802.

CHARTERS, AUTHORITIES.

Bluefield, Town. Replaces the 1930 town charter with an updated version. The new charter grants powers typically held by Virginia towns. HB 1642; CH. 521/SB 745; CH. 406.

Boones Mill, Town. Provides a new charter for the town. The charter grants powers which are typical to Virginia towns. Council terms are changed from two years to staggered four-year terms. HB 1700; CH. 181.

Bristol, City. Provides that the environs control officer shall be supervised by the fire department chief rather than the assistant city manager. A section related to enforcement of ordinances is repealed. HB 1566; CH. 170/SB 777; CH. 139.

Buena Vista, City. Provides for the direct election of the mayor for a two-year term. Council members serve staggered four-year terms. HB 1520; CH. 268.

Chesapeake, City. Requires petitions for advisory referenda to be filed at least 80 days prior to the election in order to give the registrar sufficient time to verify signatures. Also, the name of the Department of Personnel is changed to the Department of Human Resources. HB 1647; CH. 271/SB 846; CH. 265.

Clover, Town. Repeals the charter for the Town of Clover. HB 1518; CH. 167.

Covington, City. Provides that vacancies on council shall be filled in accordance with general law. HB 1563; CH. 169/SB 814; CH. 143.

Dayton, Town. Provides for town elections to be held in November rather than May. This authority was granted to the town by the General Assembly in 1998, but for the 1998 election only. This bill repeals the "1998 election only" provision. The bill also updates cross-references to Title 15.2 and clarifies the duties of the town recorder. HB 1587; CH. 300.

Falls Church, City. Deletes language related to filling of council vacancies, states that council salaries are to be set in accordance with general law, clarifies that a city pay plan must be enacted by ordinance, allows the council to appoint an acting city manager by resolution rather than ordinance, and deletes language related to the duties of the commissioner of revenue. HB 1519; CH. 168/SB 756; CH. 135.

Fredericksburg, City. Brings the city charter into conformance with the current practice with regard to election of the school board. HB 1733; CH. 182/SB 833; CH. 476.

Gate City, Town. Provides a new charter for the town and grants typical town powers. HB 1652; CH. 177.

Grottoes, Town. Provides for town elections to be held in November rather than May. HB 1592; CH. 303.

Haysi, Town. Allows the town to prescribe any penalty for violation of town ordinances not exceeding the state penalty for a similar offense. Also, the term of the mayor is extended from two to four years and certain outdated provisions are deleted. HB 1743; CH. 272.

Lynchburg, City. Eliminates a 30-day grace period for council members to take the oath of office and conforms the maximum penalties for violating city ordinances to state law. HB 1615; CH. 172 (effective 3/17/99).

Mount Crawford, Town. Provides for town elections to be held in November rather than May. This authority was granted to the town by the General Assembly in 1998, but for the 1998 election only. This bill repeals the "1998 election only" provision. HB 1591; CH. 302.

Newport News, City. Provides for the election of six council members from districts for four-year staggered terms and for the at-large election of a mayor. A vacancy in the office of mayor shall be filled in the same manner as a member of council. The charter is updated to reflect the City's current practice for election of school board members. HB 1614; CH. 827/SB 832; CH. 799.

Norfolk, City. Specifies the city officers that will serve at the will of the city council. Currently, the city clerk, city attorney, city auditor and high constable serve four-year terms, and the city manager serves at the will of the council. Under the bill, those officers and the city assessor will serve at the will of the council. The bill also deletes language containing restrictions on the reasons for which and way in which the city manager may be removed from office during his first year of service. HB 1794; CH. 525/SB 860; CH. 479.

Quantico, Town. Provides that the treasurer, clerk, and sergeant may reside within or outside the town boundaries. HB 1651; CH. 176.

Shenandoah, Town. Deletes a provision which prohibits the town from appointing its officers for a term extending beyond August of the next succeeding regular quadrennial council election. HB 1475; CH. 165/SB 726; CH. 132.

Smithfield, City. Updates the town boundaries; grants authority to construct, own and operate community and convention centers and similar facilities, and to charge fees for the use thereof; and clarifies that members of council serve four-year staggered terms. HB 1639; CH. 520/SB 788; CH. 140.

Riverside Regional Jail Authority. Adds sheriffs of the participating counties and cities as members of the Authority and establishes certain voting procedures. HB 2278; CH. 675/SB 1231; CH. 642.

Emergency medical services. Clarifies that the Richmond Ambulance Authority must comply with state EMS law and other state laws and regulations. HB 2596; CH. 687.

Virginia water and waste authorities; condemnation in certain counties. Provides that the governing body of Frederick County (described by population), when an authority proposes to exercise its power of eminent domain by condemning land on which a designated historic landmark, building, structure, district, object or site is located, may prohibit such exercise of power. The prohibition requires a two-thirds vote, and the vote must be taken within 90 days of the authority's offer of purchase to the landowner. The act expires on July 1, 2004. SB 739; CH. 347.

TITLE 16.1. COURTS NOT OF RECORD.

§ 16.1-69.6:1 amended. Number of district court judges. Increases the number of general district court judges in Newport News (Seventh Judicial District) from three to four and the number of juvenile and domestic relations district court judges in the following judicial districts by one each, namely: Second (Virginia Beach); Fifteenth (Fredericksburg, King George, Stafford, Spotsylvania, Caroline, Hanover, Lancaster, Northumberland, Westmoreland, Richmond, Essex); Sixteenth (Charlottesville, Madison, Greene, Albemarle, Fluvanna, Goochland, Louisa, Orange, Culpeper); Twenty-fourth (Lynchburg, Bedford, Nelson, Amherst, Campbell, Bedford County); Twenty-fifth (Covington, Lexington, Staunton, Buena Vista, Clifton Forge, Waynesboro, Highland, Augusta, Rockbridge, Bath, Alleghany, Botetourt, Craig); and Twenty-sixth (Harrisonburg, Winchester, Frederick, Clarke, Warren, Shenandoah, Page, Rockingham). HB 1637; CH. 11.

§§ 16.1-69.9:3, 16.1-69.10, 17.1-507, and 17.1-511 amended. Notice of judicial vacancies. Requires the Supreme Court, Judicial Council and the Committee on District Courts to publish notice of judicial vacancies and the creation of new judgeships in a publication of general circulation among attorneys licensed to practice in the Commonwealth. HB 2297; CH. 319.

§§ 16.1-69.44 and 17.1-327 amended. Salaries of substitute and retired judges. Increases from \$150 to \$200 the compensation for attorneys serving as substitute judges in the district courts of the Commonwealth and for retired judges temporarily recalled. HB 2076; CH. 730.

§ 16.1-77. See § 46.2-356; HB 1812/SB 841.

§ 16.1-92 amended. Removal of action involving more than \$3,000. Provides that when the amount in controversy in an action in a general district court exceeds the sum of \$ 3,000, the judge shall remove the case to circuit court if the defendant states a substantial defense to the action exclusive of the sole issue of the amount or computation of damages. Current law allows removal for any substantial defense without regard to amount or computation of damages. HB 1583; CH. 717.

§ 16.1-94.01 added. Satisfaction of judgments in courts not of record. Requires a judgment creditor to give written notification of satisfaction or payment to the clerk of the court where the judgment was entered. This provision is similar to the process of satisfaction of judgments in circuit court. HB 1865; CH. 370.

§ 16.1-135. See § 19.2-80.2; HB 1691/SB 820.

§§ 16.1-228 and 16.1-241. See § 18.2-57.2; HB 1801/SB 848.

§ 16.1-228 amended. Definition of "child in need of supervision." Requires that a child desert or run away on more than one occasion in order to be found a "child in need of supervision." The bill also requires that school systems provide

the court with documentation of compliance with the procedures relating to when a pupil fails to report to school (§ 22.1-258). HB 2008; CH. 453.

§ 16.1-228 amended. Definition of family abuse. Redefines "family abuse" to mean any act involving violence, force, or threat, rather than the current "act of violence," which causes or results in any forceful detention or physical injury or places a person in reasonable apprehension of serious bodily injury and which is committed by a person against a family or household member. HB 2033; CH. 665.

§ 16.1-241. See § 63.1-204; SB 907.

§ 16.1-252. See § 18.2-67.9; HB 2058.

§ 16.1-253.4. See § 18.2-57.2; SB 1069.

§ 16.1-260. See § 22.1-258; HB 1817.

§ 16.1-260 amended. Intake; petition; investigation. Requires a juvenile and domestic relations district court intake officer to accept and file a petition when family abuse is alleged and a protective order is sought. HB 2034; CH. 54.

§§ 16.1-260, 16.1-263 and 16.1-305.1 amended. Juvenile offenses. Expands the offenses for which an intake officer, upon the filing of a petition, and the clerk of the court, upon adjudication of delinquency or a conviction, must notify the superintendent of the school division in which the child is enrolled or was enrolled at the time of the offense. The offenses added are robbery and violations dealing with illegal weapons, including the Uniform Machine Gun Act and the "Sawed-off" Shotgun and "Sawed-off" Rifle Act. The bill also contains a provision that only one parent has to be notified when a civil or criminal petition is filed concerning a juvenile. SB 966; CH. 952.

§§ 16.1-269.2, 16.1-273, and 16.1-278.8 amended. Juvenile delinquents; gangs. Allows the court to require a juvenile found delinquent based on certain crimes to participate in a gang-activity prevention program funded under the Virginia Juvenile Community Crime Control Act and requires that transfer reports and social history reports include an assessment of affiliation with a youth gang. SB 885; CH. 350.

§ 16.1-273. See § 18.2-251.01; HB 2159/SB 1077.

§§ 16.1-278.3, 16.1-282, 16.1-282.1, 16.1-283, 63.1-56 and 63.1-204 amended; § 16.1-277.01 and 16.1-277.02; added; § 16.1-277 repealed. Child custody; entrustments, termination of parental rights. Revises provisions relating to entrustments, relief of custody, foster care, termination of parental rights, acceptance and control over children and accepting children for placement. Two new Code sections separate the handling of petitions for approval of entrustment agreements and petitions for relief of care and custody, clarify the procedural and substantive requirements related to filing such petitions, and make uniform with other provisions the treatment of children who come into foster care through these proceedings.

The bill establishes several new procedural requirements. The agency to which a child is entrusted must file no later than the last day of the entrustment period for approval of an agreement for fewer than 90 days, if the child does not go home within the entrustment period. A foster care plan must be filed for a hearing pursuant to § 16.1-281 with any petition for approval of an entrustment agreement. A guardian ad litem is appointed to represent the child, and the matter is set for a hearing within 45 days. The new standard for the court's approval is that the entrustment agreement is in the best interests of the child. Entry of an order approving a permanent entrustment agreement has the effect of terminating the parent's rights and renders irrevocable the permanent entrustment agreement.

An Adoption Progress Report, outlining the agency's progress toward finalizing a child's adoption, is required in all parental rights termination cases. The guardian ad litem appointment continues in juvenile court until a final order of adoption is entered.

Prior to the first hearing, a petition for relief of care and custody of a child must be referred to the local department of social services for investigation and provision of any appropriate services, to prevent out-of-home placement. Notice to a parent who is not a petitioner for permanent relief of care and custody of a child and termination of parental rights must be provided and termination of that parent's parental rights must be pursuant to § 16.1-283. The petitioner must establish good cause for relief of care and custody of a child. Several additional dispositional alternatives are available to the court in handling a petition for relief of care and custody. If the court makes a finding but does not dispose of the matter at the first hearing, a dispositional hearing must be held within 75 days of the initial hearing. An appeal may be taken from a final order.

The bill is proposed by the Court Improvement Program of the Office of the Executive Secretary of the Supreme Court and is recommended by the Judicial Council. SB 1014; CH. 889.

§ 16.1-277.1 amended. Time limitations for hearings involving juveniles. Tolls the time limitations provided for certain hearings involving a juvenile during any period in which (i) the whereabouts of the child are unknown, (ii) the child has escaped from custody, or (iii) the child has failed to appear pursuant to a court order. HB 2604; CH. 58.

§ 16.1-278.4. See § 22.1-254; HB 2384/SB 962.

§ 16.1-278.8 amended. Juvenile delinquents; restitution. Requires the court to have a juvenile found delinquent based on certain crimes make at least partial restitution or reparation for any property damage or loss caused by the offense or for actual medical expenses incurred by the victim as a result of the offense for which the juvenile was found to be delinquent. In addition, the juvenile is required to participate in a public service project under such conditions as the court prescribes.

The crimes covered by this bill are: shooting, stabbing, etc., with intent to maim or kill; malicious bodily injury to law-enforcement officers; malicious bodily injury by means of a caustic substance; shooting while committing or attempting

to commit a felony; bodily injuries caused by prisoners, probationers or parolees; unlawful hazing; assault and battery; assault and battery against law-enforcement officers; assault and battery against household members; entering property of another for the purpose of damaging it; injuries to churches, cemeteries, etc.; trespass on church or school property; injuring any property, monument, etc.; damaging public buildings; breaking, etc., any part of any vehicle, aircraft or boat; or entering or setting in motion any vehicle, aircraft, boat, etc. SB 886; CH. 622.

§ 16.1-286. See § 2.1-746; HB 2075.

§§ 16.1-296.1, 20-96.1 and 20-96.2 repealed. Experimental family courts. Repeals sections enacted in 1989 that established the experimental family courts. There are no longer any such courts, and all appeals from such courts are completed. SB 1178; CH. 161.

§ 16.1-309.1 amended. Release of information on juvenile criminal charges. Provides that whenever a juvenile 14 years of age or older is charged with a delinquent act that, if committed by an adult, would be a felony involving a weapon, a violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2 (mob offenses) or of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 (drug offenses), the judge may, where consideration of the public interest requires, make the juvenile's name and address available to the public. Current law covers, in such circumstances, only an "act of violence" as defined in subsection A of § 19.2-297.1. SB 1216; CH. 710.

§ 16.1-330.1 amended. Serious or Habitual Offender Comprehensive Action Program (SHOCAP). Allows persons who are being supervised by SHOCAP on their eighteenth birthday to continue to be supervised until age 21. HB 712; CH. 508.

§§ 16.1-356 through 16.1-361 added. Juvenile competency. Establishes juvenile court procedures for determining whether a juvenile is competent to stand trial, for restoration of competency and for dispositions for unrestorably incompetent juveniles. A juvenile's competency is presumed; however, the Commonwealth's attorney, defense counsel or judge can raise the issue of competency. The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services is to approve the training and qualifications of professionals who perform the evaluations and provide restoration services. Evaluations are to be performed on an outpatient basis whenever possible. If the juvenile is otherwise able to understand the charges against him and assist in his defense, a finding of incompetency cannot be made based solely on his age or developmental factors, his claim to be unable to remember the time period surrounding the alleged offense or the fact that he is under the influence of medication. Incompetent juveniles must receive restoration services. If the juvenile is likely to remain incompetent for the foreseeable future, the court shall order that the juvenile be committed, certified, the subject of a child in need of services petition, or released. The bill is modeled after the adult competency provisions and is a recommendation of the Commission on

Youth pursuant to HJR 69 (1998). HB 2043; CH. 997SB 1039; CH. 958.

TITLE 16.1. MISCELLANEOUS - COURTS NOT OF RECORD

Regional juvenile detention commissions. Allows the Crater Youth Care Commission, which serves the Sixth and Eleventh Judicial Districts, to borrow funds and issue revenue bonds to cover the local share of the cost of constructing new or expanded juvenile detention facilities. HB 1842; CH. 50/SB 896; CH. 43 (effective 3/5/99).

TITLE 17.1. COURTS OF RECORD.

§ 17.1-227.1 added; Chapter 378 of the 1998 Acts of Assembly repealed. Cover sheets; circuit court clerks. Allows the circuit court clerks of Richmond County, Franklin County, Wise County, and Greene 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 same provision was added in 1998 for the clerks of Wise County and the City of Norton through an uncodified act. This bill codifies that act. The pilot projects created by these enactments expire on July 1, 2002. HB 1452; CH. 363/HB 1834; CH. 369.

§ 17.1-252 amended. Courts of record; indexing by tax map reference. Allows all circuit court clerks in the Commonwealth to require deeds submitted for recordation to reference in the left margin the tax map reference number or parcel identification number of the affected parcel. The current section specifically lists which clerks may require the parcel identification number. HB 1441; CH. 163/SB 730; CH. 133.

§ 17.1-275 amended. Fees collected by clerks of the circuit courts. Clarifies that the fee for issuance of an interrogatory summons is five dollars plus an additional \$1.50 if an execution is issued at the same time and does not include fees for courthouse maintenance, legal aid, or law libraries. The bill conforms the clerk's fees to the fixed felony fee. HB 2196; CH. 1003.

§§ 15.2-1627.3, 17.1-275, 17.1-281, 19.2-165, 19.2-354, 53.1-131.1 and 53.1-150 amended; § 17.1-275.1 through 17.1-275.5 added. Felony fees. Establishes a fixed felony fee (\$428), a fixed felony revocation fee (\$131), a fixed fee for felony reduced to a misdemeanor (\$200) and a fixed misdemeanor revocation fee (\$87.50) to be paid by convicted felons and misdemeanants and those whose suspended sentences or probations have been revoked. These fees aggregate smaller fees collected by the clerks for distribution to various funds upon conviction or revocation of suspended

sentence or probation. Fractional shares of the fixed fees will be paid over to the various funds. SB 444; CH. 9.

§ 17.1-327. See § 16.1-69.44; HB 2076.

§ 17.1-507 amended. Number of circuit court judges. Increases the number of circuit court judges authorized for the Fifteenth Judicial Circuit from six to seven. The Fifteenth Judicial Circuit consists of the following jurisdictions: The City of Fredericksburg and the Counties of Caroline, Essex, Hanover, King George, Lancaster, Northumberland, Richmond, Spotsylvania, Stafford, and Westmoreland. The bill also removes unnecessary language dealing with the family court. HB 1624; CH. 10.

§§ 17.1-507 and 17.1-511. See § 16.1-69.9:3; HB 2297.

§ 17.1-805 amended. Violent felony offenses. Adds the following crimes to the list of violent felony offenses at the recommendation of the Virginia Criminal Sentencing Commission: (i) damage to facility involved with infectious biological substances; (ii) possession with intent to injure with infectious biological substances; (iii) drunk driving with reckless disregard where victim is permanently injured; (iv) murder of a pregnant victim without premeditation; (vi) throwing object from a rooftop with intent to cause injury; (vii) aggravated vehicular manslaughter; (viii) third conviction of sexual battery or attempted sexual battery; (x) shooting or throwing missile at a train, car, etc.; and (ix) shooting or throwing missile at a law-enforcement or emergency vehicle. SB 853; CH. 349.

TITLE 18.2. CRIMES AND OFFENSES GENERALLY.

§ 18.2-33 amended. Felony homicide. Changes the punishment for felony homicide from a Class 3 felony (not less than five years nor more than 20) to not less than five nor more than 40 years' confinement in a state correctional facility. SB 815; CH. 282.

§§ 18.2-36.1, 18.2-51.4, and 18.2-270. See § 46.2-356; HB 1812/SB 841.

§ 18.2-38 amended; § 18.2-42.1 added. Mob defined. Includes certain acts of violence in addition to assault and battery as crimes which if committed by a collection of persons would make the acts crimes by a mob. SB 887; CH. 623.

§ 18.2-55 amended. Crimes; bodily injury caused by prisoner, probationer or parolee. Makes it a Class 5 felony for a probationer or parolee to inflict bodily injury on a juvenile probation officer. Currently, the penalty for such act is a Class 1 misdemeanor. HB 1745; CH. 658/SB 835; CH. 618.

§ 18.2-57 amended. Assault and battery of a custodial employee of the Department of Corrections. Provides that any prisoner who commits an assault or assault and battery

upon a custodial employee of the Department of Corrections with bodily fluids or excretions shall be guilty of a felony punishable by a term of imprisonment of no more than five years and a fine of no more than \$ 5,000. HB 424; CH. 771.

§ 18.2-57 amended. Battery of a teacher. Provides for a mandatory period of incarceration of two days when the object of a battery is a teacher, principal or guidance counselor and six months' mandatory incarceration if a gun or other weapon prohibited on school property is used. HB 2445; CH. 1036.

§§ 16.1-228, 16.1-241, 18.2-57.2 and 19.2-81.3 amended. Definition of family or household member. Revises the definition of "family or household member" to include parents, stepparents, children, stepchildren, brothers, sisters, grandparents, and grandchildren, regardless of whether such persons reside in the same home. This is the definition under current law for criminal jurisdiction of the juvenile court but under other sections of the Code such persons must reside in the same home to be considered family or household members. This will broaden the applicability of protective orders and the family assault statute. Current law precludes conviction under the family assault statute of a parent who assaults a child who does not reside with the parent. The family assault statute imposes enhanced punishment (Class 6 felony for a third offense) and requires the issuance of an emergency protective order whenever a warrant is issued. Under certain circumstances a warrantless arrest may be made for violations of the family assault statute. HB 1801; CH. 721/SB 848; CH. 697.

§§ 16.1-253.4, 18.2-57.2 and 19.2-81.3 amended. Assault and battery. Amends provision that requires the issuance of an emergency protective order when a warrant is issued for assault and battery against a family or household member to make the issuance of a protective order discretionary when the defendant is a minor. SB 1069; CH. 807.

§ 18.2-57.3. See § 19.2-151; SB 1166.

§§ 18.2-61, 18.2-67.1, 18.2-67.2 and 18.2-67.2:1 amended. Rape; forcible sodomy; object sexual penetration; marital sexual assault; penalty. Removes the phrase "serious physical" from the injury language relating to sexual crimes involving spouses and replaces it with "bodily injury." Additionally, this amends the marital sexual assault section so that the language mirrors the "force, threat or intimidation" language of the crime of rape. HB 1732; CH. 367.

§ 18.2-67.4 amended; § 18.2-64.2 added. Sexual offenses. Makes carnal knowledge of an inmate, parolee, probationer, or pre- or post-trial offender a Class 6 felony if committed by an employee, contractual employee or volunteer with a state or local correctional facility or regional jail, the Department of Corrections, a local community corrections program or a pre-trial program. The bill also makes sexual abuse of inmates, etc., by staff listed above sexual battery, which is a Class 1 misdemeanor. HB 346; CH. 294.

§§ 16.1-252, 18.2-67.9, 19.2-11.01 and 63.1-248.13:1

amended. Closed-circuit TV testimony. Provides that testimony of a child victim in a criminal or civil case may be taken by closed-circuit television if the child witness was 14 years of age or under at the time of trial and if the child victim was 14 years of age or under on the date of the alleged offense and is 16 years of age or under at the time of trial. HB 2058; CH. 668.

§ 18.2-111.2 added. Embezzlement of court-ordered child support. Provides that if any employer withholds money from the pay of his employee for the purpose of paying administrative or court-ordered child support on behalf of the employee and then wrongfully and fraudulently fails to make the required payment, the employer shall be guilty of embezzlement. HB 2254; CH. 56.

§ 18.2-119.1 added. Validity of signs forbidding trespass; penalty. Creates a Class 3 misdemeanor for knowingly and intentionally posting No Trespassing signs upon the land of another without the permission of a person authorized to post such signs on that land. HB 1831; CH. 274.

§ 18.2-130 amended. Peeping or spying. Punishes as a Class 1 misdemeanor secretly or furtively peeping, spying or attempting to peep or spy through a peephole into a room or enclosure used to provide privacy to its occupants if the intent is to see someone who is nude or partially undressed. SB 922; CH. 351.

§ 18.2-137 amended. Injury to property. Makes the crime of unlawfully injuring property or monuments, etc., a Class 3 misdemeanor and, if intentional, a Class 1 misdemeanor. Presently, the damage to the property just has to be unlawful, which criminalizes accidental destruction in excess of \$1,000 as a Class 6 felony. The bill also makes provisions for dismissal upon payment of restitution. SB 915; CH. 625.

§§ 18.2-144, 18.2-403.1, and 18.2-403.2. See § 3.1-796.76; SB 851.

§§ 8.01-328.1, 18.2-152.2, 18.2-152.4, 18.2-152.12 amended. Virginia Computer Crimes Act; electronic mail. Amends Virginia's long-arm statute to provide that using a computer or computer network located in Virginia constitutes an act in Virginia. The bill also (i) expands the definitions of "computer services" and "without authority" and provides a new definition for "electronic mail service provider" in the Virginia Computer Crimes Act; (ii) makes it the crime of computer trespass to (a) falsify or forge e-mail message transmission information in connection with unsolicited bulk e-mail and (b) knowingly sell, give, distribute, or possess software whose principal purpose is to facilitate unsolicited bulk e-mail; (iii) provides that electronic mail service providers shall not be liable for actions they take to prevent unsolicited bulk email; (iv) provides civil relief to an injured person, other than an electronic mail service provider, for actual damages or the lesser of \$10 for each unsolicited bulk e-mail message or \$25,000 per day and states that the injured person shall not have a cause of action against an electronic mail service provider which merely transmits the e-mail message; (v) provides civil relief to an injured electronic

mail service provider for actual damages or the greater of \$10 for each unsolicited bulk e-mail message or \$25,000 per day; and (vi) cross-references the Virginia long-arm statute in the Virginia Computer Crimes Act to ensure the establishment of personal jurisdiction in Virginia's courts. The purpose of the bill is curb a practice known as "spamming," the sending of unsolicited electronic mail to unsuspecting recipients. The bill is a recommendation of the Joint Commission on Technology and Science. HB 1668; CH. 904/HB 1714; CH. 905/SB 881; CH. 886.

§ 18.2-152.15 added. Encryption used in criminal activity. Provides that any person who willfully uses encryption to further any criminal activity shall be guilty of an offense which is separate and distinct from the predicate criminal activity and punishable as a Class 1 misdemeanor. Encryption is defined as the enciphering of intelligible data into unintelligible form or the deciphering of unintelligible data into intelligible form. HB 2236; CH. 455.

§§ 18.2-246.1 through 18.2-246.5 added; §§ 18.2-248.6 and 18.2-248.7 repealed. Money Laundering Act; penalty; seizure and business license forfeiture. Creates the Virginia Comprehensive Money Laundering Act, which makes it a crime to conduct or participate in a financial transaction designed to conceal or disguise the nature, location, source, ownership and control of property, when the person knows it represents the proceeds of an activity punishable as a felony. The bill also subjects the proceeds of or any property used in substantial connection with such activity to seizure and requires those convicted under this article to forfeit any business licenses they may possess. SB 849; CH. 348.

§ 18.2-247. See § 54.1-3401; HB 1819.

§§ 18.2-247 and 18.2-248. See § 54.1-3446; HB 1896.

§ 18.2-249 amended. Seizure of property used in connection with or derived from illegal drug transactions. Adds the underlying offense of delivery of illegal drugs to prisoners to the provision of the Code allowing for seizure of property used in connection with illegal drug transactions. HB 1548; CH. 269.

§§ 16.1-273, 18.2-251.01, 19.2-299 and 19.2-299.2 amended; § 2.1-51.18:3 added. Substance abuse screening of certain offenders. Amends legislation enacted last year, to become effective July 1, 1999, that required drug screening and assessments and presentence investigations of certain offenders. This bill makes assessment contingent on whether the screening identifies the offender as having a substance abuse problem. Screenings and assessment may be performed by a person working under the direction of a certified substance abuse counselor, rather than the counselor only. The bill restores the provision that a presentence report is permissive for guilty plea agreements and misdemeanor convictions. A presentence report is required only when the defendant pleads guilty without a plea agreement or is found guilty by a court after a plea of not guilty. The Secretary of Public Safety is responsible for convening an Interagency Offender Drug

Assessment and Screening Committee to oversee the implementation of this act. The Chief Justice of the Supreme Court may select pilot sites for the implementation of the bill's provisions. HB 2159; CH. 913/SB 1077; CH. 891.

§ 18.2-255.2 amended. Drug-free school zones; school bus stops. Adds designated school bus stops and any public property or property open to public use within 1,000 feet of any such school bus stop, during the times school children are waiting to be picked up or are being dropped off, to the sites and scenarios in which it is unlawful to manufacture, sell or distribute or possess with intent to sell, give or distribute any controlled substance, imitation controlled substance or marijuana. Current law, in addressing public school sites, prohibits such activities (i) upon the property, including buildings and grounds, of any public or private elementary, secondary, or post secondary school; (ii) upon public property or any property open to public use within 1,000 feet of such school property; (iii) and on any school bus. HB 2426; CH. 873.

§ 18.2-259.1 amended. Forfeiture of driver's license for drug violations. Provides that a person shall forfeit his driver's license for six months if he has proceedings deferred under the provision allowing a Class 6 drug fraud conviction to be reduced to a Class 1 misdemeanor following successful completion of probation terms and conditions. HB 309; CH. 45.

§ 18.2-268.9 amended. DUI; analysis of breath test. Eliminates the requirement that the training required for individuals who administer breath tests consist of at least 40 hours. The bill requires that an individual's license identify the specific types of breath test equipment upon which the individual has been successfully trained. HB 1751; CH. 273.

§§ 18.2-270 and 18.2-271.1 amended. Driving while intoxicated. Provides that a person whose license is suspended following a DUI conviction shall remain on probation for the same period as the suspension, not to exceed three years. The bill mandates VASAP for a first and second offense DUI. Currently, VASAP is discretionary with the court on a second offense. The bill adds the transport of a minor child to school and medical care to the list of those places a person may drive while subject to a restricted permit following a DUI. Also, the fine is increased for a DUI conviction while transporting a minor from a minimum of \$100 and maximum of \$500 to a minimum of \$500 and maximum of \$1,000. HB 2296; CH. 743.

§ 18.2-270 amended. Driving under the influence. Makes involuntary manslaughter while driving under the influence a prior conviction for the purpose of imposing an enhanced penalty for subsequent convictions of driving while intoxicated. SB 924; CH. 949.

§ 18.2-270.1 amended; § 18.2-271.3 repealed. Ignition interlock systems; penalty. Mandates that the car of a DUI second offender be outfitted with an ignition interlock system

without the current requirement that he also be enrolled in an alcohol or drug rehabilitation program. HB 2170; CH. 734.

§ 18.2-280 amended. Willfully discharging firearms in public places. Provides that if any person willfully discharges or causes to be discharged any firearm in any street in a city or town, or in any place of public business or place of public gathering, and such conduct results in bodily injury to another, he shall be guilty of a Class 6 felony, or of a Class 1 misdemeanor if there is no bodily injury to another person. HB 2012; CH. 996.

§ 18.2-285 amended. Hunting with firearms while under influence of intoxicant or narcotic drug. Raises the penalty for hunting with firearms while intoxicated from a Class 3 misdemeanor to a Class 2 misdemeanor. HB 2217; CH. 543.

§ 18.2-308 amended. Concealed weapons. Includes persons who retire after completing 20 years of service or after reaching the age of 55 from service as a law-enforcement officer with the Customs Service or the Department of State Diplomatic Security Service in the list of persons who are not charged for the issuance of a concealed gun permit. HB 2041; CH. 666/SB 947; CH. 628.

§ 18.2-308 amended. Concealed weapons. Makes the following changes in the concealed weapon and concealed handgun law: allows a person to carry a concealed weapon without a permit while in his own place of business, provides that the training required prior to issuance of a concealed handgun permit never expires unless specified on the training documentation, requires a clerk of a circuit court to give an applicant written notice of his right to an ore tenus hearing upon denial of his concealed-carry permit, and specifically defines "under the influence of alcohol or drugs" for the purposes of the misdemeanor of being under the influence while carrying a concealed handgun in a public place. The bill further provides that a petition for review of denial shall be filed with the Court of Appeals within 60 days of denial or hearing instead of 30 days. It requires circuit courts which require proof of competency with a handgun to deem current military service or an honorable discharge such proof for the purpose of issuing a concealed weapons permit. Finally, it requires the chief law-enforcement officer of the last agency from which a law-enforcement officer retired to issue written proof of the retired officer's qualifications for exemption from the requirement to obtain a concealed weapons permit. HB 2332; CH. 679.

§ 18.2-308.1 amended. Possession of weapons on school property. Adds to the list of weapons prohibited on school property knives with metal blades of three inches or longer. Butter knives and other implements used for food consumption or preparation are excluded from the prohibition. HB 1385; CH. 587.

§§ 18.2-308.1, 18.2-308.2, and 18.2-308.4. See § 19.2-80.2; HB 1691/SB 820.

§§ 18.2-340.16, 18.2-340.33 and 18.2-340.34 amended. Charitable gaming; prohibited practices. Allows landlords

of facilities where charitable gaming is conducted to sell markers. Currently, all such landlords are prohibited from selling any bingo supplies. HB 1913; CH. 534.

§ 18.2-340.25 amended. Charitable gaming; permits. Allows the Charitable Gaming Commission to issue permits effective for two years. SB 1234; CH. 361.

§ 18.2-340.30 amended. Charitable gaming. Provides an additional 30 days for charitable gaming organizations to file financial reports with the Commission. Currently these organizations are required to file by the day due or risk revocation of their permits. SB 1233; CH. 360.

§ 18.2-371.2 amended. Prohibiting purchase or possession of tobacco products by minors or sale of tobacco products to minors; penalties. Provides that the court shall suspend all or any portion of the civil penalty where it finds that a defendant retail establishment has trained its employees concerning the law in this area. The bill also authorizes the court to impose a civil penalty, up to a maximum of \$1,000, in lieu of the lesser civil penalties for a violation where it finds that a defendant retail establishment has failed to train its employees. The bill also authorizes the court to prescribe community service instead of the civil penalty against a minor. HB 2611; CH. 1020.

§§ 18.2-374.1:1, 18.2-374.2, 18.2-374.3 and 19.2-298.1 amended. Child pornography and indecent liberties with children. Increases the penalty for first offense possession of child pornography from a Class 3 misdemeanor to a Class 1 misdemeanor. The bill punishes the use of a communication system for accomplishment of certain sex crimes with children and production and possession of child pornography as a Class 5 felony. The bill also expands the crimes for which sex offender registration is required to include making and possessing child pornography. HB 1760; CH. 659.

§ 18.2-391 amended. Unlawful e-mail. Creates a Class 1 misdemeanor to punish the person who sends for commercial purposes any electronic file or message containing sexually explicit material which is harmful to juveniles and may be examined by a juvenile. HB 748; CH. 936.

§§ 18.2-457 and 18.2-458 amended. Summary contempt. Increases from \$50 to \$250 the monetary amount that a trial judge may order someone to pay if found in contempt of court. SB 925; CH. 626.

§ 18.2-460 amended. Obstruction of justice. Adds to the offense of obstructing the investigation of a case involving a violent felony offense. The violation is a Class 5 felony. HB 376; CH. 770.

§ 18.2-460 amended. Obstruction of justice. Includes within the Class 5 felony threats of bodily harm or force to intimidate or impede a judge, magistrate, justice, juror, witness, or law-enforcement officer or to obstruct or impede the administration of justice relating to the commission of or conspiracy to commit any violent felony offense. SB 838; CH. 800.

§ 18.2-472.1. See § 19.2-298.1; SB 760.

§ 18.2-477.2 added. **Crimes committed in secure juvenile facilities.** Makes all of the offenses in subdivisions 1 through 9 of § 53.1-203 (escape, damage property to escape, possession of knife, chemical compound, drugs or firearms, burning property) apply to secure juvenile or detention homes, punishable as Class 1 misdemeanors. HB 421; CH. 21.

TITLE 19.2. CRIMINAL PROCEDURE.

§ 19.2-8. See § 3.1-796.76; SB 851.

§ 19.2-11.01. See § 18.2-67.9; HB 2058.

§§ 19.2-11.01 and 19.2-265.01 amended. **Exclusion of victims.** Requires a proffer of the nature of a victim's testimony whenever the Commonwealth or the accused moves the court to exclude a victim as a material witness if the victim objects to exclusion. Upon finding that the expected testimony is material, the court may exclude the victim. SB 370; CH. 844.

§ 19.2-11.01 amended. **Crime victims.** Requires law-enforcement personnel to provide victims with a standardized form stating the specific rights afforded crime victims and including a telephone number by which the victim can receive further information and assistance in securing those rights. SB 1011; CH. 702.

§ 19.2-37 amended. **Magistrates; residence.** Removes the current statutory requirement that a magistrate be a resident of the judicial district for which he is appointed and the exceptions from this requirement created for Arlington, Fairfax, Prince William, Alexandria, and Norfolk. This bill is recommended by the Committee on District Courts. HB 701; CH. 267.

§ 19.2-71 amended. **Issuance of process for the arrest of a person for capital murder.** Provides that no law-enforcement officer shall seek issuance of process by any judicial officer for the arrest of a person for the offense of capital murder, without prior authorization by the attorney for the Commonwealth. This change is intended to limit the fees paid to court-appointed counsel for representation in a capital murder case when the case never proceeds as such. SB 903; CH. 266.

§§ 8.01-508, 16.1-135, 18.2-308.1, 18.2-308.2, 18.2-308.4, 19.2-119, 19.2-120, 19.2-121, 19.2-123, 19.2-124, 19.2-125, 19.2-127, 19.2-132, 19.2-150, 19.2-152.2, 19.2-152.3, 19.2-152.4, 19.2-158, 19.2-186, 19.2-398, 19.2-406, 46.2-936 and 53.1-109 amended; § 19.2-80.2 added; § 19.2-126 repealed. **Penalty and bail for unlawful possession of firearms.** Provides that any person convicted of (i) possessing a firearm on school grounds with the intent to use it, or displaying it in a threatening manner, (ii) possessing a firearm after having been previously convicted of a violent felony, or (iii) simultaneously possessing a firearm and drugs with intent

to sell, shall not be eligible for probation and shall be sentenced to a minimum, mandatory term of imprisonment of five years, which shall not be suspended in whole or in part and which shall be served consecutively with any other sentence. The minimum, mandatory term is reduced to two years if the previously convicted felon's prior felony was nonviolent. The bill also broadly amends the bail procedure by requiring an arresting officer to provide, to the extent possible, to a judicial officer the criminal history record of an arrestee; requiring a judicial officer to attempt to obtain such record; and creating a rebuttable presumption that a person should be denied bail if charged with any of certain defined acts of violence and drug and sexual offenses, a crime for which life imprisonment or the death penalty is prescribed, any felony if previously twice convicted of the sexual or violent offenses and certain firearm offenses, or any felony committed while on bail prior to a felony trial or sentencing. Current law does not create a presumption of no bail for the firearm offenses, or the offenses measured by penalty or prior offenses, or for a felony committed while on bail. The bill removes the 16-year "lookback" period which a judicial officer may investigate for prior offenses upon which the no-bail presumption is currently based. The bill requires a judicial officer, when setting bail, to consider, in addition to factors existing in the law now, whether the accused is likely to obstruct justice or attempt to obstruct justice or intimidate witnesses or jurors, etc. The bill also expands the list of conditions of release which may be imposed upon a person admitted to bail. The bill allows an attorney for the Commonwealth to appeal any bail decision made by a court over his objection and, upon motion and notice to the accused admitted to bail, to reopen the issue of bail in order to seek to revoke it. HB 1691; CH. 829/SB 820; CH. 846.

§ 19.2-81.3. See § 18.2-57.2; HB 1801/SB 848.

§ 19.2-81.3. See § 18.2-57.2; SB 1069.

§ 19.2-112 amended. **Extradition.** Requires a fugitive to pay the costs of extradition into the state treasury. HB 2373; CH. 322.

§§ 19.2-128 and 19.2-319 amended. **Release on bail after conviction.** Provides that if a person is to be released on bail following his conviction for a violent felony, the court shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public. The bill also provides that a person who fails to appear after having been released on bail following his conviction and pending his sentencing shall be punished in the same fashion as a person charged and released on bail prior to trial. HB 86; CH. 821.

§ 19.2-151 amended; § 18.2-57.3 added. **Assault and battery against a family member.** Provides that guilty defendants not previously convicted of assault and battery against a family member may be placed on probation and enter treatment and education programs. Charges may be dismissed upon successful completion of probation but count as a conviction in subsequent proceedings. SB 1166; CH. 963.

§§ 19.2-152.8, 19.2-152.9 and 19.2-152.10 amended. Protective order in cases of stalking. Specifies that a protective order issued pursuant to a case of stalking may specifically prohibit contact of any kind by the respondent with the petitioner or petitioner's family. HB 1874; CH. 371.

§ 19.2-165.1 amended. Payment of medical fees; criminal cases. Provides that all medical fees involved in the gathering of evidence for criminal cases of child abuse, malicious wounding, assault and battery and homicide will be paid by the Commonwealth out of the appropriation for criminal charges. SB 1159; CH. 853.

§§ 19.2-169.3 and 19.2-174.1. See § 37.1-134.21; HB 1775/SB 845.

§ 19.2-182.7 amended. Not guilty by reason of insanity. Provides that an acquittee who is on conditional release and violates the provisions of the conditional release order but does not require inpatient hospitalization may be held in contempt of court for violating the order. HB 2366; CH. 746/SB 976; CH. 700.

§ 19.2-187 amended. Admission into evidence of certain certificates of laboratory analysis. Provides that a certificate of analysis may be used as evidence if a copy of such certificate is mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused at least seven days prior to the hearing or trial upon request made by such counsel to the clerk with notice of the request to the attorney for the Commonwealth. Current law does not require the notice to the attorney for the Commonwealth. HB 1468; CH. 296.

§§ 19.2-298.01, 19.2-368.2 and 30-19.1:5 amended. Virginia Criminal Sentencing Commission. Changes cross-references to the Commission to reflect the recodification of Title 17. SB 927; CH. 286.

§ 19.2-298.1. See § 18.2-374.1:1; HB 1760.

§ 19.2-298.1 amended. Sex Offender Registry. Requires probation or parole officers to notify the State Police whenever one of their probationers or parolees required to register changes residence, if the officer becomes aware of the change of address. HB 1867; CH. 662.

§§ 18.2-472.1, 19.2-298.1, 19.2-298.4, 19.2-390.2, 53.1-1 amended. Sex offender registration. Requires registration by nonresidents who enter the Commonwealth to attend school, carry on a vocation or become employed if they would be required to register if they were a resident of the Commonwealth or if they are required to register in their home state. The bill also allows the guardian of an offender incapable of reoffending and reregistering to petition the convicting court for termination of the requirement to reregister. A medical assessment and hearing are required. The Department of State Police is required to annually verify and report to the attorney for the Commonwealth that the offender continues to suffer from the physical condition that allowed termination of the duty to register. Day-care and child-minding services are added

to the list of entities that are eligible to receive notice of registration or reregistration of an offender within the same or a contiguous zip code. The bill expands the offenses for which registration is required, to include sexual battery and attempted sexual battery. There are also technical amendments. SB 760; CH. 845.

§ 19.2-298.1 amended. Sex Offender Registry. Requires any Virginia resident or person convicted in Virginia of a violation of the Mann Act (interstate commerce or travel in interstate commerce for the purpose of engaging in certain illegal sexual acts) to register in Virginia. SB 874; CH. 801.

§ 19.2-299 amended. Presentence investigations and reports. Provides that presentence investigations and reports shall be required only when the defendant pleads guilty without a plea agreement or after a finding of guilty by the court after a plea of not guilty. Last year's amendments, to become effective July 1, 1999, mandate a presentence report in every case (including, implicitly, plea agreements). This change would allow a court to issue a sentence agreed upon in a plea agreement without the report and an additional hearing. HB 1446; CH. 903.

§§ 19.2-299 and 19.2-299.2. See § 18.2-251.01; HB 2159/SB 1077.

§§ 19.2-303.3, 53.1-181, 53.1-182, 53.1-182.1 amended; § 53.1-184.2 repealed. Comprehensive Community Corrections Act for Local Responsible Offenders. Makes technical amendments designed to reduce misinterpretation and confusion in implementing this program. HB 1893; CH. 372.

§ 19.2-368.3. See § 2.1-116.05; HB 1985/SB 1023.

§ 19.2-389 amended. Dissemination of criminal history record information. Provides that criminal history record information shall be supplied at no charge for a person who has applied to be a volunteer with any affiliate of Prevent Child Abuse, Virginia. Current law allows for such information without charge for a Virginia affiliate of Big Brothers/Big Sisters of America, a volunteer fire company or volunteer rescue squad or the Volunteer Emergency Families for Children. HB 2315; CH. 383.

§ 19.2-389. See § 37.1-20.3; HB 2572.

TITLE 20. DOMESTIC RELATIONS.

§ 20-14.2. See § 32.1-69.1:1; SB 1280.

§ 20-78.1 amended. Effect of entry of support order in certain garnishment proceedings. Revises the Code provision allowing garnishments for child and spousal support when the United States is the third party. Presently, in order to garnish when the United States is liable, there must be a judgment of arrearage and the garnishment lapses after 180 days. The change eliminates the automatic lapse after 180 days

and allows for garnishments to take place when there is a support order or decree. SB 1092; CH. 577.

§§ 20-96.1 and 20-96.2. See § 16.1-296.1; SB 1178

§ 20-108.2 amended. **Child support; shared custody.** Replaces the use of a specified number of days (110-day threshold) as an automatic trigger for shared custody, and changes the multiplier from 1.25 to 1.4 in order to allow a more gradual decrease in child support for any given number of days of visitation or custody, and thereby reduces the "cliff effect." The bill defines a "day" for shared custody purposes. This bill is a result of a study conducted by the Virginia Bar Association Coalition Committee on Family Law Legislation in response to HJR 141 (1998). The Committee issued a report (House Document 43, 1999). HB 2407; CH. 836/SB 1085; CH. 808.

§ 20-108.2 amended. **Child support.** Provides that the court may require the custodial parent to present documentation to verify costs incurred for employment-related child-care when requested by the noncustodial parent in child support determinations. HB 2658; CH. 690.

§ 20-124.1. See § 63.1-204; SB 907.

§ 20-124.2 amended. **Custody and visitation.** Specifies that the goals of mediation may include development of a proposal addressing the child's residential schedule and care arrangements, and how to handle future disputes between the parents. SB 990; CH. 574.

§ 20-124.3 amended. **Custody and visitation; best interests of child.** Requires the court to take into account each parent's ability to resolve disputes regarding matters affecting the child. The judge must also communicate to the parties the basis for the custody or visitation decision either orally or in writing. SB 1084; CH. 634.

TITLE 21. MISCELLANEOUS - DRAINAGE, SOIL CONSERVATION, SANITATION AND PUBLIC FACILITIES DISTRICTS.

§ 3, as amended, of Chapter 161 of the Acts of Assembly of 1926, which chapter was continued in effect by § 21-120, amended. **Sanitary districts.** Permits such districts to provide for undergrounding of existing and future distribution lines for electricity, telephone, cable television and similar services and utilities. Sanitary districts, which are created and governed by the governing body of a locality, have the power to issue bonds. HB 2748; CH. 1025.

TITLE 22.1. EDUCATION.

§ 22.1-3 amended. **Persons to whom public schools shall be free.** Revises the statute controlling who is entitled to free public education in the school divisions of the Commonwealth by adding those persons of school age whose parents are unable to care for them who are living within the school division, not solely for school purposes, with another person who resides in the school division and is acting in loco parentis pursuant to placement of the school-age person for adoption by an authorized person or entity. Current law addresses the situation in which a person is living with a natural parent or a parent by legal adoption; however, when the parents are unable to care for a child, the child will only be entitled to free public education while living, not solely for school purposes, with another person who resides in the school division who is the court-appointed guardian or has legal custody of the child. HB 1778; CH. 368.

§§ 22.1-3 and 22.1-5 amended. **School residency.** Provides statutory criteria for determining residency for school attendance when property is divided by a jurisdictional line. These criteria establish that a person residing within housing or temporary shelter situated in more than one school division shall be deemed to reside in and shall be entitled to attend a public school within either school division. However, if a person resides in housing or temporary shelter that is located in one school division, but the property on which such housing or temporary shelter is located lies within more than one school division, such person shall be deemed to reside only in the single school division in which the housing or temporary shelter is located. Further, a grandfather provision provides, notwithstanding the new residency determination criteria for persons residing on property divided by a jurisdictional line, that any person residing in housing or a temporary shelter that is located in one school division, but the property on which such housing or temporary shelter is located lies within more than one school division, shall be deemed to reside in either school division, if such person or any sibling of such person residing in the same housing or temporary shelter attends, prior to July 1, 1999, a school within either school division in which the property on which the housing or temporary shelter is located. Local school boards are to adopt regulations governing tuition charged certain nonresident and underage students consistent with this provision. HB 1835; CH. 988.

§ 22.1-5 amended. **Tuition charges for public school.** Adds to the list of persons for whom tuition may be charged for public school attendance those individuals who, as Virginia residents who were enrolled in a public school within the school division, are required as a result of military or federal orders issued to their parents to move to or on federal property in another state or in the District of Columbia, if the school division subsequently enrolling the student is contiguous to such state or District of Columbia. HB 2673; CH. 394.

§ 22.1-5 amended. Verification of citizenship of certain students. Strikes the requirement that local school boards verify, as a condition of school admission, the citizenship of students for whom English is the second language who enter public school in Virginia for the first time after reaching their twelfth birthday. This bill is a recommendation of the Standing Joint Subcommittee on School Dropout Prevention. SB 559; CH. 465.

§ 22.1-5 amended. Admission to and tuition for public schools. Clarifies that, consistent with the state constitutional mandate for a system of free public schools, no person may be charged tuition for admission or enrollment in Virginia public schools, whether on a full- or part-time basis, who meets the various residency criteria set forth in § 22.1-3. This measure would include the enrollment of public and nonpublic school students in Governor's Schools, and the enrollment of resident school-age persons in general education development (GED) and alternative programs. However, school boards may charge tuition for enrollment in summer programs (exclusive of required remediation) or in local initiatives or programs not required by the Standards of Quality or the Standards of Accreditation and the part-time enrollment of nonpublic school students in other public schools. SB 1295; CH. 443.

§ 22.1-18.1 amended. Gifted education. Establishes, in statute, the requirement, which currently exists in regulation, that local school boards establish local advisory committees on gifted education. The bill also requires the local advisory committee's comments and recommendations on the annual report on gifted education programs to be submitted directly to the school board and the superintendent. This bill also includes some technical syntax changes. HB 2415; CH. 554.

§ 22.1-26 amended. Charter schools. Modifies the statute which allows school boards to establish joint schools, with the consent of the Board of Education, to clarify that this authority includes the establishment of regional schools, including regional charter schools, i.e., joint ventures with two or more participating school boards. The school boards operating the regional charter school must determine the school division to which the regional school will be attributed for purposes of the restrictions on the number of charter schools. Present law authorizes the establishment of only two charter schools per school division prior to July 1, 2000, and requires that priority be given to charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the charter schools per division be reserved for at-risk student programs. HB 1577; CH. 449.

§ 22.1-32 amended. School board salaries. Increases the maximum salaries per year for school board members as follows: for Amelia County, from \$1,200 to \$5,000; for Arlington County, from \$8,000 to \$12,000; for Bedford County, from \$2,400 to \$4,000; for Charlotte County, from \$2,400 to \$4,800; for Cumberland County, from \$1,800 to \$3,600; for Middlesex County, from \$1,200 to \$2,400; for New Kent County, from \$1,200 to \$3,000; for Prince George County, from \$1,800 to \$3,600; Pulaski County, from \$1,800 to

\$3,600; for Warren County, from \$1,500 to \$3,600; and for the City of Petersburg, from \$2,400 to \$5,000. Under current law, no school board can request the General Assembly's consideration of an increase in its annual salary limit unless the school board has taken an affirmative vote on the requested increase. Further, no school board whose membership is elected in whole or in part can be awarded a salary increase, unless a specific salary increase is approved by affirmative vote by that school board.

Additional amendments clarify that a local school board representing a county may establish a salary increase prior to July 1 of any year in which members are to be elected or appointed. Present law provides that, if a county school board is elected or appointed for staggered terms, a salary increase may be established prior to July 1 of any year in which at least one-half of the members are to be elected or appointed.

This bill also clarifies that a local school board representing a city or town may establish a salary increase prior to December 31 of any year preceding a year in which members are to be elected or appointed; the increase would become effective on July 1 of the year in which the election occurs.

Under present law, 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. An emergency clause makes the measure effective upon its passage in order to authorize salary increases in counties which must be established by July 1. HB 1689; CH. 656 (effective 3/28/99).

§ 22.1-32 amended. School board salaries. Provides a limited exception to the requirement that county local school boards whose membership is elected or appointed for staggered terms may only establish a salary increase prior to July 1 of any year in which at least one-half of such members are to be elected or appointed for Arlington County. To address cases in which half of the members of a staggered board are never elected or appointed in one year, this measure allows a five-member school board serving a county having the county manager plan of government (Arlington) to establish a salary increase prior to July 1 in any year in which two of the five members are to be elected or appointed.

Under current law, no school board can request the General Assembly's consideration of an increase in its annual salary limit unless the school board has taken an affirmative vote on the requested increase. Further, no school board whose membership is elected in whole or in part can be awarded a salary increase, unless a specific salary increase is approved by affirmative vote by that school board.

Amendments adopted in 1998 (HB 1047) clarified the procedures by which school boards may elect to increase their salaries. In contrast to county school boards, 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 does not apply if the school board members are elected or appointed for staggered terms. HB 2633; CH. 689.

§ 22.1-32 amended. School board salaries. Increases the maximum salaries per year for school board members for Hampton from \$3,000 to \$5,000 and in Warren County from \$1,500 to \$3,600. Under current law, no school board can request the General Assembly's consideration of an increase in its annual salary limit unless the school board has taken an affirmative vote on the requested increase. Further, no school board whose membership is elected in whole or in part can be awarded a salary increase unless a specific salary increase is approved by affirmative vote by that school board.

Amendments adopted in 1998 (HB 1047) sought to clarify 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. Because the county deadlines occur before the bill becomes effective, an emergency clause was added. Further, city and town restrictions were revised to require the establishment of an increase prior to December 31 in a year preceding a year in which members are to be elected or appointed. SB 1126; CH. 423 (effective 3/25/99).

§§ 22.1-70.2 and 42.1-36.1 added. Acceptable Internet Use Policies (AIUP) in Virginia's public schools and libraries. On or before December 1, 1999, requires every school division superintendent and local public library board (or its equivalent) to file an AIUP with the Superintendent of Public Instruction and the Librarian of Virginia, respectively. HB 1043; CH. 64.

§ 22.1-81 amended. Annual school board reports. Changes from August 15 to September 15 the date on which school boards must make a report covering the work of the schools for the year ending the preceding June 30 to the Board of Education on forms supplied by the Superintendent of Public Instruction. This bill is identical to SB 1067. HB 1925; CH. 191/SB 1067; CH. 492.

§ 22.1-86.1 added. Appointment of student representatives to local school boards. Allows local school boards to adopt procedures for the appointment of student representatives from among the students enrolled in the public schools in the division. The student representative will serve in a nonvoting, advisory capacity and will be appointed under such

circumstances and serve for such terms as the board prescribes. The school board may exclude the nonvoting student representative from executive sessions or closed meetings pursuant to the Virginia Freedom of Information Act. Student representatives must not be construed to be members of local school boards for any purpose, including, but not limited to, establishing a quorum or making any official decision. HB 1837; CH. 431.

§ 22.1-122.1 amended. School board accounts for materials and supplies. Permits school boards, subject to the approval of the governing body, to establish accounts for the purchase of instructional materials and supplies within division departments. Currently, school boards may create these accounts only in schools. In addition, the measure eliminates the requirement that these instructional materials and supplies be those that are not stocked or purchased directly by the school division, cost no more than \$500 per order, and are "essential" to meet immediate health, safety, or security needs. However, retained are provisions that require funds remaining in the accounts be returned to the local school board with a full accounting of all disbursements, subject such accounts to the auditing requirement of local government accounts and records, and the relevant provisions of the Virginia Public Procurement Act. HB 2529; CH. 388.

§ 22.1-157 amended. Literary Fund loans; legal opinion required. Prohibits the Board of Education from disbursing any proceeds of any approved Literary Fund loan prior to the receipt of an acceptable opinion of bond counsel obtained by the local governing body as to the validity of the loan and the status under federal income tax laws of the interest on such loan. The Literary Fund was originally established in 1810 as a statutory mechanism for funding the education of poor children and was added to the Virginia Constitution in 1869. The Fund provides direct loans for new construction, building additions or renovations, the purchase and installation of educational technology equipment and infrastructure, interest rate subsidies for projects funded through the Virginia Public School Authority, and moneys for other school purposes, such as teacher retirement and debt service on technology equipment notes. This bill is nearly identical to SB 779. HB 2379; CH. 748.

§ 22.1-157 amended. Literary Fund loans; legal opinion required. Prohibits the Board of Education from disbursing any proceeds of any approved Literary Fund loan prior to its receipt of an acceptable opinion of bond counsel obtained by the local governing body as to the validity of the loan and the status under federal income tax laws of the interest on such loan. The Literary Fund was originally established in 1810 as a statutory mechanism for funding the education of poor children and was added to the Virginia Constitution in 1869. The Fund provides direct loans for new construction, building additions or renovations, the purchase and installation of educational technology equipment and infrastructure, interest rate subsidies for projects funded through the Virginia Public School Authority, and moneys for other school purposes, such as teacher retirement and debt service on technology equipment

notes. This measure is similar to HB 2379; however the last lines in the bills differ. SB 779; CH. 695.

§§ 22.1-175.1 through 22.1-175.4 amended; § 22.1-175.5 added. Virginia Public School Construction Grants Program. Authorizes local governing bodies to establish separate escrow accounts for the deposit of the school construction grants, with certain restrictions. This provision allows the governing body of the locality to which a grant is awarded to authorize the local treasurer or fiscal officer, by ordinance or resolution, to create the separate account and, upon approval of the ordinance or resolution, the treasurer must place the grant awards into the account. The funds must be used for the purposes authorized under the Virginia Public School Construction Grants Program, which may include technology infrastructure, and must be appropriated by the local governing body. If a locality establishes such an escrow fund and designates any portion of the funds to pay debt service for any general obligation of the locality held by the Virginia Public School Authority or any Literary Fund loan, the localities must obtain an opinion of bond counsel that designation of funds to pay debt service on such obligations does not adversely impact the tax-exempt status of the obligations. Deposit and investment restrictions applying to public funds must be observed. School boards are not authorized to hold and invest the funds in their own names or to expend the funds without an appropriation from the governing body. HB 2591; CH. 391.

§§ 22.1-175.1 through 22.1-175.4 amended; § 22.1-175.5, added. Virginia Public School Construction Grants Program. Authorizes local governing bodies to establish separate escrow accounts for the deposit of the school construction grants, with certain restrictions. This provision allows the governing body of the locality to which a grant is awarded to authorize the local treasurer or fiscal officer, by ordinance or resolution, to create the separate account and, upon approval of the ordinance or resolution, the treasurer must place the grant awards into the account. The funds must be used for the purposes authorized under the Virginia Public School Construction Grants Program, which may include technology infrastructure, and must be appropriated by the local governing body. If a locality establishes such an escrow fund and designates any portion of the funds to pay debt service for any general obligation of the locality held by the Virginia Public School Authority or any Literary Fund loan, the localities must obtain an opinion of bond counsel that designation of funds to pay debt service on such obligations does not adversely impact the tax-exempt status of the obligations. Deposit and investment restrictions applying to public funds must be observed. School boards are not authorized to hold and invest the funds in their own names or to expend the funds without an appropriation from the governing body. This bill is similar to HB 2591. SB 1049; CH. 354.

§§ 22.1-175.6 through 22.1-175.9 added. Public School Educational Technology Grants Program and Fund. Establishes, with such funds as are appropriated for this purpose, the Virginia Public School Educational Technology

Grants Program and Trust Fund to provide grants to eligible school divisions for educational technology, including infrastructure, software and hardware acquisitions and replacement, and innovative programs to advance the effectiveness of educational technology. This program, which will be administered by the Board of Education, will be funded through the Virginia Public School Educational Technology Trust Fund, a nonreverting fund established on the books of the Comptroller and managed by the State Treasurer, subject to the authority of the Board of Education. The amount of such educational technology grants must be matched by funds of the qualifying school division based on the locality's composite index of ability to pay. In awarding such grants, the Board must take into consideration any other state or federal grants which may have been applied for or awarded for the same projects. Grants shall be awarded upon a determination of the Governor of the appropriate funding source and amounts for the Fund. The Board shall issue guidelines for the administration of the Program which must include, but are not limited to, compliance with other law or Board requirements for educational technology, the application for a grant from the Fund, the innovations included in the proposal, and other criteria as established by the Board. Funds appropriated for financial assistance for the purposes of this chapter must be apportioned and distributed among the school divisions of the Commonwealth in accordance with eligibility and needs criteria to be established by the Board. HB 2241; CH. 870.

§§ 22.1-199.1 and 22.1-212.2:2 amended; § 22.1-212.2:3 added. Family Involvement in Technology (FIT) program. Establishes, with such funds as may be appropriated for this purpose, the Family Involvement in Technology program, a superintendent's region grants program. The FIT program will promote parental and family involvement in children's education, found a partnership between families and schools, increase students' time on task, integrate educational technology into the public school curriculum to meet the Standards of Learning objectives, and increase access to educational technology, particularly in schools with large populations of disadvantaged children (federal Title I schools). Upon appropriation of funds, eight grants, one grant to each superintendent's region, will be awarded to provide at least 100 computers per center on the condition that each project focus, to the extent feasible, on increasing educational technology in Title I schools. Each superintendent's region will be responsible for determining how the computers are distributed and the components of the FIT program in the region, so long as such components are consistent with the provisions of the section. The FIT program will include (i) measurable goals and objectives; (ii) an assessment of the needs of the students to be included in the project; (iii) assurances that the project will increase access to educational technology in schools with populations of at least 75 percent disadvantaged children; (iv) training of the relevant teachers, students, and families in computer technology, including, but not limited to, the appropriate supervision of children while engaged in using computers and researching on the Internet; (vi) the establishment, if feasible, of an interactive network between

the school administration, the relevant teachers, and the relevant students' homes; (vii) better integration of educational technology into the school curriculum; (viii) activities to promote awareness of the project, increase access to educational technology, and continually assess the school-community needs; (ix) collaboration with available public and private resources, including any educational technology corporation; and (x) improved communications between parents, teachers, and administrators which are designed to improve students' academic achievement. The Board shall evaluate and determine, in cooperation with the superintendents' regions, and, based upon objective criteria, the success of the program. In accordance with this analysis, the Board will make, within one year of implementation of this provision, such recommendations as it deems appropriate to the Governor and the General Assembly for the FIT program, which may include continuation of the program in its original form, phasing out of the program, termination or revision of the program at a date certain, or extension of the program to other schools. This program is modeled after the Indiana Buddy System. HB 2321; CH. 456.

§ 22.1-199.1 amended. Educational opportunities. Requires, in fiscal year 2000, that the Board of Education contract, with such funds as are appropriated for this purpose, for the development or purchase of interactive educational software and other instructional materials designed as tutorials to improve achievement on the Standards of Learning assessments. The interactive educational software and other instructional materials may be used in media centers, computer laboratories, libraries, after-school or before-school programs or remedial programs by teachers and other instructional personnel or provided to parents and students to be used in the home and must only be used as supplemental materials for instruction, remediation, and acceleration of the learning required by the K-12 Standards of Learning. This bill also contains several technical amendments. HB 2480; CH. 680.

§ 22.1-199.2 amended. Regulations for remediation programs. Requires the Board of Education to promulgate regulations for establishing standards for remediation programs. The regulations must require schools divisions to evaluate their remediation programs, annually, in terms of the pass rate on the Standards of Learning (SOL) tests. The Board of Education must collect and analyze the data on remediation programs submitted by local school divisions, and report such findings and recommendations to the Governor and General Assembly, annually. Emergency regulations for remedial summer school and SOL assessment remediation must be promulgated by August 1, 1999, and regulations for Standards of Quality remediation, dropout prevention, and at-risk add-on programs must be promulgated by August 1, 2000. The initial version of the bill was recommended by the Joint Subcommittee on Remediation. HB 2056; CH. 537.

§ 22.1-201 amended. Bill of Rights. Includes instruction on the principles of the Bill of Rights among the historical documents that must be explained and taught to pupils in the public schools. Currently, there is concern that many students

do not know or understand the fundamental principles which undergird our democratic system of government, and do not appreciate the concept of civic duty, constitutional rights, and individual and collective responsibilities which emanate from such principles. It is believed that emphasis on the principles of the Bill of Rights when historical documents of Virginia and the United States are taught will help to remedy students' lack of knowledge, encourage respect for individual rights and responsibilities, and foster appreciation for our system of government. HB 2521; CH. 559.

§ 22.1-205 amended. Driver training courses. Requires the Board of Education to approve correspondence courses for the classroom training component of driver education courses. Such courses must be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence course for classroom training, and who are eligible to take behind-the-wheel driver training, may do so at a public school upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available, or from a commercial driver training school licensed by the Department of Motor Vehicles. Local school divisions are not required, under this law, to provide behind-the-wheel driver training to nonpublic school students. HB 2696; CH. 928.

§ 22.1-207.1 amended. Family life education; abstinence education. Defines "abstinence education" as an educational or motivational component which has as its exclusive purpose teaching the social, psychological, and health gains to be realized by teenagers' abstinence from sexual activity before marriage. SB 1047; CH. 422.

§ 22.1-208.01 amended. Elementary school character education programs. Requires all school boards to establish character education programs. These programs must be developed in cooperation with the students, parents and the community. The basic character traits may include trustworthiness, respect, responsibility (including hard work and economic self-reliance), fairness (including consequences of bad behavior and principles of non-discrimination), caring, and citizenship (including patriotism, the Pledge of Allegiance, and respect for the American flag), each of which subsumes various characteristics such as honesty, integrity, tolerance, and accountability. The present law on the Commonwealth Character Initiative is modified to provide that the Board will establish criteria for character education programs as well as the Commonwealth Character Initiative and will provide certain information to school divisions, and may provide resources supporting professional development in the implementation of character education programs. The Board of Education shall award, with such funds as are appropriated for this purpose, grants to school boards for the implementation of innovative character education programs. Character education is intended to educate students regarding those core civic values and virtues which are efficacious to civilized society and are common to the diverse social, cultural, and religious groups of the Commonwealth. The program shall not be construed as requiring or authorizing the indoctrination in any particular

religious or political belief. Any classroom instruction used to supplement the character education program must complement the Standards of Learning SB 817; CH. 944.

§§ 22.1-209 and 22.1-253.13:1 amended. Information about the teaching profession. Requires local school boards to make information about the teaching profession available to secondary students through their employment counseling and placement services and to all students as part of K through 12 career education programs. The bill also makes technical amendments. HB 1895; CH. 452.

§ 22.1-209.1:5 added. Pilot discretionary programs for certain students. Establishes a grants program for pilot discretionary programs for disruptive elementary and middle school students who do not qualify for the alternative education programs established pursuant to § 22.1-209.1:2. "Disruptive student" is defined as a student whose behavior interrupts or obstructs the learning environment and results in two or more short-term suspensions or requires repeated intervention by school personnel. The Board of Education will establish criteria for these pilot discretionary programs which will require innovative approaches to resolving common disciplinary problems which occur among disruptive elementary and middle school students, such as nontraditional physical plants or locations, family involvement and participation, and nontraditional attendance patterns. All such innovative approaches must require, as a condition of enrollment, written agreements for parental involvement and participation in the programs. With such funds as may be appropriated for this purpose, five such grants may be awarded. Applicants must comply with the Board grant criteria; however, applicants may choose to include an interdisciplinary approach or a cooperative approach between the discretionary program and other local or state agencies and other programs or curricula within the relevant local school division or an adjacent school division. The applicants may ask for a waiver through the Board's innovative programs waiver provided in the Standards of Accreditation. HB 1248; CH. 446.

§ 22.1-209.1:5 added. Families in Education Incentive Grants Program. Establishes the Families in Education Incentive Grants Program and Fund, to be administered by the Board of Education, to support grants awarded on a competitive basis to public schools, with no more than two grants awarded per superintendent's region, to support innovative family and community involvement programs designed to facilitate parents' creation of a supportive learning environment at home and increased involvement in classroom learning and school activities. The Board shall establish criteria for making grants from the Fund and procedures for determining amounts for grants to eligible public schools. The Board may issue guidelines governing the Program as it deems necessary and appropriate. HB 1270; CH. 447.

§§ 22.1-209.1:6 and 22.1-209.1:7 added. Community-Based Intervention Program for Suspended and Expelled Students. Establishes, with such funds as may be appropriated for these purposes, the Community-Based Intervention

Program for Suspended and Expelled Students to provide interim instruction, intervention, and supervision for students in the public schools who have been suspended, excluded, or expelled from regular school attendance; recommended for the Program or ordered into the Program by a court; or enrolled by the parent. The Program shall consist of five regional projects. Priority for awarding grants shall be given to nonprofit, tax-exempt public or private organizations whose projects are designed to serve students who have been removed from regular school attendance. Criteria for the projects include a structured and balanced educational program that accommodates the specific needs of the students, licensed or otherwise qualified teachers, and joint ventures with business and industry for vocational training and apprenticeships. This bill is a recommendation of the Joint Subcommittee Studying the Status and Needs of African-American Males. SB 1128; CH. 440.

§ 22.1-209.1:6 added. Academic Opportunities Pilot Program. Creates the Academic Opportunities Pilot Program to provide a model for school divisions to explore innovative options and creative instructional programs for the education of secondary school students, within the same facility, who are (i) educationally at-risk, (ii) assigned to the regular instructional program, (iii) identified as gifted or talented or enrolled in advanced placement or honors classes, (iv) identified as having special needs, (v) over-age and for whom the regular instructional program is inappropriate, (vi) enrolled in vocational and technical education programs, or (vii) have been suspended, excluded, or expelled from school attendance. The Board of Education is required to promulgate regulations for the implementation of the Program, which shall be administered by the Department of Education. The regulations must require that school boards offer two or more instructional program components in the same facility. The Program will consist of no more than five pilot projects located throughout Virginia; the projects must comply with the Standards of Quality, the Standards of Learning, and the Standards of Accreditation. Upon the appropriation for funds to support the Program, grants must be awarded on a competitive basis, through the request for proposal process. Projects must comply with federal and state laws and regulations which govern various instructional programs. The measure expires on July 1, 2004. SB 1263; CH. 426.

§ 22.1-212.2:1 amended. Virginia Teaching Scholarship Loan Program. Codifies the Virginia Teaching Scholarship Loan Program, provides three components of the program, and sets out the criteria for such awards. The components of the program include awards to (i) students pursuing teaching degrees in critical teacher shortage areas; (ii) paraprofessionals to assist them in becoming fully licensed teachers; and (iii) at-risk students for the purpose of increasing diversity among teachers and providing incentives for such students to pursue careers in teaching, as provided in the Diversity in Teaching Program. The Board of Education is required to establish criteria for determining, biennially, critical teacher shortage area and for defining "high concentrations" of at-risk students.

The Board is also required to consult with the State Council of Higher Education in developing and implementing the program. Recipients of the awards must be undergraduate students in the junior or senior year of college enrolled full-time in an accredited public or private institution of higher education in the Commonwealth, maintain a cumulative grade point average of at least 2.7 on a 4.0 scale or its equivalent, and be nominated for the scholarship by the institution in which they are enrolled. However, paraprofessionals may be enrolled part-time or full-time at an accredited public or private college or university in Virginia. Students may repay the loans by teaching in a critical teacher shortage area, or in a school division with high concentrations of at-risk students, or at grade levels or in a geographical region of the Commonwealth in which at-risk students are under-represented. In addition, a special nonreverting fund, known as the Diversity in Teaching Fund, is established on the books of the Comptroller to receive such funds as may be appropriated, and any donations, gifts, grants, and bequests as may be received by the Board of Education on behalf of the Diversity in Teaching Program. Further, funds appropriated to the Minorities in Teaching Program shall be deemed to be appropriated to the Diversity in Teaching Program and must be used solely for this purpose. This bill is a recommendation of the Commission on Access and Diversity in Higher Education. HB 2607; CH. 753.

§§ 11-35 and 22.1-212.2:2 amended. Public school foundations. Expands the current authority of local school boards to establish, by themselves or with other parties or as regional efforts with other school boards, educational technology foundations to include "public school foundations," nonstock, nonprofit corporations created to implement "public school improvement projects," defined to include any project designed to achieve an educational purpose that may be identified in Title 22.1. These foundations follow the same accounting and bylaws requirements set forth for educational technology foundations. Unlike purchases made through an educational technology corporation, purchases made through the public school foundation are subject to the provisions of the Virginia Public Procurement Act. HB 2176; CH. 735.

§§ 22.1-223 through 22.1-226 amended. Adult education. Requires every school division in the Commonwealth to develop an adult education program and requires the Board of Education to encourage coordination in the development and provision of such programs with other state, federal, and local public and private agencies. The bill modifies the definition of adult education program by including credit programs, cultural adult education, and external diploma programs and defines these terms. Current law provides that the Board of Education "stimulate and encourage" the development of such programs rather than requiring them. The bill also requires school divisions annually, beginning on July 1, 2000, to evaluate the adult education programs which they offer, and to report the findings, including the success rate of adults who earn a general educational development (GED) certificate or high school diploma, to the Board. The Board is required to transmit

the report to the Governor and the General Assembly. HB 2746; CH. 564.

§ 22.1-227.1 added. Vocational education. Directs the Board of Education to incorporate the Standards of Learning for mathematics, English, science, and social studies, and other subjects as appropriate, into vocational education. The bill also establishes, with such funds as may be appropriated for such purpose, within the Department of Education a unit of specialists in vocational education. The unit is to assist in developing and revising the vocational education curriculum to integrate the Standards of Learning, provide professional development for vocational education teachers to improve the quality of vocational education, make site visits to the schools providing vocational education, and seek the input of business and industry representatives regarding the content and direction of vocational education programs in the public schools in the Commonwealth. HB 2476; CH. 435/SB 1284; CH. 442.

§ 22.1-253.13:1 amended. Certain courses in public schools. Clarifies in the Standards of Quality that school boards must include art, music, and physical education among those subjects emphasized in programs of instruction for grades K through 12. HB 235; CH. 444.

§ 22.1-253.13:1 amended. Inclusion of certain students in average daily membership. Provides that nonpublic and home-schooled students who are enrolled in public schools on a less than full-time basis in any health education or physical education course are to be included in average daily membership (ADM) in the relevant school division on a pro rata basis as provided in the appropriation act. Currently, this calculation is limited to enrollments of these students in any mathematics, science, English, history, social science, vocational education, fine arts, or foreign language course. The 1997-98 Appropriation Act did not include enrollments in history, vocational education, or fine arts, and provided that each course enrollment be counted as 0.25 with a cap of 0.5 per student. HB 284; CH. 445.

§ 22.1-253.13:1 amended. Standards of Quality; pupil-teacher ratios in kindergarten and grades two and three. Lowers the divisionwide maximum ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, in kindergarten and grades two and three from 25:1 to 24:1. If the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide would be assigned to the class. Under current law, class sizes in grades K-3 are capped at 30 students, and the pupil-teacher ratio for first grade is already 24:1. HB 1673; CH. 595 (effective 7/1/00).

§ 22.1-253.13:1 amended; § 22.1-291.2 added. Employment of licensed instructional personnel for certain courses. Clarifies in the Standards of Quality that school boards must include art, music, and physical education among those subjects emphasized in programs of instruction for grades K through 12; directs school boards to strive to employ licensed

instructional personnel qualified in the relevant subject areas, including qualified teachers licensed through the Board's provisional licensure procedures; and creates a new program entitled Artists in the Classroom Grants Program and Fund, a matching grants program for the employment of full-time artists, musicians, thespians, writers, dancers, and athletes who have demonstrated exemplary professional accomplishment, professional experience, and strong leadership skills. HB 1975; CH. 994.

§ 22.1-253.13:1 amended. Computation of average daily membership for half-day kindergarten programs. Clarifies in Standard 1 of the Standards of Quality (SOQ) that school divisions offering half-day kindergarten programs are to adjust their average daily membership (ADM) for kindergarten to reflect 85 percent of the total kindergarten ADM, as provided in the appropriation act. This amendment indicates that current practice is detailed more specifically in the appropriation act, as some school divisions operating half-day programs receive funding for full ADM, and some may receive a blend, as they offer both full- and half-day programs.

Currently, the Code does not specify the duration of the kindergarten day, although the Standards of Accreditation specify that the minimum day for kindergarten programs shall be three hours. Most school divisions provide a full-day program. Regardless of length, all kindergarten programs are supported by state and local funding, as required by the SOQ, based upon ADM; however, in those localities operating less than full-day kindergarten (five and one-half hours) and maintaining pupil-teacher ratios greater than 30:1, funding is adjusted to include only 85 percent of kindergarten ADM pursuant to the budget. Under this formula, a school division might operate two less-than-full-day kindergartens per day and still receive full ADM funding if the programs' cumulative pupil-teacher ratio is 30:1 or less. There are also technical amendments. HB 2141; CH. 377.

§ 22.1-253.13:1 amended. Advanced placement; International Baccalaureate; Governor's Schools. Requires local school boards to notify students and their parents of the availability of advanced placement classes, the International Baccalaureate program, and the regional Academic Year Governor's Schools; the qualifications for entrance into such classes, programs, and schools; and the availability of financial assistance to low-income and needy students to take the advanced placement and International Baccalaureate examinations. Often students are not aware of the availability of these classes, programs, and schools or of the qualifications for enrollment. Sometimes the information is provided to students selectively, omitting certain students who possess the potential to succeed and benefit from such educational opportunities. Some advanced and gifted students, particularly minority and poor students, do not pursue such educational opportunities because they cannot afford to take the required examinations. Success on the examinations may qualify students for exemptions of required college courses, thereby lessening the amount of money and time necessary to complete degree requirements.

This bill is a recommendation of the Joint Subcommittee Studying the Educational Needs of Certain Underserved Gifted Students. HB 2553; CH. 461.

§ 22.1-253.13:3 amended. School report cards. Provides that the Board of Education, in setting criteria for recognizing educational performance of school divisions, shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in advanced placement (AP) and International Baccalaureate courses, and participation in academic year Governor's Schools.

Currently, the Standards of Accreditation direct each public school to provide annually to parents a School Performance Report Card (8 VAC 20-131-270) that includes a variety of test scores, student attendance rates, and incidents of physical violence and weapon possession occurring at school. In addition, secondary schools are to report the number and percentage of students taking AP courses and the number and percentage of those earning a score of 3 or better on AP tests; the number and percentage of students taking college-level courses and the number and percentage of those students passing at least one such course; the number of Standard, Advanced Studies, Special and International Baccalaureate Diplomas, as well as Certificates of Program Completion and GED certificates; dropout rates; and the accreditation rating awarded to the school for the current and previous three years. The bill contains technical amendments. Additional technical amendments correct errors regarding the phase-out of the Literacy Passport Test. HB 2077; CH. 670.

§ 22.1-253.13:3 amended. Standards of Quality. Codifies, in Standard 3 of the Standards of Quality, the minimum staffing requirements for public schools which are currently included in the Standards for Accrediting Public Schools in Virginia regulations of the Board of Education. Technical edits address errors regarding the phase-out of the Literacy Passport Test. HB 2122; CH. 731.

§ 22.1-253.13:3 amended. Standards of Quality. Amends Standard 3 of the Standards of Quality, as it will become effective on July 1, 2003, to mandate that the requirements for obtaining a standard or advanced studies high school diploma must include at least two sequential electives. This bill also amends the current version and the future version of Standard 3 to provide technical amendments to correct code errors relating to the transition from the Literacy Passport Test to the Standards of Learning assessments. The Board of Education is authorized, because of recent test security issues, to pursue all available civil remedies for breaches in test security. HB 2477; CH. 1015.

§ 22.1-253.13:5 amended. Evaluation of teachers. Amends the intent language of Standard 5 of the Standards of Quality to state that the General Assembly and the Board of Education find that, in addition to programs of professional development, appropriate teacher performance evaluations are essential for effective educational leadership and personnel and for the advancement of public education in Virginia. HB 1725; CH. 830.

§§ 22.1-253.13:5, 22.1-293, 22.1-294, 22.1-295, 22.1-298, 22.1-303, 22.1-303.1, 22.1-305, and 22.1-305.1 amended; §§ 22.1-60.1, 22.1-299.2 and 23-9.2:3.4 added. **Education Accountability and Quality Enhancement Act of 1999.** Makes a variety of changes to the statutes governing teacher preparation, evaluation, and employment, including (i) requiring each local school board to evaluate its division superintendent annually; (ii) directing the Board of Education to prescribe by regulation uniform performance standards and criteria to be used by local school boards in evaluating superintendents; (iii) establishing the National Teacher Certification Reward Program to provide annual monetary awards to teachers achieving and maintaining national certification; (iv) amending Standard 5 of the Standards of Quality to incorporate specific training for administrative and supervisory personnel in the evaluation and documentation of training in evaluation and documentation of teacher and administrator performance; (v) requiring local school boards to develop for use by division superintendents a performance evaluation process for principals, assistant principals, and supervisors; (vi) requiring school boards to fill teaching positions with licensed instructional personnel qualified in the relevant subject areas; (vii) directing school boards to include in their teacher employment policies incentives for excellence in teaching, and to develop a procedure for use by the division superintendent and principals in evaluating instructional personnel; (viii) requiring the Board of Education to require persons seeking initial licensure on and after July 1, 2003, to complete study in instructional methods tailored to promote student achievement and effective preparation for the Standards of Learning end-of-course and end-of-grade assessments and to submit materials evidencing proficiency in classroom instruction and to require persons renewing licenses on and after July 1, 2004, to receive training in instructional methods promoting academic progress and effective preparation for the SOL tests; (ix) directing Virginia's public colleges and universities to use a professional teacher's examination prescribed by the Board of Education for persons seeking entry into teacher education programs and to report annually, pursuant to Board of Education guidelines, performance reports that include pass rates of graduates taking the state teacher licensure examination; (x) directing school boards to provide mentor teachers to probationary teachers, except probationary teachers who have prior successful teaching experience; (xi) requiring annual evaluations of probationary teachers; and (xii) specifying various guidelines for the Mentor Teacher Program. The bill also includes several technical amendments. This measure is identical to SB 1145. HB 2710; CH. 1037/SB 1145; CH. 1030.

§§ 16.1-278.4, 22.1-199.2, 22.1-253.13:1, 22.1-254, 22.1-254.01, 22.1-254.1, 22.1-254.2, 22.1-263, and 22.1-271.4 amended; §§ 22.1-256 and 22.1-257 repealed. **Compulsory school attendance; general educational development (GED) testing.** Authorizes local school boards to allow compulsory attendance requirements to be satisfied for any student who is at least age 16, upon a meeting between the student, the student's parents, and the principal or his designee, in which an

individual student alternative education (ISAEP) plan is developed in conformity with guidelines prescribed by the Board, which plan must include career guidance counseling, mandatory enrollment in a GED testing program or other alternative education program approved by the local school board, counseling on the economic impact of failing to complete high school and provisions for re-enrollment in school. Such students may take the GED test. From such funds as may be appropriated, local school boards must implement GED testing and preparatory programs consistent with guidelines to be developed by the Board of Education. The guidelines must include a provision allowing such preparatory and testing programs to be offered jointly by two or more school boards. No one under age 16 is eligible for GED testing programs. A student for whom an ISAEP has been granted who fails to comply with such plan shall be deemed to be in violation of compulsory attendance requirements. Students enrolled with an ISAEP shall be counted in the average daily membership in the relevant school division. Additional amendments provide that home-schooled students need not have three consecutive years of home instruction to be eligible to take the GED test and that, effective July 1, 2000, parents electing to provide home instruction must notify the division superintendents by August 15 of each year. The bill combines and reorganizes several Code sections addressing compulsory school attendance. The repealed sections are moved to § 22.1-254. This measure includes technical amendments. HB 2384; CH. 552/SB 962; CH. 488.

§§ 16.1-260, 22.1-258 and 22.1-260 through 22.1-263 amended. **Truancy and compulsory school attendance; penalty.** Makes a number of revisions to the truancy and compulsory school attendance statutes. The measure (i) allows intake officers to proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent in certain instances involving violations of certain school attendance requirements; (ii) requires attendance officers, in addition to making a reasonable effort to notify the parent of the pupil's absence, to obtain an explanation for the absence; (iii) requires principals or their designees, after a pupil has been absent for five days for the school year without indication of the parent's awareness and support of such absence, to make a reasonable effort to ensure that direct contact is made with the parent by the attendance officer to obtain an explanation and explain to the parent the consequences of continued nonattendance; (iv) requires the attendance officer, the pupil, and the pupil's parent to jointly develop a plan to resolve the pupil's nonattendance; (v) requires a conference to be scheduled, after an additional unexcused absence, to resolve issues related to the pupil's nonattendance; (vi) empowers attendance officers to enforce these new provisions by making a complaint alleging the student is a child in need of supervision or instituting proceedings against the parent relating to violations of the compulsory school attendance law; (vii) directs school principals to report annually the number of pupils by grade level for whom a conference between the pupil, his parent, and school personnel has been scheduled because of no indication

that the pupil's parent is aware of and supports the pupil's sixth unexplained absence; and (viii) makes initial violations of the various nonattendance trigger days, plan, and conference requirements a Class 3 misdemeanor and subsequent or knowing and willful violations a Class 2 misdemeanor. The punishment for a Class 3 misdemeanor is a fine of not more than \$500 and the punishment for a Class 2 misdemeanor is confinement in jail for not more than six months and a fine of not more than \$1,000, either or both. HB 1817; CH. 526.

§§ 15.2-926 and 22.1-266 amended. Truancy ordinances. Authorizes law-enforcement officers and attendance officers who pick up a child for truancy, after reasonably determining that the child is a public school student, to deliver the child to the appropriate public school or a truancy center. "Truancy center" means a facility or site operated by a school division, sometimes jointly with the local law-enforcement agency, and designated for receiving public school children who have been retrieved by a law-enforcement officer or attendance officer for truancy from public school. Currently, the Code only contemplates the delivery of these students to the appropriate school. Immunity from civil liability is also provided for acts or omissions relating to the pick-up and delivery of truant public school children. This bill also provides that a minor in violation of local curfew ordinances may now be proceeded against as a child in need of supervision. HB 2697; CH. 1023.

§ 22.1-266 amended. Truancy centers. Authorizes law-enforcement officers and attendance officers who pick up a child for truancy, after reasonably determining that the child is a public school student, to deliver the child to the appropriate public school or a truancy center. "Truancy center" means a facility or site operated by a school division, sometimes jointly with the local law-enforcement agency, and designated for receiving public school children who have been retrieved by a law-enforcement officer or attendance officer for truancy from public school. Currently, the Code only contemplates the delivery of these students to the appropriate school. Immunity from civil liability is also provided for acts or omissions relating to the pick-up and delivery of truant public school children. HB 2698; CH. 395.

§ 22.1-272.1 added. Suicide prevention in public schools. Requires licensed school personnel who have, in the scope of their employment, reason to believe, as a result of direct communication from a student, that a student is at imminent risk of suicide, to contact, as soon as practicable, at least one of a student's parents to ask whether the parent is aware of the student's mental state and whether the parent wishes to obtain or has already obtained counseling for such student. If the student has indicated that parental abuse or neglect is the reason for contemplating suicide, the contact with the parent will not be made, and the licensed school administrator or teacher must immediately notify the local or state social services agency. The notifying person must stress that immediate action is necessary to protect the child from harm. The Board of Education, in cooperation with the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Department of Health, must develop

guidelines for making the contact with the parents which must include (i) criteria to assess the suicide risks of students, (ii) characteristics to identify potentially suicidal students, (iii) appropriate responses to students expressing suicidal intentions, (iv) available and appropriate community services for students expressing suicidal intentions, (v) suicide prevention strategies which may be implemented by local schools for students expressing suicidal intentions, (vi) criteria for notification of and discussions with parents of students expressing suicidal intentions, (vii) criteria for as-soon-as-practicable contact with the parents, (viii) appropriate sensitivity to religious beliefs, and (ix) the legal requirements and criteria for notification of public service agencies, including, but not limited to, the local or state social services and mental health agencies. The guidelines may include case studies and problem-solving exercises and may be designed as materials for in-service training programs for licensed administrative and instructional personnel. The first guidelines must be developed, published and distributed by October 1, 1999. No person will be required to comply with the requirements of this act until the guidelines are distributed to the local school divisions. SB 1250; CH. 425.

§ 22.1-274 amended. School health services. Provides that instructional employees, instructional aides and clerical employees may not be disciplined, placed on probation, or dismissed for refusal to perform non-emergency health-related for students. School administrative personnel and persons employed by school boards who have the specific duty to deliver health-related services are excepted from this prohibition. Further, instructional aides and clerical employees may not refuse to dispense oral medications. Currently, protection from disciplinary actions for refusal to perform non-emergency health-related services for students is only extended to licensed instructional personnel. HB 2711; CH. 757.

§§ 8.01-225, 22.1-274, 22.1-275.1, 54.1-2901, 54.1-3001, 54.1-3005, and 54.1-3408 amended. Care of public school students diagnosed with diabetes. Provides, in the Good Samaritan law, for immunity from liability for school board employees who assist in administering administering insulin to diabetic students or who administer glucagon to diabetic students suffering from life-threatening hypoglycemia. To qualify for immunity, the employee must be authorized by a prescriber, be trained in the administration of insulin and glucagon, and be acting upon the authorization of the prescriber and the written request of the student's parents. In schools with a staff of 10 or more and if one or more students diagnosed with diabetes attend the school, the school health services must include at least two employees trained in the administration of insulin and glucagon. No licensed instructional employee shall be disciplined, placed on probation, or dismissed for refusal to obtain such training. When a registered nurse, nurse practitioner, physician or physician assistant is present, no employee who is not a registered nurse, nurse practitioner, physician or physician assistant can assist with the administration of insulin or

administer glucagon. Prescriber authorization and parental consent must be obtained for any employee who is not a registered nurse, physician or physician assistant to assist with the administration of insulin or to administer glucagon. The school health advisory boards may recommend to the local school board procedures relating to children with acute or chronic illnesses or conditions, including appropriate emergency procedures for any life-threatening conditions and designation of school personnel to implement the appropriate emergency procedures. The procedures relating to children with acute or chronic illnesses or conditions must be developed with due consideration of the size and staffing of the schools within the jurisdiction. Public school personnel who are authorized by a prescriber and trained in the administration of insulin or glucagon are excepted from the nursing and medical practice acts when assisting with or performing such diabetes treatment. The Board of Nursing is directed to develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of public school employees in the administration of insulin and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of guidelines must be finalized by September of this year and must be made available to local school boards for a fee not to exceed the costs of publication. In the Drug Control Act, prescribers may authorize, pursuant to a written order or standing protocol, persons employed by a local school board and trained in the administration of insulin and glucagon to assist in the administration of insulin and to administer glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician or physician assistant is not available to perform the administration of the medication. SB 889; CH. 570.

§§ 32.1-325, 54.1-2603, and 54.1-3606 amended; §§ 22.1-274.02 and 32.1-326.3 added. School division participation in medical assistance services. Requires the Superintendent of Public Instruction and the Director of the Department of Medical Assistance Services or their designees to develop and execute a memorandum of agreement relating to special education health services that are delivered by school divisions to public school students. The memorandum of agreement must be revised on a periodic basis; at a minimum, it must be revised within six months of the inauguration of a new governor. The agreement must include, but need not be limited to, (i) requirements for regular and consistent communications and consultations between the two departments and with school division personnel and officials and school board representatives; (ii) a summary of the Individuals with Disabilities Education Act, a summary of school division responsibilities pursuant to IDEA, and a summary of any corresponding state law which influences the scope of these responsibilities; (iii) a summary of the then-current Medicaid regulations regarding special education health services programs; (iv) assignment of specific

responsibilities of the two state departments for the operation of special education health services; (v) a schedule of issues to be resolved through the regular and consistent communications process, including, but not limited to, ways to integrate and coordinate care between the Department of Medical Assistance Services' managed care providers and special education health services providers; (vi) a process for the evaluation of the services which may be delivered by school divisions participating as special education health services providers; (vii) a plan and schedule to reduce the administrative and paperwork burden of Medicaid participation on school divisions in Virginia; and (viii) a mechanism for informing primary care providers and other case management providers of those school divisions that are participating as Medicaid providers and for identifying such school divisions as Medicaid providers that are available to receive referrals to provide special education health services. In addition, the Boards of Education and Medical Assistance Services are directed to develop a form to be included with the individualized education plan (IEP) that must be accepted by DMAS as the plan of care (POC) and to collect data necessary to establish separate and specific Medicaid rates for the IEP meetings and other services delivered by school divisions to students; the POC must be consistent with the POC required of other Medicaid providers, allow for written updates, used by all school divisions participating as Medicaid providers, document the student's progress, and be integrated and coordinated with DMAS' managed care providers. A consent form will be developed which is separate from the IEP, includes a statement noting that it is not part of the student's IEP, includes a release to authorize billing of school-based health services, and must be used by all school divisions participating in Medicaid. The consent form will be made available to the parents upon conclusion of the IEP meeting. The two Boards must work together to develop a cost-effective, efficient, and appropriate process to allow school divisions access to eligibility data for students for whom consent has been obtained. The state plan for medical assistance services will include a provision for payment of medical assistance services to Medicaid-eligible students that qualify for Medicaid reimbursement and may be provided by school boards. The Boards of Audiology and Speech-Language Pathology and of Psychology will respectively license persons licensed by the Board of Education with an endorsement in speech-language pathology and a master's degree in speech-language pathology as school speech-language pathologists, and persons licensed by the Board of Education with an endorsement in psychology and a master's degree in psychology as school psychologists-limited. Individuals holding such licenses are not authorized to practice outside the school setting or in any setting other than the public schools of the Commonwealth, unless such individuals are licensed by the relevant board to offer services to the public. Persons who hold licenses as speech-language pathologists or psychologists without these limitations will be exempt from these limitations. The services delivered by school divisions cannot include any family planning, pregnancy or abortion services. Emergency regulations are required by the second

enactment. The third enactment requires the two departments to report on or before December 1 of each year to the chairmen of the Senate Committees on Education and Health and Finance, and the House Committees on Education, Health, Welfare and Institutions, Finance, and Appropriations. HB 2360; CH. 1005/SB 1199; CH. 967.

§ 22.1-277.01 amended. Expulsion of students for firearms possession. Eliminates the exception for possession of an unloaded firearm which is in a closed container in or upon a motor vehicle or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle from the statute requiring expulsion of students for bringing firearms onto school property or to a school-sponsored activity. This provision also specifically authorizes a school administrator, pursuant to school board policy, or a school board to determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. School boards are also authorized to promulgate guidelines for determining what constitutes special circumstances. HB 1462; CH. 1027.

§ 22.1-277.01 amended. Student expulsions. Modifies the "zero tolerance" law, which mandates one-year expulsions for students bringing weapons on school property or to school-sponsored events, to permit school boards, by regulation, to authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. These regulations are to ensure that any such "other" subsequent disciplinary action is to be taken in accordance with the due process procedures set forth in § 22.1-277. Currently, a school board may determine that "special circumstances" exist in these weapons possession cases and that another disciplinary action is more appropriate. SB 1136; CH. 707.

§ 22.1-277.01:1 amended. Student expulsions for drug offenses. Modifies the requirement that students must be expelled from school attendance for possession of drugs on school property or at a school-sponsored activity to permit school boards, by regulation, to authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. These regulations must ensure that any such "other" subsequent disciplinary action is to be taken in accordance with the due process procedures set forth in § 22.1-277. Currently, possession with intent to manufacture, sell or distribute is the basis for required expulsion. A school board, and only a school board, may determine that "special circumstances" exist in these cases and that another disciplinary action is more appropriate. HB 2144; CH. 732/SB1135; CH. 706.

§ 22.1-277.01:2 amended. School strip searches. Requires the Board of Education to develop, in consultation with the Office of the Attorney General, guidelines for strip searches in public schools. A report on the development of the guidelines must be made to the General Assembly. HB 1489; CH. 650.

§ 22.1-277.1 amended. Authority to make certain alternative education placements. Authorizes school boards to adopt regulations empowering the division superintendent or his designee to require certain students to attend alternative education programs after written notice to the student and his parent and notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such alternative education placement. The decision of the superintendent (or his designee) would be final unless altered by the school board, upon timely written petition by the student or his parent, for a review of the record by the school board. The affected students include those who have been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person; (ii) found guilty or not innocent of a crime which resulted in or could have resulted in injury to others, or of a crime for which the disposition ordered by a court is required to be disclosed to the superintendent of the school division pursuant to § 16.1-305.1; or (iii) expelled for weapons offenses or convictions or adjudications of delinquency related to certain serious crimes. This measure does not confer upon division superintendents the power to circumvent due process procedures afforded students in suspension and expulsion cases, but simply empowers them to determine alternative education placements in these particular instances.

The superintendent's designee must be a trained hearing officer or a professional employee within the administrative offices of the school division who reports directly to the division superintendent, and may not be a school-based instructional or administrative employee.

School boards currently may delegate to division superintendents or their designees the authority to exclude certain students from school attendance, subject to similar notice and hearing requirements. HB 2405; CH. 457.

§ 22.1-278.1 amended. School safety audits. Clarifies that school safety audits must be written assessments of the safety conditions in each public school and requires each school to maintain a copy of its safety audit within the office of the school principal and to make this copy available for review upon written request. Under current law, school boards must require all public schools to conduct safety audits, which are defined as the assessment of the safety conditions in schools to identify and evaluate patterns of student safety concerns on school property or at school-sponsored events and develop, if necessary, solutions for physical safety concerns, including building security issues. Solutions and responses may include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.

The Superintendent of Public Instruction is required to develop a list of items to be reviewed and evaluated in the school safety audits. HB 1521; CH. 516.

§ 22.1-278.1 amended. School safety. Requires, in addition to the already-required school safety audits, that school boards ensure that each school develops a written school crisis and emergency management plan. The Department of Education must provide technical assistance to the schools in the development of these plans. The Board of Education must, upon consultation with local school boards and division superintendents, develop, and may revise as necessary, a model school crisis and emergency management plan for the purpose of assisting the public schools in Virginia in developing viable, effective crisis and emergency management plans. "School crisis and emergency management plan" is defined as the essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, including natural disasters involving fire, flood, severe weather; loss or disruption of power, water, communications or shelter; bus or other accidents; medical emergencies; student or staff member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of a student; hostage situations; and violence on school property or at school activities; and other incidents posing a serious threat of harm to students, personnel or facilities. A second enactment clause requires that the plans must be developed and operational by July 1 of the year following the effective date of this act. SB 827; CH. 475.

§ 22.1-278.2 amended. School board regulation of laser pointer use. Authorizes local school boards to regulate the use or possession of laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures for violations. Currently, this regulatory and disciplinary authority applies to beepers "or other portable communications devices." HB 1894; CH. 432.

§ 22.1-280.1 amended. Reporting of student offenses to school authorities. Permits local law-enforcement authorities to report, and school principals to receive such reports, on student offenses, wherever committed, that would be a felony if committed by an adult or would be an adult misdemeanor involving any of the at-school drug, weapons, or violence-related incidents already required to be reported to school officials. Principals are to contact the parents of students involved in these incidents, and the student must participate in appropriate intervention and prevention activities. In addition, a principal who knowingly fails to comply or secure compliance with these reporting requirements will be subject to sanctions prescribed by the local school board, which may include, but need not be limited to, demotion or dismissal. Under current law, courts must report student convictions or adjudications of certain crimes pursuant to § 16.1-305.1; in addition, incidents involving drugs, weapons, or violence on school property or at school events, regardless of any arrest or conviction, are now reported to school authorities, who then relay an annual report of these incidents to the division superintendent. SB 1244; CH. 970.

§§ 22.1-295 and 22.1-303 amended. Evaluation of certain teachers. Directs local school boards to fill positions with instructional personnel qualified in the relevant subject area. School boards are also required to (i) adopt employment policies that include incentives for excellence in teaching, including financial support for teachers attending professional development seminars or seeking and obtaining national certification; (ii) develop procedures for division superintendents and principals to use in evaluating instructional personnel that are appropriate to the tasks performed and address such matters as student academic progress and the skills and knowledge of instructional personnel, including, but not limited to, instructional methodology, classroom management, and subject matter knowledge; (iii) provide each probationary teacher with a mentor teacher to assist the probationary teacher in achieving excellence in instruction; and (iv) evaluate probationary teachers annually. Division superintendents must consider the annual evaluations of the probationary teachers when making recommendations to the school board regarding the nonrenewal of any probationary teacher's contract. If the probationary teacher's evaluation is not satisfactory, the school board must not reemploy the teacher. This bill specifically notes that none of these new requirements are to be construed to require cause for the nonrenewal of the contract of a probationary teacher, i.e., a teacher who has not achieved continuing contract status. HB 1726; CH. 831.

§ 22.1-296.2 amended. Criminal records checks for school board employees. Adds Lancaster, Mecklenburg, and York Counties and the City of Manassas Park to the list of jurisdictions whose school boards must (i) require, as a condition of employment, fingerprinting for applicants who are offered or accept school board employment, whether on a temporary, permanent, or part- or full-time basis, and (ii) submit the fingerprints and descriptive information through the Central Criminal Records Exchange to the Federal Bureau of Investigation to obtain the applicant's national criminal records history.

The records are searched for all felonies and any misdemeanors involving drugs, abuse or neglect of children, moral turpitude, obscenity offenses, and sexual assault. In addition, localities requiring these records checks also receive reports of arrests for these crimes for current employees, who must then submit to fingerprinting and a criminal records check.

Under current law, the school board may require applicants and employees to pay for the fingerprinting and records check or may pay for these services from such funds as may be available for that purpose. The statute now directs 52 jurisdictions (29 counties and 23 cities) to require these criminal records checks. HB 1451; CH. 448.

§ 22.1-298 amended. Teacher licensure; technology proficiency. Directs the Board of Education to include in its licensure regulations a requirement that on and after July 1, 2003, persons seeking initial licensure or license renewal as

teachers demonstrate proficiency in the use of educational technology for instruction. Currently, Standard 6 of the Standards of Quality requires local school boards to provide programs of professional development in educational technology for all instructional personnel. HB 2263; CH. 1035.

§ 22.1-298 amended. Proficiency in Braille. Requires that on and after July 1, 2000, persons seeking licensure with endorsements as teachers of the blind and visually impaired demonstrate proficiency in reading and writing Braille. Currently, the law provides that such persons shall demonstrate "minimum proficiency" in Braille. SB 1307; CH. 429.

§ 22.1-299.2 added. National Teacher Certification Incentive Reward Program. Establishes, from such funds as may be appropriated and from such gifts, donations, grants, bequests, and other funds as may be received, the National Teacher Certification Incentive Reward Program and Fund. Administered by the Board of Education, this initiative provides incentive grants to public school teachers obtaining national certification from the National Board for Professional Teaching Standards (NBPTS). To the extent funds are available, initial awards are set at \$5,000, with subsequent annual awards of \$2,500 for the life of the certificate. The Board is to establish procedures for determining amounts of awards when funds are insufficient to meet these targeted amounts. The Board may issue guidelines governing the Program as it deems necessary and appropriate. HB 2087; CH. 1032.

§ 22.1-302 amended. Qualifications of temporarily employed teachers. Directs the local school boards to establish employment qualifications for temporarily employed teachers which may exceed the Board of Education's regulations for such teachers. School boards must also seek to ensure that temporarily employed teachers who are engaged as long-term substitutes will exceed baseline employment qualifications. SB 932; CH. 486.

§ 22.1-326.1. See § 54.1-3005; SB 1129.

§ 22.1-348 amended. Virginia School for the Deaf and the Blind at Staunton. Directs the Virginia School for the Deaf and the Blind (VSDB) at Staunton, from such funds as may be appropriated, to provide an educational program for children in preschool through grade 12 who have visual and hearing disabilities and who are identified as emotionally disturbed pursuant to Board of Education regulations. Currently, VSDB at Staunton provides an educational program for children in preschool through grade 12 who are deaf and an educational program for children in preschool through grade 12 who are blind, while VSDB at Hampton provides an educational program for children in preschool through grade 12 who are deaf, an educational program for children in preschool through grade 12 who are blind, and an educational program for children in preschool through grade 12 with sensory-impaired multiple disabilities. SB 1305; CH. 427.

§ 22.1-348 amended. Virginia Schools for the Deaf and the Blind. Eliminates the authority of the Board of Education to establish attendance zones for the Virginia Schools for the Deaf and the Blind, located in Staunton and in Hampton. This bill also includes several technical amendments. SB 1306; CH. 428.

§§ 22.1-350, 22.1-352, 23-7.4:2, 23-14, 23-31, 23-91.20, 23-91.23, 23-231.2, 23-231.3, 23-231.4 and 23-231.5 amended. Clinch Valley College. Renames Clinch Valley College as the University of Virginia's College at Wise. A technical amendment to the Southwest Virginia Higher Education Center statute recognizes the institution's administration under a chancellor rather than a president. The institution is a four-year, degree-granting public institution of higher education and, as a division of the University of Virginia, is under the supervision of the rectors and visitors of the University of Virginia. Clinch Valley College was founded in 1954 as a co-educational branch campus of the University of Virginia. HB 2625; CH. 437/SB 1210; CH. 424.

TITLE 22.1. MISCELLANEOUS - EDUCATION.

Advisory referendum; Page County high schools. Provides for an advisory referendum in Page County at the November 2, 1999, election on the future of the county's two high schools. The voters are asked to vote for one of three options: (i) a new consolidated high school and conversion of the two existing high schools to middle schools; (ii) two new high schools and conversion of the two existing high schools to middle schools; or (iii) no change in present system. HB 2489; CH. 790.

Indoor air quality in public schools. Requires the Department of Housing and Community Development to establish a task force to identify existing guidelines and standards for indoor air quality and Uniform Statewide Building Code requirements for heating, air conditioning, and ventilation systems for schools. The task force will consist of 12 members, including two members of the House of Delegates and one member of the Senate; representatives of the Virginia Association of School Boards, the Virginia Chamber of Commerce, the Virginia Association of Counties, and the Virginia Education Association; one licensed architect or engineer actively engaged in the practice of school design and construction; and representatives of the Departments of Housing and Community Development, Education, and Health. Various appointments will be made by the Speaker of the House of Delegates, the Senate Committee on Privileges and Elections, and the Governor. The task force must develop recommendations regarding indoor air quality in public schools and report such recommendations to the House Committees on Education and on Appropriations, and the Senate Committees on Education and Health and on Finance by December 1, 1999. HB 2478; CH. 557.

Virginia Gifted Education Consortium. Establishes the Virginia Gifted Education Consortium to facilitate collaboration, cooperation, and communication among school divisions to address issues of mutual concern regarding gifted education. Comprised of no more than 26 members, the consortium shall be composed of volunteer representatives of local school divisions, professional associations for the gifted, institutions of higher education, teachers, researchers, parents, and advocates of gifted education. The consortium is to promote the early identification of gifted and talented students and to attend to the educational and support needs of gifted students, particularly minority, poor, and special needs students, and those who demonstrate exceptional talents in other areas recognized under federal law. The consortium shall also monitor the quality and needs of such programs, propose changes that may be needed to improve gifted education, network and share best practices, and deliberate and collaborate on mutual interests and concerns. The Superintendent of Public Instruction is required to convene the consortium for its first meeting and provide for the establishment of a meeting schedule. He is also required to designate staff to observe the proceedings. This is a section 1 bill and will not be codified. Its provisions expire on July 1, 2001.

The initial version of the measure was a recommendation of the Joint Subcommittee Studying the Educational Needs of Certain Gifted Students. SB 1200; CH. 501.

School board salaries. Provides that Newport News and Virginia Beach, notwithstanding any provisions of § 22.1-32 to the contrary, may establish salary increases to become effective on and after July 1, 1999. § 22.1-32 places conditions on the adoption of school board salary increases and also provides that a salary increase may not become effective during an incumbent's term, unless the school board members serve staggered terms. This measure is presented as a § 1 bill, as it effects a one-time action for two jurisdictions. SB 1237; CH. 504 (effective 3/27/99).

TITLE 23. EDUCATIONAL INSTITUTIONS.

§ 23-7.4 amended. Eligibility for in-state tuition. Provides that dependent students and unemancipated minors who have established eligibility for in-state tuition shall be entitled to this in-state tuition for one year from the date the person through whom the student or minor established domicile and eligibility for in-state tuition abandons his Virginia domicile.

Under current law, to become eligible for in-state tuition, a dependent student or unemancipated minor shall establish, by clear and convincing evidence, that, for a period of at least one year prior to the date of the alleged entitlement, the person through whom he claims eligibility was domiciled in Virginia and had abandoned any previous domicile, if such existed. When the parent or other person through whom he claims

eligibility moves to another state, the student can lose eligibility. SB 1042; CH. 439.

§§ 23-7.4:2, 23-14, 23-31, 23-91.20, 23-91.23, 23-231.2, 23-231.3, 23-231.4, and 23-231.5 amended. See § 22.1350; HB 2625/SB 1210.

§ 23-7.4:4 added. Higher education; reduced tuition and fees. Directs the governing bodies of all public institutions of higher education to reduce, by 20 percent, tuition and mandatory educational and general fees in effect on June 30, 1999, for in-state undergraduate students for the year beginning July 1, 1999, and ending June 30, 2000. The Governor is to include in his budget submitted to the General Assembly sufficient funds to reimburse each public institution of higher education for the reduction in tuition and mandatory fees. This bill is similar, but not identical, to SB 1337. HB 2757; CH. 1042.

§ 23-9.2:3.01 added. Higher education; reduced tuition and fees. Directs the governing bodies of all public institutions of higher education to reduce, by 20 percent, tuition and mandatory educational and general fees in effect on June 30, 1999, for in-state undergraduate students for the year beginning July 1, 1999, and ending June 30, 2000. For each year thereafter until June 30, 2004, the governing body of each public institution of higher education is prohibited from increasing tuition and mandatory educational and general fees for in-state undergraduate students. The Governor is to include in his budget submitted to the General Assembly sufficient funds to reimburse each public institution of higher education for the reduction in tuition and mandatory fees. This bill is similar, but not identical, to HB 2757. SB 1337; CH. 1039.

§ 23-9.2:3.4. See § 22.1-253.13:5; HB 2710/SB 1145.

§ 23-9.6:1 amended. State Council of Higher Education for Virginia (SCHEV); data collection on students with disabilities. Requires SCHEV, as part of its existing duty to develop a uniform comprehensive data information system on admissions, enrollments, etc., to collect data on self-identified students with documented disabilities. In higher education, students with disabilities are self-identified and are entitled to accommodations according to their disabilities under the Americans with Disabilities Act. The bill is a recommendation of the Joint Commission on Technology and Science. HB 1672; CH. 451.

§ 23-9.6:1 amended. State Council of Higher Education; release of student records. Adds to the duties of the State Council of Higher Education the issuance of guidelines, consistent with the provisions of the federal Family Education Rights and Privacy Act (FERPA), requiring public institutions of higher education to release student academic and disciplinary records to parents. HB 2509; CH. 460.

§ 23-9.13:1 amended. In-service technology training for educational personnel. Clarifies that the institutes required to be established by the State Council of Higher Education at public colleges and universities shall provide in-service training in the effective use of educational technology for

teachers, administrators and librarians. The bill provides further that no more than four sites shall be established in the Commonwealth. HB 2671; CH. 562.

§ 23-38.12 amended; § 2.1-32.1 added. Selective Service compliance. Requires compliance with the federal requirement to register for the Selective Service for any person to be eligible for employment with the Commonwealth. Additionally, the bill amends the parallel requirement regarding education loans to include an exemption for people who fail to register because the requirement is inapplicable or is not effective, and it is shown that the failure to register was not knowing and willful. This bill was recommended by the subcommittee established pursuant to 1998 House Joint Resolution 194. HB 2255; CH. 434.

§ 2.1-548.29 amended; §§ 23-38.19:3, 23-38.19:4 and 23-38.19:5 added; Chapter 859 of the 1998 Acts of Assembly repealed. Virginia Undergraduate and Vocational Incentive Scholarship Program. Amends the Virginia Undergraduate and Vocational Incentive Scholarship Program, which was created in 1998 by legislation that included a reenactment clause. By repealing the 1998 Act and introducing the measure anew with additional changes, this bill effectuates the necessary reenactment.

Amendments in the 1999 measure: (i) clarify that the scholarships are for students at public and private not-for-profit institutions of higher education in the Commonwealth; (ii) limit scholarships to no more than three academic years; (iii) cap scholarship amounts (a) at full tuition and required fees for recipients attending a four-year public institution of higher education and (b) at average tuition and fees charged at four-year public institutions of higher education for recipients attending a four-year private, not-for-profit institution of higher education; (iv) require students to have completed at least one year of study to be eligible for an initial award; and (v) delay the effective date to the 2000 academic year.

The Program is to be administered by the State Council of Higher Education. Similar to the Community College Incentive Scholarship Program (§ 23-220.2 et seq.), these scholarships are available to eligible full-time students attending four-year institutions. Students must also have a B average or better and be enrolled in designated programs that address Virginia's workforce training needs. The Virginia Economic Development Partnership is to advise the Council, upon request, regarding those programs that address these workforce development needs. HB 2189; CH. 542.

§ 23-38.56 amended. Senior Citizens Higher Education Act. Modifies the Senior Citizens Higher Education Act to provide that persons having an income not exceeding \$10,000 for Virginia, not federal, income tax purposes may be eligible to register and enroll in courses tuition-free, and as a full-time or part-time student for academic credit. HB 2274; CH. 381.

§ 23-38.75, 23-38.76, 23-38.77, 23-38.80, 23-38.81, 23-38.86 and 23-38.87. See § 58.1-322; HB 1600/SB 919.

§ 23-50.16:32. See § 2.1-116.05; HB 1985/SB 1023.

§ 23-91.23:1 added. University of Virginia; branch campus in Qatar. Authorizes the board of visitors of the University of Virginia to establish, operate, and govern a branch campus of the University in the State of Qatar. The board is to provide appropriate professional opportunities for Virginia-based faculty to teach or conduct research on the Qatar campus and educational opportunities for Virginia-based students to study or conduct research on the Qatar campus. Any agreement between the University's Board of Visitors and the State of Qatar must contain contractual assurances which prohibit discrimination on the basis of race, color, religion, national origin, or sex at the branch campus. The constitutional rights of freedom of speech and religion also shall not be abridged. HB 2765; CH. 565/SB 1338; CH. 507.

§ 23-165.4 amended. Virginia State University Board of Visitors. Provides for three alumni members of the Board of Visitors for Virginia State University. Currently, the law provides that two members of the eleven-member board may be nonresidents of Virginia. The amendment requires that the alumni members be appointed by the Governor from among nominations of qualified persons submitted by the Virginia State University Alumni Association. This measure also provides for staggered terms. HB 2548; CH. 752.

§ 23-174.4 amended. Composition of Board of Visitors of Norfolk State University; appointment, terms, etc. Makes technical, updating amendments to the statute authorizing the appointment of the Board of Visitors of Norfolk State University and provides, in a second enactment, for staggered terms for the Board members. Presently, approximately one-half of the members' terms expire every two years, making continuity uncertain. HB 2437; CH. 1013.

§ 23-231.15 amended. Roanoke Higher Education Authority; membership. Increases the membership of the Board of Trustees of the Roanoke Higher Education Authority from 21 to 24 by adding Hampton University, the Executive Director of the Fifth District Employment and Training Consortium, and the Director of TAP This Valley Works. There are also technical amendments to correct institutional names, grammar, and a section reference. SB 765; CH. 469.

§§ 23-265 and 23-266 amended. Postsecondary education; multi-state compacts. Exempts educational courses and programs offered pursuant to a multi-state compact, including, but not limited to, the Southern Regional Education Board's Southern Regional Electronic Campus, from the requirement that State Council of Higher Education approval be obtained prior to conferring any degrees, diplomas, or certificates. The measure defines a multi-state compact as an agreement involving two or more states to offer jointly postsecondary educational opportunities, pursuant to policies and procedures set forth by such agreement and approved by the Council. HB 2482; CH. 458/SB 1171; CH. 499.

TITLE 24.2. ELECTIONS.

§ 24.2-103 amended. State Board of Elections; powers and duties. Requires the State Board to ensure adequate, annual training for local electoral board members and general registrars by offering training annually or more often, as appropriate. HB 1852; CH. 861.

§ 24.2-112 amended. Assistant general registrars. Requires Russell County, by population bracket, to have at least one full-time assistant registrar. Currently, any county or city of more than 15,500 is required to have at least one assistant registrar who serves at least one day a week. HB 1709; CH. 115.

§ 24.2-228 amended. Vacancies in local governing body, elected school board, or office of mayor. Allows the governing body or school board 45 days, rather than the current 30 days, to make an interim appointment to fill a vacancy. In counties, cities, and larger towns, the person appointed serves until the vacancy can be permanently filled by special election. HB 2219; CH. 128.

§ 24.2-307 amended. Voting precincts; size requirements. Modifies the present law's requirement that counties and cities revise voting precinct boundaries whenever the number of registered voters in a precinct exceeds 5,000. The bill continues the present law's requirement that no precinct should be established that contains more than 5,000 registered voters. However, the requirement to revise precincts will not be triggered unless the number of voters who voted in a precinct in a presidential election exceeds 4,000. Recent increases in the number of registered voters have coincided with declines in voter turnout and triggered precinct adjustments when actual voter turnout has not necessitated the precinct changes. The bill does not change the locality's authority to redraw precincts at the locality's option to handle large or growing precincts. HB 1503; CH. 515.

§§ 24.2-404.2 and 46.2-208.1 added. Administration of voter registration laws and the National Voter Registration Act. Establishes a National Voter Registration Act Coordinating Committee consisting of representatives of the State Board of Elections, Department of Motor Vehicles, three other agencies providing voter registration opportunities, and general registrars. The committee will report recommendations to the Secretary of the State Board. The bill also provides for the electronic transfer of information from DMV to the State Board and general registrars. HB 1854; CH. 118.

§ 24.2-405 amended. Lists of registered voters; lists of addresses for census and database purposes. Authorizes the State Board of Elections to furnish, at a reasonable price, lists of registered voter addresses to local census liaisons to provide address information to the United States Bureau of the Census and to furnish the lists to the Clerks of the Senate and House of Delegates for maintaining a constituent database. The lists furnished for these purposes are not to show voters' names.

The bill also authorizes the Board to furnish information to the Department of Motor Vehicles and other appropriate state agencies to maintain the voter registration system and permits registrars from multiple jurisdictions to staff registration sites at DMV facilities with Board approval. HB 2759; CH. 843 (effective 3/29/99).

§§ 24.2-408 and 24.2-409 amended. Voter registration records; lists of decedents and felons. Provides that the monthly lists furnished to the State Board of Elections by the State Registrar of Vital Records and Division of Criminal Records, respectively, shall be transmitted electronically in a format specified by the State Board. The bill requires the State Board to maintain a cumulative permanent record of the information on decedents and felons for use in administering the voter registration system. HB 1853; CH. 117 (effective 4/1/00).

§ 24.2-427 amended. Cancellation of voter registration. Provides that a voter may cancel his registration by submitting a signed request for cancellation to the general registrar in person or by first-class mail. Present law requires the voter to sign the authorization for cancellation at the office of the general registrar or otherwise submit a signed and notarized authorization to the general registrar. The bill requires the general registrar to acknowledge receipt of the authorization within ten days of its receipt. SB 1124; CH. 851.

§ 24.2-443 amended. Absentee ballots for persons registered temporarily for federal elections. Provides that the electoral board, rather than the general registrar, will provide the absentee ballots to those registered temporarily for federal elections. Generally, under the election laws, the general registrar has responsibilities for registration procedures and the electoral board oversees the ballot process. This change reflects that general policy. Under the proposed bill, the electoral board will have primary responsibility for the ballots and will be able to delegate those responsibilities, as appropriate, to the general registrar in accordance with instructions from the State Board of Elections. SB 1002; CH. 154.

§§ 24.2-443.1 through 24.2-443.4 added. Temporary registration for state and local elections. Permits persons (and their spouses and dependents residing with them) who have been registered to vote in Virginia and who move overseas for purposes of employment to continue to vote in state and local elections in Virginia under certain conditions. The bill implements the constitutional amendment to Article II, Section 1, approved by the voters in 1998. HB 2647; CH. 795.

§ 24.2-515 amended; §§ 24.2-544 and 24.2-545 added. Presidential election year primaries. Permits, but does not require, a political party to elect delegates to its national convention at a presidential primary to be held on the last Tuesday in February. The party may also choose to elect its delegates apart from the primary, and they will be bound to vote on the first national convention ballot for the primary winner unless he or she releases the delegation. The bill changes the date for municipal primaries in presidential

election years from the first Tuesday in March to the last Tuesday in February to coincide with the presidential primary. The bill retains the usual June primary date for all other primaries to nominate candidates for the November election and the usual June deadlines for party nominations by non-primary methods. The costs of a presidential primary will be paid, as is the case for other elections, by the counties and cities. SB 1287; CH. 972.

§ 24.2-611 amended. Elections procedures; precinct registered voter lists and pollbooks. Authorizes the State Board of Elections to conduct pilot projects using a combined printed precinct voter registration list and pollbook in place of the present two printouts during 1999 elections. SB 1123; CH. 810.

§ 24.2-632 amended. Voting equipment custodians. Permits an electoral board to appoint a member of the board or registrar to serve as a custodian without pay for such service. The bill applies only to localities using mark sense ballots and electronic ballot counters. HB 2651; CH. 219.

§§ 24.2-643 and 24.2-708 amended. Voter identification; replacement absentee ballots. Authorizes the State Board of Elections to conduct a pilot program in ten or fewer localities requiring voter identification at the polls. The bill also provides that a voter may obtain a replacement absentee ballot for a lost or spoiled ballot. Present law allows a voter to obtain a replacement ballot if he signs a statement that he did not receive the ballot. The bill adds provisions to cover lost and spoiled ballots. HB 1961; CH. 725.

§ 24.2-705 amended. Emergency applications and absentee ballots for persons incapacitated or hospitalized. Provides that persons hospitalized or incapacitated within the seven, rather than five, days before an election will be able to apply for and receive an emergency absentee ballot. HB 1514; CH. 590.

§§ 24.2-914 and 24.2-914.1 amended. Campaign finance disclosure reports; electronic filings. Provides explicitly that candidates for the General Assembly may file reports electronically with the State Board of Elections and with the local electoral board so long as the local board has equipment to receive reports electronically. The bill also specifies that the address for a contributing corporation or other entity need be listed only once on the report of contributions received. HB 2010; CH. 864.

§ 24.2-922 amended. Filing of campaign finance disclosure reports as condition to qualification for office. Allows a person elected to fill a vacancy at a November or May general election to qualify more quickly for the office and provides for the issuing of a certificate of election to that person as soon as he files a post-election report complete through the election day. Present law prohibits the person who is elected to fill a vacancy on a general election day from qualifying for the office or receiving his certificate of election until the filing of the usual post-election report which is due the 30th day after the November election day complete through the 23rd day after the

election day or due by June 15 after a May general election day complete through June 10. The person elected would still be required to file the normal post-election report, but he would be allowed to take office as soon as he files a post-election report complete through the election day. HB 1863; CH. 120.

§ 24.2-1019 amended. Election law offenses; filings of complaints with attorney for the Commonwealth. Provides that complaints of violations involving false statements on registration applications shall be filed with the attorney for the Commonwealth of the county or city where the applicant seeks to register. Present law provides generally that a complaint of an election law violation is to be filed where the offense occurred. A case involving a false application to register by mail was dismissed when it was brought in the jurisdiction that received the application because the application had been mailed and the Commonwealth could not show where the offense occurred. HB 1959; CH. 374.

TITLE 25. EMINENT DOMAIN.

§ 25-233. See § 56-49; HB 1881/SB 899.

TITLE 26. FIDUCIARIES GENERALLY.

§ 26-17.4. See § 31-1; HB 1633.

§§ 26-17.4, 26-18, 26-19 and 26-20 amended. Fiduciaries. Requires the commissioner of accounts to file with the court a quarterly list of all fiduciaries whose accounts have been before the commissioner for more than five months and to indicate which are delinquent. The bill reinserts guardians of minors' estates in § 26-17.4 (inadvertently deleted by 1997 guardianship bill). HB 2146; CH. 378.

§ 26-17.9 amended. Vouchers and statement of assets on hand. States that a corporate fiduciary's affidavit describing payments of debts, taxes and expenses shall be a sufficient voucher to comply with the filing requirement of § 26-17.9, unless otherwise requested by the commissioner of accounts. HB 1946; CH. 74.

§ 26-17.10 amended. Accounting before commissioners of accounts. Provides that for fiduciaries acting on behalf of social security, supplemental security income, veteran's or other federal benefits recipients, no accounting shall be required for benefits paid to a designated representative on behalf of the recipient if the representative is otherwise required to account for such benefits. HB 1567; CH. 108.

§§ 2.1-328, 26-39, 26-40, 26-40.01, 26-40.2, 26-44, 57-35.14:1, 57-39.22, and 64.1-57 amended; §§ 26-45.3 through 26-45.14 added; § 26-45.1 repealed. Uniform Prudent Investor Act. Adopts the uniform act, which is

intended to facilitate reasonable investment practices by trustees. The bill adopts a standard of prudence which is applied to an investment as part of a total portfolio rather than to the individual investment; makes the fiduciary's central consideration an evaluation of risk versus return; allows investment in anything that meets the requirements of prudent investing; recognizes the need for diversification; and allows delegation of investment and management functions.

This bill is recommended by the Virginia Commissioners to the National Conference of Commissioners on Uniform State Laws. HB 841; CH. 772 (effective 1/1/00).

TITLE 28.2. FISHERIES AND HABITAT OF THE TIDAL WATERS.

§ 28.2-102 amended. Marine Resources Commission member qualifications. Requires that the person filling the position on the Marine Resources Commission that is to be filled by one who, at the time of his appointment, has earned his livelihood for at least five years by working on Virginia waters, is also someone who is licensed and registered as a commercial fisherman. HB 2306; CH. 551.

§§ 28.2-245, 28.2-246, and 28.2-247 added. Commercial fishery grants. Establishes the Fishery Resource Grant Fund. Grants will be awarded by the Graduate Marine Science Consortium, upon the advice of a seven-member Fishery Resource Grant Advisory Board. Grant funds can be expended for new fisheries equipment, environmental pilot studies, aquaculture of marine-dependent species, or seafood technology. The consortium is made up of graduate marine education departments at The College of William and Mary, Old Dominion University, the University of Virginia, and Virginia Polytechnic Institute and State University. HB 1634; CH. 719.

§ 28.2-302.5 amended; § 28.2-302.10:1 added. Saltwater recreational fishing licenses. Allows any individual to apply for and receive from the Virginia Marine Resources Commission a lifetime saltwater recreational fishing license. The fee for the lifetime license is \$250, except that the license fee varies based on the age of the license applicant as follows: for persons ages 45 through 50, the license fee is \$120; for persons 51 through 55, \$90; for persons 56 through 60, \$60; and for persons 61 through 64, \$30. This declining fee structure, based on the age of the applicant, is similar to the one currently provided for those individuals purchasing Department of Game and Inland Fisheries lifetime hunting and fishing licenses. HB 1485; CH. 107.

§§ 28.2-302.7 and 28.2-302.7:1 amended. Recreational boats; saltwater recreational fishing licenses. Allows such boat licenses, which covers all of the boat's passengers, to be issued to operators of boats. Currently, the license may be issued only to the owner of a boat. HB 1484; CH. 106.

§ 28.2-302.8 amended. Saltwater recreational fishing licenses. Clarifies that the saltwater recreational fishing license purchased by a charterboat or headboat captain to cover his customers also covers the captain and mate of the vessel. HB 2514; CH. 681.

§ 28.2-302.8 amended. Recreational saltwater fishing. Authorizes the Virginia Marine Resources Commission to establish a fishing guide license for charterboat and headboat captains. The Commission may limit the sale of such licenses when deemed necessary by the Commission for effective fisheries management. HB 2601; CH. 1019.

§§ 28.2-701 and 28.2-705 amended. Crab and peeler pots. Allows the Virginia Marine Resources Commission to establish the appropriate size for the mesh in crab pots and peeler pots. The regulations may also allow for the interchangeable use of the two types of pots provided they are appropriately marked and proper cull rings are installed. Currently the Code establishes mesh size for crab pots but not peeler pots. HB 2279; CH. 550.

§§ 28.2-1103 and 28.2-1104 added. Estuarine and Coastal Research Reserve System. Creates the Virginia Estuarine and Coastal Research Reserve System which will be administered by the Virginia Institute of Marine Science (VIMS). The purpose of establishing the reserve system is to conduct research on and long-term monitoring of protected lands in Tidewater. The system will consist of areas voluntarily dedicated to VIMS or areas acquired by gift, grant or purchase. Public entities may enter into agreements with VIMS to dedicate areas under their jurisdiction as reserve system sites. HB 2401; CH. 553.

§ 28.2-1204.1 added. Submerged aquatic vegetation. Requires the Virginia Marine Resources Commission, in consultation with the Virginia Institute of Marine Science, to develop criteria to aid in (i) defining existing beds of submerged aquatic vegetation (SAV) and (ii) delineating potential areas for SAV restoration. HB 2266; CH. 547.

§ 28.2-1205 amended. Public trust in subaqueous lands. Directs the Virginia Marine Resources Commission to exercise its authority, consistent with the public trust doctrine as established in common law, to protect the public right to the use and enjoyment of the subaqueous lands held in trust by the Commonwealth. Actions taken in conformance with the public trust are not to be considered an exercise of the police power. A provision clarifies that the amendment is not to be construed to deprive a landowner of any common law riparian rights. HB 2269; CH. 741.

§ 28.2-1210 amended. Removal of property from waters; penalty. Makes it a Class 3 misdemeanor for the owner of a vessel to allow his boat to be abandoned, left in danger of sinking, or in disrepair for more than a week after notification by the Marine Resources Commission or a law-enforcement official. In the case of a natural disaster or act of God, owners of abandoned, sunken or damaged vessels would receive

notification 60 days after the storm that they have one week to remove their boats from the waterway. HB 2221; CH. 544.

§§ 28.2-1308, 33.1-223.2:1, and 62.1-44.15:5 amended. Wetlands mitigation banks. Allows for the compensation required to be made for adverse impacts to wetlands to be made by the use of wetlands mitigation bank credits, including those from a wetlands mitigation bank that may be owned by the person causing the damage. Mitigation banks must comply with state and federal laws, regulations, and guidance in order to be approved for use. Currently, only compliance with federal guidance is necessary for approval. Additional conditions under which mitigation banks may be used are specified. SB 582; CH. 8.

TITLE 28.2. MISCELLANEOUS - FISHERIES AND HABITAT OF THE TIDAL WATERS.

Permanent easement. Authorizes the Marine Resources Commission to grant a permanent easement to the U.S. Forest Service for .76 acres of subaqueous land in the James River in Amherst and Bedford County. A pedestrian bridge would be constructed over this land and would be part of the Appalachian Trail. If the easement ceases to be used as provided for in the bill, it would revert to the Commonwealth. HB 2590; CH. 218.

TITLE 29.1. GAME, INLAND FISHERIES AND BOATING.

§ 29.1-109 amended. Department of Game and Inland Fisheries. Requires the Department of Game and Inland Fisheries to use accepted scientific principles and procedures in managing the Commonwealth's wildlife and natural resources. HB 2487; CH. 215.

§ 29.1-112 added. Wild game licenses. Authorizes the Director of the Department of Game and Inland Fisheries to allow hunting and fishing licenses and permits and merchandise sold by the Department to be purchased with a credit card. The Director also can establish a service charge for the use of a credit card, but the charge cannot exceed the processing fee charged by the issuer of the credit card. HB 2125; CH. 254.

§ 29.1-327 amended. Telephone sale of game licenses. Authorizes the Board of Game and Inland Fisheries to enter into contracts with license agents to sell hunting and fishing licenses over the telephone. The agents selected to provide such a service would receive a fee for each telephone transaction which would be in addition to the actual cost of the license. HB 2126; CH. 255.

§ 29.1-529 amended. Kill permits. Requires the Director of the Department of Game and Inland Fisheries to issue a kill permit for the taking of bear or deer on land used for commercial agricultural production. Any landowner or his designee would have to have hunted bear or deer on the owner's land before a subsequent kill permit could be authorized. The bill requires the disposal of bear or deer within 24 hours of when they were killed. In determining whether a person has abused his kill permit, the Director or his designee could consider as evidence of alleged abuse, a complaint filed by a citizen. Any person who has been aggrieved by the issuance, denial or revocation of a kill permit can appeal the decision to the Department. The bill also authorizes the Director or his designee to issue a deer kill permit in any locality in which the reduction of deer herds has been recommended as part of the Deer Management Plan adopted by the Board of Game and Inland Fisheries. HB 2692; CH. 563.

§ 29.1-536 amended. Sale of bear. Extends the prohibition on the buying and selling of bear. The prohibition on buying and selling bear during the open season is due to expire July 1, 1999. HB 2124; CH. 204.

§ 29.1-569 amended. Keeping of reptiles. Raises the penalty from a Class 4 to a Class 2 misdemeanor for the owner or keeper of any exotic reptile or type of reptile not native to the Commonwealth of Virginia, including but not limited to the American alligator, to keep the reptile in any manner that will permit its escape or to knowingly permit the reptile to run at large. HB 1532; CH. 85.

§ 29.1-744 amended. "No wake" buoys. Allows a person to apply to a local governing body for the removal of "no wake" buoys or other markers. The locality would have the responsibility for approving, disapproving or modifying the application for a buoy or marker. The application would then be forwarded to the Director of the Department of Game and Inland Fisheries for him to approve, disapprove or modify. Currently, the locality simply forwards the application to the Director. The present procedure only covers the placement of buoys, but this bill would allow an application to be filed to remove buoys or other markers. Under the bill, the cost of placing or removing a buoy or marker is to be borne by the person requesting the placement or removal of the marker. SB 979; CH. 489.

§ 29.1-749.2 amended. Regulation of personal watercraft rentals. Authorizes the City of Virginia Beach to adopt ordinances which regulate businesses that offer personal watercraft (PWC) for rent. Such ordinances may require rental businesses to (i) obtain proof of identification from those seeking to rent a PWC, (ii) have at least one motorboat of at least 50 horsepower in operation to ensure safe operation of the rented PWCs, (iii) not rent a PWC that has an engine displacement which exceeds 800 cubic centimeters, or (iv) have at least two marine radios in operation. The ordinances may also prohibit anyone who rents a PWC from misrepresenting or falsifying information on the rental

agreement. Virginia Beach may impose a penalty for violation of these ordinances that is consistent with a Class 3 misdemeanor. HB 1968; CH. 536.

TITLE 29.1. MISCELLANEOUS-GAME, INLAND FISHERIES AND BOATING.

Regulating mooring and anchoring. Authorizes the City of Hampton to enact an ordinance to control the mooring and anchoring of vessels in the City's waters. The bill also prohibits such an ordinance from imposing a fee to moor or anchor a vessel. HB 2220; CH. 1033.

TITLE 30. GENERAL ASSEMBLY.

§ 30-19.03 amended; § 30-19.03:1.1 added. Local fiscal impact; reduction of revenues. Provides that whenever any bill requiring a net reduction of revenues by any locality, except a statewide tax relief measure, is filed during any session of the General Assembly, the Commission on Local Government shall prepare an estimate setting forth the reduction of revenues, if any, to be required of the affected localities in event of enactment of such legislation. Under current law, a similar estimate is prepared for any bill requiring a net additional expenditure by any county, city, or town. Such bills shall be introduced no later than the first day of the session. The bill also provides that, notwithstanding any other law, the General Assembly may consider tax relief measures at any time during any regular or special session. HB 2491; CH. 1016.

§§ 30-19.05 and 30-19.1:3. See § 58.1-608.2; HB 1571/SB 829.

§ 30-19.1:5. See § 19.2-298.01; SB 927.

§ 30-19.1:8 repealed. Impact statements. Repeals legislation adopted in 1998, with a delayed effective date of July 1, 1999, that requires the Division of Legislative Services to prepare 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. SB 911; CH. 572.

§ 30-19.9 amended. Information on proposed constitutional amendments. Requires the distribution and publication of the full text of a proposed constitutional amendment, along with the ballot question and neutral explanation of the proposed change, before the referendum on voter approval of a proposed constitutional amendment. Present law requires the State Board of Elections to distribute only the ballot question and a neutral explanation of the proposed change. The Board prepares a

pamphlet for distribution at voter registration and polling sites and publishes the ballot question and neutral explanation in major newspapers in the Commonwealth. HB 1510; CH. 589.

§ 30-19.15 amended; §§ 30-19.16 and 30-19.17 repealed.

General Assembly; mileage. Repeals provisions that use distances from county courthouses and city halls to calculate reimbursable mileage. Under the new standard, members of the General Assembly, members of legislative committees, and officers and employees of each house who are traveling on official business of the Commonwealth shall be entitled to reimbursement for their actual mileage. HB 1529; CH. 930.

TITLE 31. GUARDIAN AND WARD.

§§ 26-17.4, 31-1 through 31-9, and 31-14 amended; §§ 31-6.1, 31-8.1, 31-8.2, 31-14.1 and 31-18.1 added; §§ 31-10 through 31-13, 55-44 and 55-45 repealed. Guardians and wards. Revises the laws applicable to a guardianship of a minor's estate in order to update the code provisions in conformance with current practical considerations raised by attorneys, guardians, minors and the courts. The bill makes a guardianship more like a typical minor's trust insofar as the guardian's administrative and distributive powers. Additionally, court decisions have been incorporated into the law, prohibiting the use of a minor's assets for the support of the minor when the minor has a parent who is under a duty to support the minor and is capable of providing such support. A commissioner of accounts for the jurisdiction wherein a guardian qualifies may authorize distributions without court approval, provided the total distributions authorized in any one year shall not exceed \$3,000. The commissioner must, in his report to the court on the guardian's next accounting, explain the necessity for the distributions so authorized. The changes were developed to parallel the recent enactment of legislation relating to incapacitated adults. Specifically, this bill mirrors those new code provisions' approach to fiduciary powers, eliminating distinctions between realty and personalty, and placing the focus of distributions on the needs of the minor. Additionally, there are some technical amendments for clarity and continuity. This bill resulted from the Virginia Bar Association Minors/Guardianship Project. HB 1633; CH. 16.

TITLE 32.1. HEALTH.

§ 32.1-14 amended. Health statistics for minority populations. Requires the Virginia Health Department to publish statistics and analyses regarding the health status of minority populations in the Commonwealth as a part of the Department's annual report.

This is a recommendation of the Joint Subcommittee Studying the Status and Needs of African-American Males. SB 1131; CH. 579.

§ 32.1-19.1 added. Telemedicine. Requires the Commissioner of Health to report to the Governor and General Assembly by October 1 of each year on the status of telemedicine initiatives by state agencies. The report will include the current status, cost-effectiveness and efficacy, and recommendations for improvements and expansion. This is a recommendation of the Joint Commission on Health Care. SB 1214; CH. 1031.

§§ 32.1-27, 32.1-175.01 and 32.1-176 amended; § 32.1-171.2 added. Water Supply Assistance Grant Fund. Establishes the Water Supply Assistance Grant Fund to allow the State Board of Health to provide grants to assist in the provision of safe drinking water. The Board is to develop guidelines establishing criteria, conditions and priorities for grants that are to include consideration of the financial need where the grant is requested. Funds raised through certain existing penalty provisions are directed to the Fund. All funds appropriated as matching funds for moneys available through the federal Safe Drinking Water Act are to be deposited in the Fund, and used as matching funds for that purpose. HB 2242; CH. 786.

§ 32.1-46 amended. Childhood immunizations. Requires that after July 1, 2001, all children who have not received immunization against hepatitis B receive such immunizations prior to entering the sixth grade. HB 2206; CH. 738/SB 1037; CH. 632.

§ 32.1-46 amended. Childhood immunizations. Requires that all children born on or after January 1, 1997, shall be required to receive immunization against varicella zoster (chicken pox) not earlier than the age of twelve months. Children who have evidence of immunity as demonstrated by laboratory confirmation of immunity or a reliable medical history of disease are exempt from such requirement. HB 2295; CH. 676.

§ 20-14.2 amended; § 32.1-69.1:1 added. Dissemination of information on birth defects. Requires the Commissioner of Health to develop a publication regarding birth defects and the role of folic acid in preventing birth defects for distribution to physicians, hospitals and other medical facilities, and local health departments for use with patients. Such information must also be provided to the clerks of county and city circuit courts for inclusion in health information required to be given to applicants for marriage licenses. SB 1280; CH. 582.

§ 32.1-102.1 amended. Certificate of public need. Eliminates a certificate of public need for the replacement of certain diagnostic imaging equipment, including computed tomography, positron emission tomography, and magnetic source imaging. This is a recommendation of the Joint Commission on Health Care. HB 2314; CH. 920.

§§ 32.1-102.1, 32.1-102.2, 32.1-102.6, and 32.1-102.12 amended; § 32.1-102.1:1 added. Medical care facilities certificate of public need. Eliminates the requirement for a certificate of public need for the replacement of any

equipment; requires registration with the Commissioner of Health and the appropriate health systems agency, within 30 days of becoming contractually obligated, of purchases of any medical equipment for the provision of cardiac catheterization, computed tomographic scanning, gamma knife surgery, lithotripsy, magnetic resonance imaging, magnetic source imaging, open heart surgery, positron emission tomographic scanning, radiation therapy, or other specialized service designated by the Board regulation; and revises the administrative process for obtaining a certificate.

The administrative procedures for review of applications for certificate of public need are revised to require (i) concise procedures for prompt review of applications; (ii) fees of one percent of the proposed expenditure for the project, with a minimum of \$1,000 and a maximum of \$20,000; (iii) transmission of the application by certified mail or a delivery service, return receipt requested, or delivery of the document by hand, with signed receipt to be provided; (iv) the 120-calendar-day review period must begin on the date upon which the application is determined to be complete within the batching process or, if the application is not determined to be complete within 40 calendar days from submission, the application must be refiled in the next batch for like projects; (v) the application review by the health systems agencies will be limited to 60 calendar days; (vi) the health systems agency must submit its recommendations on each application and its reasons within 10 calendar days after the completion of its 60-calendar-day review or such other period the applicant has requested; (vii) if the health systems agency does not complete its review within the 60-calendar-day period or the period requested by the applicant and submit its recommendations within the 10 calendar days after the completion of its review, the Department of Health must, on the 11th calendar day after the expiration of the health systems agency's review period, proceed as though the health systems agency has recommended project approval without conditions or revision; and (viii) the Department and the Commissioner must begin the review of the application upon receipt of the completed application and simultaneously with the review conducted by the health systems agency. The Administrative Process Act will only apply to the COPN process in those instances for which timelines and specifications are not delineated in the COPN law, e.g., a formal hearing procedure. Upon accepting an application as complete, (i) the Department must establish a date for every application between 80 and 90 days within the 120-calendar-day review period for holding an informal fact-finding conference, if necessary; (ii) the Department must review every application at or before the 75th day within the 120-calendar-day period to determine whether an informal fact-finding conference is necessary; (iii) any informal fact-finding conference will be to consider the record and not a de novo review; (iv) in any case in which an informal fact-finding conference is held, a date must be established for the closing of the record in not more than 45 calendar days after the date of the conference; (v) in any case in which an informal fact-finding conference is not held, the record will be closed on the earlier of the date established for holding the

conference or the date that the Department determines no conference is necessary; (vi) if the Commissioner's determination is not made within 15 calendar days of the closing of the record, he must notify the Attorney General and copy the parties and persons petitioning for good cause standing, in writing, that the application must be deemed approved unless the determination is made within 40 calendar days of the closing of the record; (vii) in any case in which the determination is not made within 40 calendar days after the closing of the record, the Department must refund 50 percent of the fee, the application will be deemed approved, and the certificate must be granted; (viii) if a determination is not made within 15 calendar days of the closing of the record, any applicant who is competing in the relevant batch or who has filed an application in response to the relevant Request For Applications may, prior to the application being deemed approved, institute a proceeding for mandamus against the Commissioner; (ix) if the writ of mandamus is granted, the Department will be liable for the costs and reasonable attorney's fees; and (x) upon the filing of a petition for mandamus, the relevant application will not be deemed approved, regardless of the time between the closing of the record and the final decision. Deemed approvals will be construed as the Commissioner's case decision on the application pursuant to the Administrative Process Act and will be subject to judicial review on appeal as provided in the APA.

The Commissioner's annual report on COPN must include an analysis of the effectiveness of the application review procedures used by the health systems agencies and the Department which details the review time required during the past year for various project categories, the number of contested or opposed applications and the project categories of these contested or opposed projects, the number of applications upon which the health systems agencies have failed to act within the timelines, the number of deemed approvals from the Department because of their failure to comply with the timelines, any other data determined by the Commissioner to be relevant to the efficient operation of the program, and an analysis of the equipment registrations, including the type of equipment replaced and purchased and the equipment costs. HB 2369; CH. 922/SB 1282; CH. 899 (effective-see bill).

§§ 32.1-102.2 and 32.1-102.3 amended. Medical care facilities certificate of public need. Amends various sections relating to medical care facilities certificate of public need to require the establishment of specific criteria for determining need in rural areas. The rural area criteria must include due consideration to distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care in such areas and providing for weighted calculations of need based on the barriers to health care access in such rural areas in lieu of the determinations of need used for the particular proposed project within the relevant health systems area as a whole. HB 2543; CH. 926.

§§ 8.01-225, 32.1-111.1, 32.1-111.3, and 32.1-111.10 amended; § 32.1-111.14:1 added. Automated external defibrillators. Requires registration of automated external

defibrillators by any owner, other than an emergency medical services agency, certain licensed health care facilities, and certain health professionals, who are regulated by a health regulatory board and whose scope of practice encompasses such services. This bill establishes that an automated external defibrillator may be used to save or attempt to save the life of a person who is in cardiac arrest upon compliance with the registration requirements. The requirements for registration must include (i) training of all users in cardiopulmonary resuscitation and in the use of the automated external defibrillator in a course approved by the Board of Health; (ii) maintenance and testing of the equipment in compliance with the manufacturer's operational guidelines and any Board regulations; (iii) supervision of the program by a licensed physician; (iv) payment of a registration fee, not to exceed \$25; (v) disciplinary actions for noncompliance; (vi) four-year registration period; (vii) notification of the use of the equipment on any person to the local EMS agency and physicians; and (viii) notification of the availability, location, and type of the automated external defibrillator and any changes. Persons using the defibrillators are provided immunity from liability, unless the injury was the result of gross negligence or willful or wanton misconduct. "Automated external defibrillator" is defined as a medical device which combines a heart monitor and defibrillator and (i) has been approved by the United States Food and Drug Administration, (ii) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia, (iii) is capable of determining, without intervention by an operator, whether defibrillation should be performed, and (iv) automatically charges and requests delivery of an electrical impulse to an individual's heart, upon determining that defibrillation should be performed. Technical amendments are provided to the Good Samaritan Law for more logical grouping of the various persons who are immune from liability while rendering emergency care, assistance or treatment. HB 2097; CH. 1000.

§ 32.1-122.10:01. See § 38.2-415; SB 895.

§§ 32.1-126.01 and 32.1-162.9:1. See § 54.1-3005; SB 1129.

§ 32.1-127.1:03 amended. Patient health records. Clarifies that no person receiving patient records from the patient or a provider can redisclose or otherwise reveal the records of the patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific consent to the redisclosure. This redisclosure prohibition does not prevent (i) any provider who receives records from another provider from making subsequent disclosures as permitted by the law or (ii) any provider from furnishing records and aggregate or other data, from which patient-identifying information has been removed, encoded, or encrypted, to qualified researchers, including, but not limited to, pharmaceutical manufacturers, and their agents or contractors, for purposes of clinical, pharmaco-epidemiological, pharmaco-economic, or other health services research. "Patient-identifying prescription information" includes all prescriptions, drug orders or any other prescription information that specifically identifies an

individual patient. This bill also modifies the subdivision relating to disclosure to third-party payors and their agents to note that such disclosure may be made for purposes of reimbursement. HB 2427; CH. 1010/SB 1010; CH. 956.

§ 32.1-127.1:03 amended. Patient records. Authorizes health care providers to disclose patient records for the purpose of conducting record reviews of inpatient hospital deaths to promote identification of all potential organ, eye, and tissue donors in conformance with the requirements of applicable federal law and regulations, including 42 C. F.R. § 482.45, (i) to the provider's designated organ procurement organization certified by the United States Health Care Financing Administration and (ii) to any eye bank or tissue bank certified by the Eye Bank Association of America or the American Association of Tissue Banks. SB 1158; CH. 812.

§§ 32.1-137.6 and 32.1-137.15. See § 38.2-3407.10; HB 871/SB 1235.

§§ 32.1-137.7, 32.1-137.10, 32.1-137.13, and 32.1-137.15. See § 38.2-4214; SB 1300.

§ 32.1-138 amended; § 54.1-3028.1 added. Health regulation; nursing homes and certified nursing aides. Requires nursing homes to fully inform patients in summary form of the findings concerning the facility in federal Health Care Financing Administration surveys and inspections, if any. The bill also requires nursing aide education programs designed to prepare nurse aides for certification to be a minimum of 120 clock hours in length. Currently, these programs are 80 hours in length. The curriculum of such programs shall include, but not be limited to, communication and interpersonal skills, safety and emergency procedures, personal care skills, appropriate clinical care of the aged and disabled, skills for basic restorative services, clients' rights, legal aspects of practice as a certified nurse aide, occupational health and safety measures, culturally sensitive care, and appropriate management of conflict. The Board of Nursing shall promulgate emergency regulations to implement the nurse aide education program provisions. The Board of Nursing must also continue to approve nurse aide programs that are in compliance with its nurse aide program regulations in effect on July 1, 1999, and to certify nurse aides who successfully complete such programs and who comply with other requirements of law or regulation, until the date on which the Board's regulations to implement the new requirements become effective. Persons who are certified by the Board as nurse aides prior to the date on which the Board's regulations to implement this act become effective shall be deemed to satisfy the new requirements for purposes of biennial renewal of their certification so long as such persons are in compliance with other requirements of law and regulation concerning continued employment or competence as a condition of renewal. HB 2228; CH. 783.

§ 32.1-163.5 added. Onsite sewage evaluations. Requires, for purposes of subdivision review, permit approval, and issuance of letters for residential development, the Board, Commissioner and Department of Health to accept private site

evaluations and designs in compliance with the Board's regulations for septic systems and other onsite sewage systems, designed and certified by licensed professional engineers or authorized on-site soil evaluators. Although the Department is not required to perform a field check of the private evaluations and designs prior to issuing a letter, permit or approval, the Department may conduct a review of the work and a field analysis to protect the public health and integrity of the Commonwealth's environment. The Department must make a decision within 15 days of a request for a single lot evaluation and design approval and within 60 days of a request for multiple lot evaluation and design or subdivision review approval. If the Department fails to take action within these time lines, the designs, evaluations or subdivision reviews will be deemed approved and the letter, permit or approval issued. SB 963; CH. 1038.

§ 32.1-164 amended. Permits. Extends from July 1, 1996, to July 1, 2001, the "grandfather" date for certified professional soil scientists to be deemed onsite soil evaluators for the purposes of adoption of regulations for the program. The Board, Commissioner, and Department of Health are required to accept evaluations from such onsite soil evaluators for the purposes of certifying the appropriateness of onsite sewage site conditions for the issuance of letters which are in lieu of permits. This bill also requires the Department to issue such letters (in lieu of permits) within 20 working days of the application filing date when such evaluation by onsite soil evaluations are submitted as supporting documentation. The Board of Health is required, by a second enactment, to promulgate emergency regulations to implement this provision. HB 2337; CH. 871.

§§ 32.1-176.4 and 32.1-176.5 amended. Private wells. Adds Powhatan County to the list of those localities who may, by ordinance, establish standards, consistent with state standards, for the location and testing of water from private wells and standards more stringent than the state for construction and abandonment of such wells. SB 1062; CH. 633.

§§ 32.1-229 and 32.1-235 amended; § 32.1-232.1 added. Radioactive materials. Empowers the Board of Health to establish fee schedules, not to exceed comparable federal Nuclear Regulatory Commission fees, for the licensure and inspection of radioactive materials facilities and to adopt regulations for the imposition of civil penalties for violations of law, regulation or licensure conditions by persons licensed for the use or possession of radioactive materials. These fees will be deposited into a special fund to support the licensure and inspection activities. The Special Trust Fund for Radioactive Materials Facility Licensure and Inspection is created as a revolving, nonreverting fund on the books of the Comptroller. The Fund will only be used to support the Department of Health's program for licensure and inspection of radioactive materials facilities. In addition, the bill modifies the Governor's current authority to enter into agreements with the federal government for the state to assume responsibilities for regulating sources of ionizing radiation by making such

agreements subject to funds being appropriated. This bill also includes several technical amendments. HB 2655; CH. 755.

§ 32.1-272 amended. Vital statistics. Eliminates the prohibition against any person making a photocopy of a vital record. The prohibition against making a copy that purports to be an original or certified copy still remains. This bill will allow individuals to make copies of their vital records, for example, by faxing a copy to an insurance company or other entity without inadvertently breaking the law. HB 1928; CH. 600.

§ 32.1-283.1. See § 2.1-116.05; HB 1985/SB 1023.

§§ 2.1-342 and 2.1-344 amended; § 32.1-283.2 added. Child fatality review. Allows any local or regional law-enforcement agency, fire department, department of social services, emergency medical services, Commonwealth attorney's office, or community services board to initiate a child fatality review team. Members of local or regional teams may be composed of named official positions within the localities and additional persons, not to exceed five, may be appointed by the chairperson. Each team establishes its own rules and procedures with technical assistance from the State Child Fatality Review Team. Reviews are contingent upon the completed review of any criminal investigation or consent by the attorney for the Commonwealth. All records reviewed, reports produced, and closed meetings are confidential and exempt from the Freedom of Information Act. Nonidentifying information, however, may be disclosed. Members of the teams and their agents or employees, as well as any organization, institution, or person who provided information, etc., are immune from civil liability for any act or omission unless such was the result of gross negligence or willful misconduct. HB 2128; CH. 867.

§§ 2.1-342 and 2.1-344 amended; § 32.1-283.2 added. Family violence. Provides localities with the authority to establish a team to examine fatal family violence incidents and to create a body of information to help prevent future family violence fatalities. The Chief Medical Examiner is required to serve as a clearinghouse of information, provide technical assistance and develop a model protocol for the development and implementation of the teams. The bill is a recommendation of the Commission on Family Violence Prevention. HB 2185; CH. 868/SB 1035; CH. 849.

§§ 32.1-286, 64.1-5.1 and 64.1-5.2 amended. Exhumations and proof of parentage. Provides a procedure for exhumation, testing, and reinterment of a dead body for the purpose of obtaining a posthumous sample to establish parentage, particularly paternity. This bill amends the exhumation statute to authorize the person attempting to prove paternity to petition for exhumation and testing of a dead body for the purpose of establishing such paternity. Present law requires substantial evidence that the person requesting the exhumation is going to prevail in his attempt to prove paternity pursuant to §§ 64.1-5.1 and 64.1-5.2. This bill renders such petitions procedural and not substantive and provides some technical amendments to the evidence statutes. The person obtaining the petition must pay

for the exhumation, testing, and reinterment, unless the court determines that, for good cause shown, the estate of the decedent should pay. HB 2114; CH. 781.

§ 32.1-324.2. See § 58.1-346.9; HB 2047.

§ 32.1-324.2 added. Medicaid provider communication. Requires the Director of the Department of Medical Assistance Services to report to the Governor and the General Assembly the activities of facilitating communication between the Department and the providers and recipients of health care services. SB 1186; CH. 965.

§§ 32.1-325 and 32.1-326.3. See § 22.1-274.2; HB 2360/SB 1199.

§ 32.1-325 amended. Medical assistance services; early intervention services. Requires the Department of Medical Assistance Services to amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act. Emergency regulations are required. HB 2617; CH. 878.

§§ 11-45, 32.1-325, and 32.1-325.1:1 amended. Medicaid; family planning. Requires the state plan for medical assistance services to include a provision for payment for family planning services on behalf of women who were eligible for prenatal and delivery services under Medicaid at the time of delivery, if the women continue to meet the financial eligibility requirements for pregnant women under Medicaid. Family planning services will not cover payment for abortion services. These services would continue for 24 months after delivery. The bill also directs the Department of Medical Assistance Services to apply for a waiver as soon as possible, but not later than December 31, 1999. Technical reorganizing and cross-reference amendments are also included. HB 2717; CH. 1024 (effective-see bill).

§ 32.1-325 amended. Medical assistance services; burial expenses disregard. Increases the disregard from countable resources when calculating Medicaid eligibility from \$2,500 to \$3,500. SB 1275; CH. 818.

§ 32.1-329 repealed. Recapture of nursing home depreciation. Repeals the provision that requires the repayment of reimbursed depreciation upon the sale or transfer of a licensed nursing home for which depreciation has been paid under the Medicaid nursing home reimbursement methodology. HB 2004; CH. 728 (effective 7/1/00).

§§ 32.1-351 and 32.1-352 amended. Virginia Children's Medical Security Insurance Plan. Amends the existing law authorizing a children's health insurance plan to be consistent with Virginia's Title XXI plan for the State Children's Health Insurance Program as submitted to and approved by the federal Health Care Financing Administration. The amendments,

which are essentially technical, cite Title XXI of the Social Security Act, strike outmoded language, and require compliance with the federal law, the Code of Virginia, and any conditions set forth in the appropriation act. HB 2230; CH. 1034.

§§ 32.1-354 through 32.1-365. See § 9-380; HB 2635/SB 1165.

TITLE 32.1. MISCELLANEOUS - HEALTH.

Medical care facilities certificate of public need. Requires the Commissioner of Health to approve and issue a Request for Application for an increase in the nursing home bed supply for any planning district which would have met the requirements for determining need in compliance with the Board's regulations but for an increase in nursing home bed supply which was authorized by the Commissioner when such beds have not yet been licensed. The Commissioner may approve, authorize and accept applications for any certificate of public need for any project which would result in an increase in the number of nursing home or nursing facility beds in such planning district. HB 2080; CH. 912.

Health; data reporting. Extends the sunset provision for the health care data reporting requirements from July 1, 1999, to July 1, 2003. This is a recommendation of the Joint Commission on Health Care. HB 2751; CH. 691.

Cancer registry. Requires the Joint Commission on Health Care to include, in its study of the cancer registry, an analysis of the exchange of patient-identifying information pursuant to reciprocal data-sharing agreements with other cancer registries and confidentiality protections for patient data. The Commission is directed to examine the potential for inappropriate disclosure of patient data as a result of such data exchange, whether the patient should be required to consent to disclosure or authorized to bar such disclosure and any appropriate penalties for breach of confidentiality. SB 942; CH. 803.

Mental health; disclosure of information. Authorizes the Department of Mental Health, Mental Retardation and Substance Abuse Services and the community services boards to exchange client-specific information for the purpose of implementation of a performance and outcome measurement to monitor the delivery, effectiveness and outcome of treatment. Information which is publicly available shall be designed to prevent access to combinations of information which can reasonably be expected to identify any patient. State facilities are also required to report certain data to the Virginia Patient Level Data System. There is an amendment to extend the sunset date for the Virginia Patient Level Data System to July 1, 2003; it is currently scheduled to expire on July 1, 1999. SB 1054; CH. 764.

Nursing homes. Directs the Joint Commission on Health Care, with the assistance of the Department of Health, to study (i) the adequacy of current Virginia regulations for licensure of nursing homes and the advisability of utilizing "deemed status" for nationally accredited nursing homes and (ii) in cooperation with the Secretary of Health and Human Resources, the concept of centers of excellence in long-term care. In its study, the Joint Commission will examine the Commonwealth's nursing home licensure regulations to determine (i) means for making such regulations more outcome-oriented and focused on continuous quality improvement, (ii) opportunities for gathering additional resident and family input as part of the licensure process for nursing homes, (iii) the advisability of accepting national accreditation as evidence of compliance with state licensure standards, and (iv) other states' laws regarding deemed status for state licensure of nursing homes. The Joint Commission shall examine the concept of centers of excellence with regard to long-term care reimbursement, specialized care programs, and best management practices. The Joint Commission will report to the Senate Committee on Education and Health and the House Committee on Health, Welfare, and Institutions prior to October 1, 1999. SB 1172; CH. 813.

TITLE 33.1. HIGHWAYS, BRIDGES AND FERRIES.

§ 33.1-1 amended. **Commonwealth Transportation Board (CTB).** Adds the Director of the Department of Rail and Public Transportation as a nonvoting member of the CTB. HB 2195; CH. 673/SB 1119; CH. 636.

§ 33.1-13.1 added. **Motorcycles.** Provides that the Commonwealth Transportation Board, the Commonwealth Transportation Commissioner, and the Virginia Department of Transportation shall not restrict access of motorcycles to transportation facilities. HB 2758; CH. 332/SB 1144; CH. 496.

§ 33.1-46.2 amended. **HOV lanes.** Prohibits designation of HOV lanes on any portion of Va-44, I-64, or I-264 within Virginia Beach, Norfolk, or Chesapeake. The bill becomes effective when VDOT receives notice from the federal government that this measure will not require the Commonwealth to repay federal funds used for construction of these HOV lanes. HB 2204; CH. 914/SB 1068; CH. 960. (effective-see bill).

§§ 33.1-56 and 33.1-69.2 amended. **Highway projects; utility relocation costs.** Provides for inclusion of utility relocation costs in highway project costs when the utilities belong to certain consumer-owned companies. SB 734; CH. 942 (effective-see bill).

§ 33.1-70.1 amended. **Secondary roads; "pave-in-place" program.** Extends the "pave-in-place" program for secondary

roads in certain counties for an additional two years (to July 1, 2001). HB 1840; CH. 306/HB 2303; CH. 320.

§ 33.1-82 amended. **Town street standards.** Affords greater latitude in the standards applicable to streets constructed and maintained by VDOT in certain towns. HB 2238; CH. 318.

§ 33.1-89 amended. **Property acquired by the Commonwealth Transportation Commissioner through condemnation.** Requires the Commonwealth Transportation Commissioner to transfer to the municipality title to land the Commissioner has acquired by condemnation at the request of the municipality. HB 1599; CH. 88.

§ 33.1-190.3 added. **VDOT projects.** Requires, with limited exceptions, use of English units of measure in design, advertisement, construction, and planning of VDOT projects. HB 2139; CH. 315.

§ 33.1-191 amended. **VDOT contracts.** Requires the Commonwealth Transportation Commissioner, when he publicly opens and announces bids on VDOT contracts, to announce whether the low bid exceeds the Department's estimates. HB 2592; CH. 405.

§ 33.1-221.1:3. See Bonds; HB 2088

§ 33.1-223.2:1. See § 28.2-1308; SB 582.

§ 33.1-223.2:2 added. **Highway signs.** Requires the installation of highway signs providing directions to certain educational institutions. HB 1916; CH. 310.

§ 33.1-223.2:2 added. **Disposition of land by VDOT.** Requires the Commonwealth Transportation Commissioner to notify affected mayors and chairmen of boards of supervisors of Commonwealth Transportation Board or Virginia Department of Transportation decisions to dispose of surplus real property. SB 940; CH. 287.

§§ 33.1-269 and 58.1-638 amended. **High Priority Transit Project Fund.** Establishes the High Priority Transit Project Fund as a nonreverting special subaccount within the Commonwealth Mass Transit Fund. The High Priority Transit Project Fund subaccount is to consist of such moneys as are appropriated to it by the General Assembly and all donations, gifts, bequests, grants, endowments and other moneys given to it. Fund proceeds are to be used to cover capital expenditures associated with mass transit projects approved by the Commonwealth Transportation Board and may be used to support the issuance of revenue bonds. SB 1256; CH. 898.

§ 33.1-369 amended. **Outdoor advertising.** Eliminates exemption from prohibition on signs with changeable messages presently granted to "public service messages" and, instead, allows changeable message signs whose messages do not change more than once every four seconds. Signs with running animation are prohibited. SB 1063; CH. 290.

§ 33.1-375.1 amended. **Removal of certain signs.** Provides that limitations on agreements between the Commonwealth Transportation Commissioner and the Spotsylvania County Board of Supervisors on the removal of certain illegal signs

from highway rights-of-way do not apply to agreements between the Commissioner and other local governing bodies for the removal of illegal signs from highway rights-of-way. Both the provisions limited to Spotsylvania and those applicable elsewhere expire on July 1, 2000. HB 1994; CH. 195.

TITLE 33.1. MISCELLANEOUS - HIGHWAYS, BRIDGES AND FERRIES.

Ann Goode Cooper Highway. Designates Virginia Route 689 in Scott County the "Ann Goode Cooper Highway." HB 1888; CH. 309.

Clyde Bowling Bridge; Jessica J. Cheney Memorial Bridge. Designates the Virginia Route 102 bridges at Falls Mills in Tazewell County the "Clyde Bowling Bridge" and designates the Virginia Route 610 bridge over Interstate Route 95 in Stafford County the "Jessica J. Cheney Memorial Bridge." HB 2095; CH. 539.

Clyde Bowling Bridge. Designates the Virginia Route 102 bridge at Falls Mills in Tazewell County the "Clyde Bowling Bridge." SB 746; CH. 280.

Highway signs. Requires VDOT to develop and implement a program of signs providing directions to sites of interest to tourists. HB 2652; CH. 328.

I-64 weighing station. Requires the expeditious relocation of the VDOT weighing station on I-64 in Henrico County (Bottoms Bridge scales). HB 2420; CH. 1009.

I-64 weighing station. Requires the expeditious relocation of the VDOT weighing station on I-64 in Henrico County (Bottoms Bridge scales). This bill is nearly identical to HB 2420. SB 956; CH. 699.

J. Kenneth Robinson Parkway. Designates Virginia Route 37 in Frederick County the "Congressman J. Kenneth Robinson Parkway." HB 1496; CH. 46/SB 729; CH. 42.

Lord Fairfax Highway. Designates U. S. 340 in Clarke County the "Lord Fairfax Highway." HB 1839; CH. 49.

Robert S. Hornsby Memorial Bridge. Designates the Virginia Route 199 bridge across Longhill Road in James City County the "Robert S. Hornsby Memorial Bridge." HB 2450; CH. 556.

Union Mills Road. Designates a portion of Union Mill Road in Fairfax County as a scenic highway and Virginia byway. HB 2666; CH. 420.

TITLE 34. HOMESTEAD AND OTHER EXEMPTIONS.

§ 34-34 amended. Homestead exemptions; retirement benefit exemptions, individual retirement accounts. Provides that individual retirement accounts are exempt to the same extent as retirement plans established pursuant to § 401 of the Internal Revenue Code. HB 2683; CH. 796/SB 1148; CH. 766.

TITLE 36. HOUSING.

§ 36-49.1:1 amended. Spot blight abatement. Deletes the list of localities authorized to place a lien on property for repair or disposal of blighted property and grants such authority to all localities. HB 2026; CH. 39.

§ 36-49.1:1 amended. Housing; spot blight abatement. Authorizes all localities to (i) recover the costs of any repair or disposal of blighted property from the owner of the property, (ii) have a lien on all property so repaired or acquired under an approved plan to recover the cost of improvements made by the locality or the cost of disposal of the property, or (iii) in lieu of (i) and (ii), declare blighted property a nuisance. HB 2639; CH. 418/SB 1242; CH. 410.

§§ 36-105 and 36-105.01 amended. Uniform Statewide Building Code; inspection of elevators. Requires the local building department to inspect and enforce the building code for elevators, with the exception of elevators in single and two-family homes and townhouses. Currently, the inspection of elevators is discretionary with local building departments. HB 1795; CH. 341/SB 830; CH. 333.

§ 36-106 amended. Uniform Statewide Building Code; violations. Provides that each day a violation of the Building Code continues after conviction or the court-ordered abatement period has expired shall constitute a separate offense. The bill also eliminates the requirement that minimum fines be applicable only to convictions for building code violations which cause a building or structure to be unsafe or unfit for human habitation. HB 1964; CH. 251.

§ 36-106 amended. Building code violations. Allows for the imposition of an enhanced penalty, in addition to the other penalties described in § 36-106, for any person who is convicted of three or more building code violations for separate offenses relating to health and safety during a 10-year period. The enhanced penalty shall be a jail term not to exceed 10 days and a fine not to exceed \$2,500, either or both. HB 2462; CH. 1014.

§ 36-106 amended. Uniform Statewide Building Code; violations. Provides that if a violation of the Building Code

remains uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation. Current law requires such action only for violations concerning residential units. HB 2595; CH. 392/SB 1288; CH. 362.

§§ 36-152 through 36-156 added. Virginia Removal or Rehabilitation of Derelict Structures Fund. Creates a fund to make grants to localities for acquisition, demolition, removal, rehabilitation or repair of derelict structures which are causing a blight upon the neighborhoods in which they are located. Each grant is limited to \$200,000 and requires a 100 percent local match. The Fund shall be administered by the Board of Housing and Community Development. HB 2577; CH. 1018.

TITLE 36. MISCELLANEOUS - HOUSING.

Fire suppression devices in colleges and universities. Allows an eight-story residence hall which is 28 years old and has a square footage of 60,843 feet, belonging to a private institution located in Hampton Roads, to delay until January 1, 2000, its compliance with the requirement that all dormitories be equipped with automatic sprinkler systems by September 1, 1999, regardless of when such buildings were constructed. HB 2571; CH. 931.

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

§§ 2.1-1.1, 2.1-1.3, 2.1-1.5, 2.1-51.15, 2.1-116, 2.1-122, 2.1-373.13, 2.1-703.1, 2.1-762, 9-271, 9-323, 37.1-1, 37.1-84.1, 51.5-1, 51.5-2, 51.5-40, 51.5-46, 63.1-182.1 and 63.1-314.8 amended; §§ 37.1-84.3, 37.1-182.3, 37.1-185.1, and 51.5-39.1 through 51.5-39.11 added; §§ 51.5-36 through 51.5-39 repealed. Persons with mental retardation, developmental disabilities, or mental illness. Revises the internal human rights systems for such persons. The bill prohibits employees of the Department of Mental Health, Mental Retardation or Substance Abuse Services (Department) or a community services board (CSB), a CSB contractor, or a licensed public or private provider from serving as an authorized representative for a consumer being treated in any public or private program or facility; makes program licensure pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 contingent upon satisfactory human rights performance as determined by a human rights review performed by the Department; and authorizes the Department Commissioner to sanction public or private programs operated, licensed or funded by the Department for noncompliance with the human rights and licensure regulations. Sanctions include a civil penalty of up to \$500 per violation per day and, for up to a year, a prohibition on new admissions or a reduction of licensed capacity. The State Board

shall promulgate regulations for the Commissioner to use in determining the imposition of administrative sanctions and prescribe procedures to provide the public with access to statistical data about the operations and performance of state facilities and public or private community programs licensed or funded by the Department. Under the provisions of this bill, one-third of the appointments made by the State Board to the state or local human rights committees shall be consumers and family members of consumers, with at least two active consumers on each committee. Remaining appointments shall include health care providers, lawyers and persons with interest, knowledge or training in the mental health, mental retardation or substance abuse fields. Current employees of the Department, CSBs, behavioral health authorities or local government departments with a policy-advisory CSB are prohibited from serving as a member of the state human rights committee. Current employees of the Department, CSBs, BHAs or local government departments with a policy-advisory CSB or any program licensed by Department that serves an oversight function for the employing program are prohibited from serving as a member of the local human rights committee. The Governor's amendments to the internal human rights system in the Department include (i) expanding the definition of abuse to apply to all persons responsible for the care of an individual and not just employees, (ii) excluding programs operated by the Department of Corrections from rights protections, and (iii) disallowing public access to statistical data about all complaints against facilities and programs and providing access only to "the results of investigations of abuse and neglect." Finally, the Governor added a reenactment clause to the part of the bill reestablishing the Department for Rights of Virginians with Disabilities as an independent state agency called the Virginia Office for Protection and Advocacy. SB 1224; CH. 969 (effective-see bill).

§§ 19.2-389, 37.1-20.3 and 37.1-197.2 amended; § 37.1-183.3 added. Criminal background checks. Requires national criminal background checks, including a fingerprint check from the Federal Bureau of Investigation (FBI), for any applicant for a job with an agency licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services and for any applicant with an agency that provides services under contract with a community services board, behavioral health authority or local government department. The requests for criminal background information are made by the authorized officer or director of the agency directly to the state Central Criminal Records Exchange, which shall forward the information to the FBI. Such direct access by a private agency is permitted by the Volunteers for Children Act passed by Congress in October 1998. The bill also provides a list of barrier crimes to aid the state law-enforcement agency in determining whether the applicant has been convicted of a crime that bears upon the applicant's ability to be responsible for providing care to persons with mental illness, mental retardation or substance abuse. There are technical amendments. HB 2572; CH. 685.

§§ 2.1-116 and 37.1-42.2 amended. State facility directors. Provides that any state facility director hired by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services after July 1, 1999, shall be employed under a contract that specifies the terms and conditions of employment, including, but not limited to, compensation, benefits, duties and responsibilities, performance standards, evaluation criteria, and contract termination and renewal provisions. The length of such employment contracts shall be two years, with provisions for annual renewals thereafter, based on the acceptable performance of the incumbent. Any director of a state facility employed by the Commissioner before July 1, 1999, may elect to continue his current employment status, subject to the provisions of the Virginia Personnel Act, or he may choose to be employed under such a contract. Any director of a state facility employed under an employment contract shall be exempt from the Virginia Personnel Act. SB 1055; CH. 576.

§§ 19.2-169.3, 19.2-174.1 and 37.1-134.21 amended; §§ 37.1-70.1 through 37.1-70.19 added. Civil commitment of sexually violent predators. Authorizes the civil commitment of persons convicted of a violent sex offense or persons charged with such an offense and found unrestorably incompetent whose mental abnormalities render them so likely to commit sexually violent offenses that they constitute a threat to the health and safety of others. Such persons will be committed for an indeterminate period to facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services for treatment and confinement consistent with their needs. HB 1775; CH. 985/SB 845; CH. 946 (effective 1/1/01).

§ 37.1-134.21. See § 54.1-2901; SB 1174.

§ 37.1-195 amended. Community services boards. Makes a technical amendment to correct language that was inadvertently left out of House Bill 428 (1998). This bill clarifies, through the technical amendment, that a combination of cities or counties or a combination of cities and counties establishing an administrative policy board must receive an independent annual audit of the total revenues, expenditures, and data of the board, provide a copy of the audit to the Department of Mental Health, Mental Retardation and Substance Abuse Services, and arrange for the provision of legal services to the administrative policy board. Present law authorizes localities to designate their community services boards as (i) operating boards, (ii) administrative policy boards, or (iii) policy advisory boards. HB 1586; CH. 653.

§ 37.1-207 amended. Substance Abuse Services Council. Adds a representative of the Substance Abuse Certification Alliance of Virginia (SACAVA), who shall be appointed by the Governor, to the Substance Abuse Services Council. SAVACA is a statewide organization that certifies substance abuse professionals through competency-based testing. There are also technical amendments. HB 2568; CH. 614.

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

Mental health; disclosure of information. Authorizes the Department of Mental Health, Mental Retardation and Substance Abuse Services and the community services boards to exchange client-specific information for the purpose of implementation of a performance and outcome measurement to monitor the delivery, effectiveness and outcome of treatment. Information which is publicly available shall be designed to prevent access to combinations of information which can reasonably be expected to identify any patient. State facilities are also required to report certain data to the Virginia Patient Level Data System. There is an amendment to extend the sunset date for the Virginia Patient Level Data System to July 1, 2003; it is currently scheduled to expire on July 1, 1999. SB 1054; CH. 764.

TITLE 38.2. INSURANCE.

§§ 38.2-233, 38.2-1800, 38.2-1814, 38.2-1822, 38.2-1824, 38.2-3725, 38.2-3735, and 38.2-3737 amended. **Credit insurance.** Modifies Virginia's credit insurance laws. Included in the bill are provisions which (i) alter disclosure, enrollment request, and readability requirements applicable to the purchase of credit involuntary unemployment insurance, credit life insurance, and credit accident and sickness insurance; (ii) authorize combination disclosures concerning credit insurance coverages; (iii) permit the Commission, when setting credit insurance rates, to consider the following factors, in addition to loss ratios: (a) actual and expected loss experience, (b) general and administrative expenses, (c) loss settlement and adjustment expenses, (d) reasonable creditor compensation, (e) investment income, (f) the manner in which premiums are charged, (g) other acquisition costs, reserves, taxes, regulatory license fees and fund assessments, and (h) other relevant data consistent with generally accepted actuarial standards; and (iv) permit employees of a creditor or insurer, or of their respective affiliates or related entities, to enroll debtors under various group credit insurance policies without holding licenses as insurance agents, if no commissions are paid to that employee. HB 721; CH. 586.

§§ 32.1-122.10:01, 38.2-415 and 38.2-1437.1 amended. **Insurance; technical amendments.** Clarifies and corrects erroneous cross-references and typographical errors. SB 895; CH. 483.

§§ 38.2-510, 38.2-4214, 38.2-4319 and 38.2-4509 amended; § 38.2-3407.13 added. **Health insurance; fair business practices.** Establishes fair business practices standards applicable to the claim reimbursement practices of health

insurance carriers, health services plans and HMOs (referred to as "carriers"). The section requires a carrier to (i) pay claims within 40 days of claim receipt, unless the claim is not a clean claim, is disputed in good faith, or otherwise has no obligation to be paid; (ii) contact health care providers within 30 days of receiving reimbursement claims if it desires further claim information or documentation; and (iii) establish reasonable policies giving providers notice of and detailed information concerning the carrier's required administrative claims processing procedures. The legislation also prohibits retroactive claim denial unless claims are fraudulent, previously paid, or retroactively reviewed within the lesser of 12 months or a period equal to the number of days in which claims must be submitted after a health care service is provided. On and after July 1, 2000, a carrier must notify a provider at least 30 days in advance of any retroactive denial of a claim. The bill also requires that carriers' provider contracts (and any subsequent amendments) disclose carrier reimbursement fee schedules and policies. The legislation establishes private rights of action for providers who suffer actual damages resulting from carrier violations of the bill's provisions. Providers are entitled to recover treble damages for any willful violations. The Virginia State Corporation Commission is given regulatory oversight concerning the bill's provisions. HB 2213; CH. 739/SB 1176; CH. 709.

§§ 38.2-514.2 and 38.2-1800 amended. **Insurance; motor vehicle rental contract enrollers.** Authorizes motor vehicle rental contract enrollers to effect insurance in connection with motor vehicle rentals. A motor vehicle rental contract enroller is defined as an unlicensed hourly or salaried employee of a motor vehicle rental company. Enrollers are further defined as individuals who receive no direct or indirect commission from the insurer, renter or vehicle rental company. Motor vehicle rental companies are described in this definition as being in the business of providing primarily private motor vehicles to the public under a rental agreement for a period of less than six months. SB 1102; CH. 493.

§ 38.2-517 amended. **Insurance; unfair settlement practices; replacement and repair; third parties.** Holds insurance companies who utilize third parties accountable under the enforcement provisions of Title 38.2. This bill also directs the State Corporation Commission to investigate, with the written authorization of the insured or claimant, all written complaints received regarding replacement and repair facilities, regardless of whether received from individuals or from a repair facility. HB 2307; CH. 129.

§§ 38.2-1800, 38.2-1815, 38.2-1816, 38.2-1817, 38.2-1824, 38.2-1866, 38.2-3523.3, 38.2-4224, and 38.2-4313 amended. **Health insurance agents; licensure.** Eliminates health insurance agents as a category of licensed insurance agents as of July 1, 2000. Health insurance agents are presently licensed by the Bureau of Insurance and may sell health insurance coverage for health maintenance organizations and health service plans. Agents licensed as life and health agents may also sell these types of insurance products. No new health insurance licenses shall be issued after July 1, 1999, and health

insurance agents who wish to continue selling health insurance products must obtain a life and health insurance license. HB 1543; CH. 86 (effective-see bill).

§§ 38.2-1800, 38.2-1814, and 38.2-1824 amended.

Insurance agents; bail bond agents. Deletes bail bond agents as a category of insurance agents licensed by the State Corporation Commission's Bureau of Insurance. All agents who hold such licenses may remain licensed, but no such licenses which have lapsed or been revoked will be reinstated, and no new or additional licenses of this type will be issued. SB 984; CH. 490.

§ 38.2-1812 amended. Insurance; payment and sharing commissions; trade names. Allows insurance agents to receive commissions or other valuable consideration in their trade name so long as the trade name has been properly filed with the Bureau of Insurance. HB 2222; CH. 97.

§ 38.2-1812.2 added. Insurance; rebates and charges in excess of premium prohibited; exceptions. Prohibits insurance agents and other insurer representatives from requesting or receiving from an insurance applicant any compensation in excess of required insurance premium payments, unless (i) the applicant consents to such additional compensation, in writing, before insurance services are rendered and (ii) a schedule of fees and documentation for services is made available to applicants and policy holders, upon request. HB 1274; CH. 2.

§§ 38.2-1826, 38.2-1842, 38.2-1856, 38.2-1864, and 38.2-5703 amended; § 38.2-4803.1 added. Insurance licensees; requirement to report to Commission; felony convictions. Requires insurance agents, consultants, reinsurance intermediaries, managing general agents, viatical settlement brokers, and surplus lines brokers to report within 30 days to the State Corporation Commission the facts and circumstances regarding the conviction of a felony. This bill also directs surplus lines agents to report changes of business address to the State Corporation Commission, already a requirement for insurance agents, consultants, reinsurance intermediaries, managing general agents, and viatical settlement brokers. SB 892; CH. 59.

§§ 38.2-1840, 38.2-1841, 38.2-1847, 38.2-1859, 38.2-4802 and 38.2-4803 amended. Insurance; consultants and surplus lines brokers; application and renewal fees. Clarifies that the application fees for initial licensure and renewal of insurance consultant and surplus lines broker licenses are nonrefundable processing fees, paid into the fund for the maintenance of the Bureau of Insurance. SB 900; CH. 44.

§ 38.2-1903 amended. Insurance, regulation of rates, exemptions; large deductible plans. Establishes that risks generating total estimated standard premiums for workers' compensation of at least \$250,000 are large risks and are exempt from rate filing requirements. This requirement previously was \$500,000. The bill also exempts large deductible plans from current rate filing requirements. These

plans are defined as workers' compensation plans that include a per-claim deductible of at least \$100,000. SB 1015; CH. 491.

§ 38.2-2204 amended. Liability insurance on motor vehicles, aircraft, and watercraft; standard provisions.

Allows an insurer to limit its liability for bodily injury or property damage resulting from any one accident or occurrence to the liability limits for such coverage set forth in the policy for any such accident regardless of the number of insureds under that policy. SB 448; CH. 4.

§ 38.2-2206 amended. Uninsured motorist coverage; John Doe actions; tolling of statute of limitations.

Provides that bringing an action against an unknown motor vehicle owner or operator as John Doe (as provided in the uninsured motorist provisions of Virginia law) tolls the statute of limitations (for three years following the date such action is commenced) for purposes of bringing an action against the owner or operator who caused the injury or damages if his identity becomes known. HB 1901; CH. 992.

§ 38.2-2231 amended. Motor vehicle insurance; physical damage arbitration.

Amends provisions in Virginia's motor vehicle insurance laws concerning mandatory, inter-insurer physical damage arbitration as follows: (i) provides that insurers may, by mutual consent and in lieu of arbitration, agree to the trial of any dispute before a court of competent jurisdiction and (ii) authorizes actions to be asserted in courts of competent jurisdiction whenever an insurer is unable to establish proof of its membership in the Nationwide Intercompany Arbitration Agreement (or any successor thereto). Under current law, arbitration of automobile physical damage claims between insurers is mandatory, and all insurers are required to obtain membership in the Nationwide Intercompany Arbitration Agreement for that purpose. HB 1465; CH. 514.

§ 38.2-2232 amended. Liability insurance; private pleasure watercraft; optional uninsured private pleasure watercraft coverage.

Requires insurers to offer limits of liability for optional uninsured private pleasure watercraft coverage that are equal to the liability limits of the private pleasure watercraft policy. This optional uninsured coverage must include bodily injury and property damage liability, and such coverage will be treated as excess coverage over any other valid and collectible insurance of any kind applicable to the property. No insurer, however, is required to pay damages for uninsured private pleasure watercraft coverage in excess of the limits of uninsured private pleasure watercraft provided by the policy. The requirement to offer any such insurance is limited, by this bill, to insurers offering policies and contracts of marine protection and indemnity insurance. The bill also stipulates that the term "uninsured private pleasure watercraft" does not include any watercraft owned by, furnished to, or available for the regular use of any insured, or owned by any governmental unit or agency. Additionally, the bill prescribes service of process when invoking the uninsured coverage provided by this statute. HB 2292; CH. 918.

§ 38.2-2811 amended. Medical malpractice insurance; examinations. Authorizes the State Corporation Commission to make or direct an examination of a medical malpractice joint underwriting association at least once every five years or whenever the State Corporation Commission determines an examination is necessary. Presently, the law requires such examinations on an annual basis. SB 909; CH. 61.

§ 38.2-3407.3:1 added. Health insurance; premium arrearages. Requires health insurers, health services plans, and health maintenance organizations, when accepting premium payments in arrears, to credit such payments to the longest-outstanding arrearage first, and then in succession to the most recent arrearage or payment due. This requirement is applicable to both individual and group policies and plans. HB 2345; CH. 321.

§§ 2.1-20.1, 32.1-137.6, 32.1-137.15, 38.2-3407.10, 38.2-4209, 38.2-4214, 38.2-4312, 38.2-4319, 38.2-4509 and 38.2-5804 amended; §§ 38.2-3407.9:01, 38.2-3407.11:1, 38.2-3407.13, 38.2-3407.14, 38.2-3407.15, 38.2-3418.8, 38.2-3418.9, and 38.2-5900 through 38.2-5905 added. State employees' health insurance plan and managed care health insurance plans generally. Implements comprehensive reforms in health insurance plans (including group or individual insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis, individual or group subscription contracts provided by nonstock corporations, and health care plans for health care services provided by health maintenance organizations) and the state employees' health plan by providing for increased benefits and protections for covered persons.

The bill establishes, within the State Corporation Commission's Bureau of Insurance, a process of independent external review for individuals denied a course of treatment by their health insurance plan. If the person seeking review is determined by the Bureau of Insurance to (i) have coverage by the health plan, (ii) be seeking a treatment that appears to be covered by the plan and costs more than \$500, (iii) have exhausted all available utilization review complaint and appeals procedures and (iv) have provided all information necessary to begin review, an impartial health entity shall review the final adverse decision to determine whether the decision is objective, clinically valid, compatible with established principles of health care, and contractually appropriate. Each individual seeking such review will pay a filing fee of \$50, which is nonrefundable. Insurers writing accident and sickness insurance in Virginia will pay an assessment not to exceed 0.015 percent of the direct gross premium income during the preceding year to fund such appeals process. The impartial health entity will issue a written recommendation within 30 days of the acceptance of the appeal by the Bureau of Insurance, and the State Corporation Commission will issue a binding order carrying out the recommendation of the impartial health entity. These appeals provisions become effective either (i) 90 days following the promulgation of regulations by the State Corporation Commission or (ii) July 1, 2000. A similar appeals process is

available, within the Department of Personnel and Training, for state employees who receive health care coverage through the state health insurance plan.

The Office of the Managed Care Ombudsman within the Bureau of Insurance is established. The Managed Care Ombudsman is charged with promoting and protecting the interests of covered persons under health insurance plans in Virginia. The duties of the Managed Care Ombudsman include assisting persons in understanding their rights and processes available to them under their managed care plan, developing information on the types of managed health insurance plans available in Virginia, and monitoring and providing information to the General Assembly on managed care issues. The Department of Personnel and Training is also required to appoint an Ombudsman to similarly assist state health insurance plan participants.

Contracts between health insurance plans and health care providers are prohibited from containing provisions which require a provider or provider group to deny medical services that are medically necessary and appropriate. Health insurance plans, as well as the state employees' health plan, are also required to have personnel available to provide authorization at all times that preauthorization prior to receiving medical treatment is required.

Health insurance plans are required to provide written notice to covered persons at least 60 days in advance prior to increasing premiums more than 35 percent. Additionally, notice of any benefit reductions must be provided to covered persons at least 60 days prior to such benefit reductions becoming effective.

Health insurance plans and the state employees' health plan may develop closed prescription drug formularies only after consultation with a pharmacy and therapeutics committee. This pharmacy and therapeutics committee will have a majority of its members who are physicians, pharmacists, and other health care providers. Additionally, these health plans must allow a covered person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs within the covered benefits, a specific, medically necessary, nonformulary prescription drug if, after reasonable investigation and consultation with the prescribing physician, the formulary drug is determined to be an inappropriate therapy for the medical condition of the enrollee. The insurer, corporation, or health maintenance organization must act on such requests within one business day of receipt of the request.

Health insurance plans and the state employees' health plan must provide access to specialists for those individuals with ongoing special conditions. Once such covered individual is referred to the specialist, the specialist may begin treating the individual in the same manner as the individual's primary care provider would otherwise be permitted, including the ability to authorize tests, procedures, referrals, and other medical services. Additionally, procedures must be developed whereby a covered person with an ongoing special condition may receive a standing referral to a specialist. These health plans may require a specialist to provide written notification to the

individual's primary care physician, including a description of the services rendered.

Health insurance plans and the state employees' health plan must provide 90 days notice to enrollees prior to terminating providers, and must allow enrollees to continue using a terminated provider for 90 days unless the provider is terminated for cause. Pregnant women may continue receiving treatment from a terminated provider through delivery, and the terminally ill may continue receiving treatment from such a provider until death.

Health insurance plans and the state employees' health plan are required to provide coverage for patient costs associated with clinical trials for treatment studies on cancer, including ovarian cancer. Patient costs covered include the costs of medically necessary health care services required in conjunction with the clinical trials. Costs not covered include the costs of research management or the cost of an investigational drug or device. The clinical trials must be approved by the National Cancer Institute, the Department of Veterans Affairs, the Food and Drug Administration or the other specified organizations. Phases II, III and IV cancer trials would be covered. Coverage of Phase I trials would be on a case-by-case basis.

Women covered under a health insurance plan or the state health plan will receive a minimum hospital stay of 23 hours when undergoing a laparoscopy-assisted vaginal hysterectomy, and a minimum stay of 48 hours for a vaginal hysterectomy, unless the attending physician, in consultation with the patient, decides that a shorter hospital stay is appropriate.

Health insurance plans and the state employees' health plan may not refuse to accept or make reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered person. An "assignment of benefits" means the transfer of dental care coverage reimbursement benefits or other rights under an insurance policy, subscription contract or dental services plan by a covered person. Such covered person must notify the insured, subscriber or enrollee in writing of the assignment.

Finally, the bill prohibits health care coverage plan providers from refusing to accept assignments of benefits executed by covered individuals in favor of health care providers and hospitals. This specific provision must be reenacted by the 2000 General Assembly prior to becoming effective. HB 871; CH. 649/SB 1235; CH. 643 (effective-see bill).

§§ 2.1-20.1, 38.2-3412.1 and 38.2-4319 amended; § 38.2-3412.1:01 added. Accident and sickness insurance; mental health coverage. Requires the state health care plans, health insurers, health services plans and health maintenance organizations to provide coverage for biologically based mental illness. The bill requires that coverage for biologically based mental illness be no different from coverage for other illnesses or conditions for the purpose of determining deductibles, benefit year or lifetime durational limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximums for deductibles and

copayment and coinsurance factors. The bill does not prevent the undertaking of usual and customary procedures to determine the appropriateness and medical necessity for the treatment of mental disorders, so long as such procedures are made in the same manner as the determinations made for the treatment of any other illness or condition. The bill is not applicable to policies, contracts or plans covering employee groups having less than 25 employees.

"Biologically based mental illness" is any mental or nervous condition caused by a biological disorder of the brain that results in a clinically significant or psychological syndrome or a pattern substantially limiting the person's functioning, including, but not limited to, schizophrenia, schizoaffective disorder, attention deficit hyperactivity disorder, bipolar disorder, major depressive disorder, obsessive-compulsive disorder, panic disorder, autism, psychotic disorder, and drug and alcohol addiction.

The provisions of the bill become effective July 1, 2000, and expire on July 1, 2004.

The bill also requires the Department of Personnel and Training to collect data and perform analyses in order to determine the effect of the bill's provisions on claims experience and costs. The Department of Personnel and Training must submit written reports of its findings to the Governor, the General Assembly, and the House Appropriations and Senate Finance Committees, no later than December 1, 2001, December 1, 2002, and December 1, 2003. The Special Advisory Commission on Mandated Health Insurance Benefits is directed to collect data, perform studies and convene public hearings to determine the effect of the bill's provisions on claim experience and costs. The Special Advisory Commission on Mandated Health Insurance Benefits must submit written reports of its findings to the Governor and the General Assembly no later than July 1, 2001, December 1, 2002, and December 1, 2003. SB 430; CH. 941 (effective-see bill).

§§ 2.1-20.1 and 38.2-3418.1:2 amended. Accident and sickness insurance; coverage of certain pap smears. Requires the state employees' health plan, health insurers, health services plans and HMOs, when providing coverage for pap smears (a mandated benefit), to provide coverage for testing performed by any FDA-approved gynecologic cytology screening technologies. HB 2354; CH. 921.

§§ 38.2-3430.2, 38.2-3430.3, 38.2-3430.8, 38.2-3431, 38.2-3432.3, and 38.2-3514.1 amended. Accident and sickness insurance; guaranteed availability of individual health insurance coverage. Requires health insurance issuers to include questions on forms for individual health insurance that will enable the health insurance issuer to determine whether an applicant qualifies as an "eligible individual." "Eligible individuals" must be issued individual health insurance coverage without a preexisting conditions limitation if the coverage is issued within 63 days of termination of coverage under a prior group health insurance contract.

The bill also limits the use of preexisting condition exclusions in health care coverage policies and plans issued by Virginia-regulated health insurers, health maintenance organizations, and corporations furnishing subscription contracts for health care coverage. A "preexisting condition exclusion" is generally defined as a limitation or exclusion of benefits relating to a medical condition present before coverage under a policy or plan was applied for or obtained, regardless of whether the condition was diagnosed or treated before that time. The bill's provisions stipulate that limitations for preexisting conditions exclusions for health insurance coverage offered by a health insurance issuer in the individual market must be the same as that offered by a health insurance issuer in connection with a group plan in the small or large group market. The bill also reduces the preexisting conditions exclusion period from 12 to six months, and from 18 to 12 months for a late enrollee. Finally, the bill redefines an "eligible individual" to reduce the aggregate of the periods of creditable coverage from 18 or more months to 12 or more months. It also includes individual health insurance coverage in the list of health insurance coverages that will be considered the most recent prior creditable coverage. HB 2283; CH. 1004.

§ 38.2-3431 amended. Health insurance; small employer market provisions. Allows health insurance issuers, who are registered as a health insurance issuer in the small group market and have offered small employer group insurance to the employer as required by law, to offer individual health insurance coverage to small employers that differ from the small employer market provisions, so long as the employer does not (i) permit payroll deductions for covered employees and (ii) pay any portion of the premium charged for such coverage. Under current law, the small employer market provisions are applicable to any health insurance issuer who (i) permits payroll deductions for covered employees or (ii) pays any portion of the premiums charged for such coverage. HB 2463; CH. 789/SB 1217; CH. 815.

§ 38.2-3540.1 amended. Accident and sickness insurance; claims experience; request for record of policyholder's claims experience. Amends the time period under which a group accident and sickness policyholder may request a complete record of the claims experience incurred under the group policy. Presently, the record must be made available when the request is made more than 60 days prior to the date upon which the contract may be amended. This bill requires such record to be made available when the request is made no less than 30 days prior to the date upon which the contract may be amended. HB 1769; CH. 116.

§ 38.2-3542 amended. Accident and sickness insurance; group policies; notification to employees upon termination of coverage. Requires employers who (i) assume all or part of the cost of their employees' health insurance, or (ii) provide a facility for deducting the health insurance premium amount from their employees' salaries and remitting such premium to the health insurer, to give written notice to employees in the event of termination of the insurance not later than 15 days after the termination of a self-insured plan or not later than 15

days after receipt of a notice of termination of an insurance plan. Any employer who fails to remit funds collected from an employee to the insurer or plan may be subject to civil suit for any medical expenses the employee may become liable for as a result of the employer letting such coverage be terminated. When coverage is terminated due to the nonpayment of premium by the employer, the insurer or health plan may not terminate coverage until the employer has been provided with a written notice of the termination date, which must not be less than 15 days from the mailing of the notice. HB 1936; CH. 276.

§§ 38.2-4214 and 38.2-4319 amended; § 38.2-3407.13 added.

Accident and sickness insurance; requirements for obstetrical care coverage; durational limits, coinsurance factors, copayments. Requires any (i) insurer issuing individual or group accident and sickness insurance (ii) corporation providing individual or group accident and sickness subscription contract, and (iii) health maintenance organization providing a health care plan for health services whose policies, contracts, or plans, including any certificate or evidence of coverage issued in connection with such policies, contracts or plans, include coverage for obstetrical services as an inpatient in a general hospital or obstetrical services by a physician to provide such benefits with durational limits, deductibles, coinsurance factors, and copayments that are no less favorable than for physical illness generally. HB 2385; CH. 923 (effective 3/29/99).

§§ 38.2-4214 and 38.2-4319 amended; § 38.2-3407.11:1 added. Accident and sickness insurance; standing referral for cancer pain management. Requires each (i) insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis, (ii) corporation providing individual or group accident and sickness subscription contracts, and (iii) health maintenance organization providing a health care plan for health care services, whose policies, contracts or plans, including any certificate or evidence of coverage issued in connection with such policies, contracts or plans to permit any individual covered thereunder who has been diagnosed with cancer to have a standing referral to a board-certified specialist in pain management or an oncologist who is authorized to provide services under such policy, contract or plan and has been selected by the cancer patient. The board-certified specialist in pain management or oncologist must consult on a regular basis as required under the terms of the policy, contract or plan, by telephone or through written communication, with the primary care physician and any oncologist providing care to the patient concerning the plan for pain management for the patient. The cancer pain management specialist is not be authorized to direct the patient to other health care services. Nothing contained in this provision will prohibit an insurer, corporation, or health maintenance organization from requiring a participating cancer pain specialist to provide written notification to the cancer patient's primary care physician of any visit to him, which may include a description of the health

care services rendered at the time of the visit. Insurers and health maintenance organizations subject to these provisions must inform subscribers in writing. These requirements will apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, renewed, or extended or at any time when any term of any such policy, contract, or plan is changed or any premium adjustment is made and will not apply to short-term travel or accident-only policies, or to short-term nonrenewable policies of not more than six months' duration. SB 1299; CH. 856.

§§ 32.1-137.7, 32.1-137.10, 32.1-137.13, 32.1-137.15, 38.2-4214, and 38.2-4319 amended; § 38.2-3407.6:1 added.

Accident and sickness insurance; utilization review and coverage of cancer pain medications. Requires utilization review agencies to make all decisions on prescriptions for the alleviation of cancer pain within 24 hours. The bill also provides that any individual or group accident and sickness insurance policy providing hospital, medical and surgical or major medical coverage on an expense-incurred basis, any corporation providing individual or group accident and sickness subscription contracts, and any health maintenance organization providing a health care plan for health care services, whose policy, contract or plan, including any certificate or evidence of coverage issued in connection with such policy, contract or plan, includes coverage for prescription drugs, whether on an inpatient or outpatient basis, or both, must provide in each such policy, contract, plan, certificate, and evidence of coverage that such benefits will not be denied for any drug approved by the United States Food and Drug Administration for use in the treatment of cancer pain on the basis that the dosage is in excess of the recommended dosage of the pain-relieving agent, if the prescription in excess of the recommended dosage has been prescribed in compliance with §§ 54.1-2971.01 and 54.1-3408.1 for a patient with intractable cancer pain. These provisions will not apply to short-term travel, or accident-only policies, or to short-term nonrenewable policies of not more than six months' duration and are applicable to contracts, policies or plans delivered, issued for delivery or renewed in this Commonwealth on and after July 1, 1999. SB 1300; CH. 857.

§§ 38.2-4307 and 38.2-4307.1 amended. Health maintenance organizations; annual and financial statements. Requires that annual statements, supplemental schedules, and exhibits filed by health maintenance organizations be, as far as practicable, in the form in general use in the United States and, unless otherwise prescribed by the State Corporation Commission, be prepared in accordance with appropriate instructions and publications adopted by the National Association of Insurance Commissioners. The bill also authorizes the State Corporation Commission to require a health maintenance organization to file a copy of its annual statement with the National Association of Insurance Commissioners and copies of financial statements on a quarterly basis. SB 894; CH. 482.

§§ 38.2-4319 amended; § 38.2-3418.8 added. Accident and sickness insurance; coverage for hospice care. Requires

health insurers, health maintenance organizations and corporations providing accident and sickness subscription contracts to provide coverage for hospice care. "Hospice care" means a coordinated program of home and inpatient care provided directly or under the direction of a licensed hospice and includes palliative and supportive physical, psychological, psychosocial and other health services to individuals with a terminal illness utilizing a medically directed interdisciplinary team. "Terminal illness" means a condition in an individual that has been diagnosed as terminal by a licensed physician, whose medical prognosis is death within six months, and who elect to receive palliative rather than curative care. The bill stipulates that documentation requirements for hospice coverage must be no greater than those required for the same services under Medicare. This bill does not prevent insurers, corporations, or health maintenance organizations from offering or providing coverage for hospice services where it cannot be demonstrated that the illness is terminal or that the individual's life expectancy is longer than six months. The provisions of this bill do not apply to short-term travel, accident only short-term nonrenewable policies of not more than six months duration or to Medicare supplement policies. HB 699; CH. 858.

§ 38.2-4319 amended; § 38.2-3418.8 added. Accident and sickness insurance; coverage for diabetes. Requires health insurers, health care subscription plans and health maintenance organizations to provide coverage for diabetes. The coverage required includes benefits for the 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 under law. To qualify for coverage under this bill, diabetes outpatient self-management training and education must be provided by a certified, registered or licensed health care professional. The bill's provisions are applicable to policies and plans issued on and after July 1, 1999. SB 244; CH. 35.

§§ 38.2-5001, 38.2-5010, and 38.2-5013 amended. Virginia Birth-Related Neurological Injury Compensation Act. Makes the definition of "birth-related neurological injury" as presently in effect retroactive in application to any child born on and after January 1, 1988, the date for the accruing of claims under the act. The definition included in the original statute was stringent and could not be met by some infants who were neurologically injured in a hospital at birth or immediately thereafter. The 1988 definition required an infant suffering a birth-related neurological injury to be rendered permanently nonambulatory, aphasic, incontinent, and in need of assistance in all "phases" of daily living. In 1990, two bills were passed to revise the definition of "birth-related neurological injury" by striking the requirements to be permanently nonambulatory, aphasic, and incontinent and inserting requirements for permanent motor disabilities and developmental disabilities or cognitive disability. The infant

must require permanent assistance in all "activities" of daily living. This bill authorizes the legal representative of a child born between January 1, 1988, and July 1, 1990, to file an application for review by July 1, 2000, upon meeting the conditions that (i) a claim was timely filed for the child and was dismissed on the basis of a determination that although the child's injuries were caused by deprivation of oxygen or mechanical injury occurring in the course of labor, delivery or resuscitation in the immediate post-delivery period in a hospital, the injuries did not meet the earlier definition of nonambulatory, aphasic, incontinent, and in need of assistance in all phases of daily living and (ii) the medical panel's report provided pursuant to the dismissed claim stated that the child's injuries would meet the present definition, i.e., permanently motor disabled and developmentally disabled or cognitively disabled and permanently in need of assistance in all activities of daily living. The application for review may be filed regardless of whether or not the legal representative has previously obtained a review of the dismissed claim by the Commission. Such review can only be filed for live births and cannot be filed for claims dismissed as caused by genetic or congenital abnormalities, degenerative neurological diseases, or maternal substance abuse. The full Commission will review the evidence and make a determination on the petition as though the definition in effect on July 1, 1990, had been in effect on the date of the child's birth and no previous review or dismissal had occurred. The statute of limitations on filing of claims is modified to allow for applications for review in these narrow circumstances to be filed by July 1, 2000, for any infant whose birth occurred more than ten years prior to the application, if the dismissed claim upon which the application is filed was filed before the infant's tenth birthday. This retroactive provision could result in two or more dismissed claims being reconsidered. SB 1018; CH. 806.

§ 38.2-5003 amended; § 8.01-273.1 added. Virginia Birth-Related Neurological Injury Compensation Act; referral to Workers' Compensation Commission. Establishes procedures for referrals of civil actions from a circuit court to the Workers' Compensation Commission ("Commission") for the purpose of determining applicability of the Virginia Birth-Related Neurological Injury Compensation Act. When a party moves to refer a matter to the Commission for such a determination, the motion to refer and the motion for judgment are to be forwarded to the Commission. The circuit court must stay the proceeding pending notification by the Commission on the disposition of the motion to refer, which is communicated by the Commission in due course. HB 1555; CH. 822.

§ 38.2-5004.1 added. Birth-Related Neurological Injury Compensation Program; notification of possible beneficiaries. Requires insurance companies and self-insured entities to report to the Birth-Related Neurological Injury Compensation Program any claims alleging a possible birth-related neurological injury or severe adverse outcome related to a birth. The program will inform the injured child's parents or guardians of the program and of the eligibility

requirements. The report is not admissible in court and is not an inference of liability. HB 1558; CH. 825.

§ 38.2-5009 amended. Birth-Related Neurological Injury Compensation Fund; disposition of benefits. Provides that benefits paid for loss of earnings from the Birth-Related Neurological Injury Fund are not assignable and may not be garnished or attached. HB 1556; CH. 823.

§ 38.2-5015 amended. Birth-Related Neurological Injury Compensation Fund; assets of the Fund. Provides that the assets of the Fund are trust funds to be administered by the board of directors solely to award recipients and execute the Birth-Related Neurological Injury Compensation Program. HB 1559; CH. 826.

§ 38.2-5016 amended. Birth-Related Neurological Injury Compensation Program; board of directors; quorum; board terms. Staggers the terms of the members of the board of directors for the Birth-Related Neurological Injury Compensation Program. The bill also reduces from five to four the number of board members required for a quorum. HB 1557; CH. 824.

§ 38.2-5802 amended. Accident and sickness insurance; MCHIP; establishment of an MCHIP. Clarifies the applicability of the current law requiring managed care health insurance plans to apply for and be issued (i) a certificate of quality assurance from the Department of Health and (ii) a license from the State Corporation Commission's Bureau of Insurance. SB 901; CH. 20.

TITLE 40.1. LABOR AND EMPLOYMENT.

§ 40.1-51.8 amended; §§ 40.1-51.19:1 through 40.1-51.19:5 added. Antique and model boilers. Requires the certification of antique and model boilers by July 1, 2000. The bill defines (i) antique boiler to mean any boiler used solely for demonstration, exhibition, ceremonial or educational purposes, including, but not limited to, historical artifacts such as portable and stationary show boilers, farm traction engines and locomotives, and (ii) model boiler to mean any boiler fabricated to demonstrate an original design or to reproduce or replicate a historic artifact, and is used primarily for demonstration, exhibition or educational purposes. SB 992; CH. 335 (effective 7/1/00).

TITLE 42.1. LIBRARIES.

§ 42.1-36.1. See § 22.1-70.2; HB 1043.

§ 42.1-53 repealed. Aid to public libraries. Repeals the provision capping the costs incurred by the Library Board in administering aid to public libraries and "providing other

public library extension functions" at 30 percent of appropriations. Since 1936, the Commonwealth has declared in statute its library policy "as part of its provision for public education, . . . to promote the establishment and development of public library service throughout its various political subdivisions." To support this policy, the Library Board is to administer, from such funds as are appropriated, state grants for the development of library services. Available to any free public library or library system qualifying under Board standards, these state grants are to encourage not only the maintenance of appropriate library standards, but also the consolidation of libraries or library systems into "larger and more economical units of service." Calculated pursuant to a statutory formula, grant amounts may be based on local matching funds, local population, or a geographic service area. HB 1501; CH. 24.

§ 42.1-80. See § 2.1-1.1; HB 1727/HB 2188/SB 808.

TITLE 43. MECHANICS' AND CERTAIN OTHER LIENS.

§§ 43-4, 43-32 and 43-33 amended. **Mechanics' liens; amounts.** Increases the amount of mechanics' liens for repairs from \$500 to \$625. The bill also provides that a memorandum of lien may include sums which are not yet due because the party with whom the lien claimant contracted has not received the funds. HB 1902; CH. 533.

TITLE 44. MILITARY AND EMERGENCY LAWS.

§ 44-114 amended. **Allowances made to organizations from state appropriations.** Provides that among the necessary expenses of the maintenance of the National Guard and the naval militia, the Commonwealth will provide, upon his death, one flag of the Commonwealth of Virginia to the next of kin of any individual who has honorably served for a period of 20 years in the Virginia National Guard. HB 2057; CH. 667.

§ 44-146.27 amended. **Emergency services.** Indemnifies and holds harmless the federal government in accordance with the terms of a disaster assistance agreement. This bill is identical to SB 805. HB 1616; CH. 7/SB 805; CH. 6 (effective 2/12/99).

TITLE 44. MISCELLANEOUS - MILITARY AND EMERGENCY LAWS.

Award of Virginia military medals. Provides that Virginia military medal and decorations shall be made in the United States. Existing stocks of Virginia military medals and decorations which are of foreign origin may, however, be consumed without violating the provisions of this act. All Virginia military medals and decorations shall have the words "Made in the USA" stamped on the reverse side. This act shall not limit the country of origin of United States military medals and decorations that are presented to members of the Virginia National Guard. HB 1442; CH. 22.

TITLE 45.1. MINES AND MINING.

§§ 45.1-161.8, 45.1-161.17, 45.1-161.32, 45.1-161.58, 45.1-161.59, 45.1-161.63, 45.1-161.64, 45.1-161.65, 45.1-161.66, 45.1-161.70, 45.1-161.77, 45.1-161.78, 45.1-161.80, 45.1-161.83, 45.1-161.87, 45.1-161.88, 45.1-161.108, 45.1-161.109, 45.1-161.114 through 45.1-161.118, 45.1-161.121, 45.1-161.123, 45.1-161.124, 45.1-161.129, 45.1-161.133, 45.1-161.134, 45.1-161.135, 45.1-161.140, 45.1-161.141, 45.1-161.143, 45.1-161.144, 45.1-161.147, 45.1-161.150, 45.1-161.151, 45.1-161.152, 45.1-161.158, 45.1-161.159, 45.1-161.162, 45.1-161.165, 45.1-161.170, 45.1-161.173, 45.1-161.181, 45.1-161.186, 45.1-161.187, 45.1-161.188, 45.1-161.189, 45.1-161.191, 45.1-161.193 through 45.1-161.197, 45.1-161.203, 45.1-161.207, 45.1-161.209, 45.1-161.210, 45.1-161.211, 45.1-161.213, 45.1-161.220, 45.1-161.221, 45.1-161.222, 45.1-161.227, 45.1-161.228, 45.1-161.231, 45.1-161.235, 45.1-161.249, 45.1-161.251, 45.1-161.256, 45.1-161.257, 45.1-161.258, 45.1-161.263, 45.1-161.266, 45.1-161.269, 45.1-161.270, 45.1-161.280, 45.1-161.282, 45.1-161.285, 45.1-161.290, 45.1-222 and 45.1-224 amended; §§ 45.1-161.185, 45.1-161.192 and 45.1-161.230 repealed. **Coal Mine Safety Act.** Revises the Act. The changes made by the bill, many of which are technical or clarifying in nature, include the following: References to abandoned areas of mines are replaced with references to worked-out areas. References to competent persons are replaced by references to authorized persons or certified persons. In several provisions where the Chief of the Division of Mines and the Director of the Department of Mines, Minerals and Energy are both given the authority or duty do something, the reference to the Director is removed. Operators of mines are required to secure surface openings against unauthorized entrance in areas where mining is discontinued for more than 30 days. Coal mine map revisions must be certified by a registered engineer or registered surveyor. The penalty for making false statements on mine maps is increased from \$200 to the regular penalty for a

Class 1 misdemeanor. The requirement that members of mine rescue teams be 50 years of age or younger is removed. Mines are required to have their roof control plans approved by the Chief, and roof falls are to be reported in the same manner as other accidents. Safety procedures for mining near coalbed methane wells must be addressed in plans the mines are already required to have. Off-track haulage equipment operators are required to correct or report to the mine foreman any hazardous condition observed on haulage roads. Automatic couplers are required for track haulage cars which are regularly coupled and uncoupled. The requirement that the mine foreman or authorized person be in attendance while miners are boarding or leaving belts is eliminated. New surface structures where miners congregate or where official records are kept must be offset not less than 15 feet from the nearest side of any mine opening, or otherwise located to be out of the direct line of possible forces coming out of the mine should an explosion occur. Requirements for electrical systems are amended. Underground transformer stations, battery charging stations, substations, rectifiers, and water pumps must be housed in noncombustible structures or areas, or be equipped with an approved fire suppression system. Requirements for safety examinations, records of such examinations and reporting and posting of any hazardous conditions are revised. HB 2210; CH. 256.

§ 45.1-235 amended. Surface mining permit applications. Replaces language requiring the Division of Mined Land Reclamation, if requested to do so by a small operator, to assume the cost of preparing certain elements of the permit application with language requiring that such assistance be provided in accordance with the federal Surface Mining Control Act and only to the extent that funds are available from the federal Office of Surface Mining. HB 1688; CH. 114.

§ 45.1-361.22 amended. Coalbed methane; pooling orders. Clarifies how funds may be withdrawn from the escrow account established when the Virginia Gas and Oil Board enters an order pooling all interests in a coalbed methane gas drilling unit. The Board must order payment from the account within 30 days of receiving notification of a court decision adjudicating the ownership of the coalbed methane or an agreement between the claimants owning conflicting estates. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. HB 1921; CH. 122.

sorts of conveyances within the single definition. HB 1499; CH. 67.

§§ 6.1-194.2, 15.2-2247, 46.2-100, 46.2-111, 46.2-653, 46.2-1115, 46.2-1500, 46.2-1900, 55-66.1:1, 55-248.4, 55-248.49, 58.1-2401, 58.1-2403, 58.1-2425, 59.1-207.2, and 59.1-313 amended. Manufactured homes. Changes the term "mobile home" to "manufactured home" throughout the Code. There is also a technical amendment. HB 2016; CH. 77.

§ 46.2-205 amended. DMV agencies. Increases the compensation fixed for DMV agencies. HB 1885; CH. 308.

§ 46.2-208.1. See § 24.2-404.2; HB 1854.

§ 46.2-320 amended. Driver's licenses. Provides for refusal to renew or reissue driver's licenses of persons for whom the Department of Social Services could not serve notices of intent to suspend such driver's licenses. SB 325; CH. 615 (effective 3/28/99).

§§ 46.2-332, 46.2-343, 46.2-345, and 46.2-712 amended; §§ 46.2-216.3 and 46.2-648.1 added. Department of Motor Vehicles; customer services. Grants the DMV Commissioner general authority to provide discounts and other incentives to those who conduct business with DMV by mail or by electronic means (rather than in person at a DMV office); authorizes issuance of learner's permits, driver's licenses, commercial driver's licenses, and DMV identification cards with scenic borders; authorizes permanent registration for certain trucks weighing at least 7,501 pounds but no more than 26,000 pounds; provides for optional registration of tow dollies and converter gears. HB 1623; CH. 593.

§§ 46.2-334 and 46.2-335 amended. Driver's licenses and learner's permits; parental waivers. Provides that parents waiving the requirement that their child be in academic good standing and regularly attending school to obtain a driver's license or learner's permit indicate their authorization on forms provided by and at the Department of Motor Vehicles. HB 2483; CH. 459.

§§ 46.2-334 and 46.2-335 amended. Driver's licenses. Requires that the evidence of successful completion of a driver's education course be signed by the minor's parent or guardian before that evidence, together with the minor's learner's permit, can constitute a temporary driver's license. HB 2575; CH. 462.

§ 46.2-334 amended. Driver's licenses; persons under 18. Provides that only custodial parents have the ability to request that DMV cancel their child's driver's license. SB 921; CH. 887.

§ 46.2-340 amended. Information regarding driver education instructors. Requires each local school division and private school providing a driver education program approved by the Department of Education to provide to DMV the name and driver's license number of all persons providing instruction in driver education for that school division or private school. Whenever a driver's license of the instructor is suspended or revoked, or the instructor is convicted in any

TITLE 46.2. MOTOR VEHICLES.

§ 46.2-100 amended. Mopeds. Restates the definition of "moped" to eliminate any ambiguity as to the inclusion of two

court of reckless driving or driving while intoxicated, the Department shall notify the local school division or private school of the name and driver's license number of the driver involved.

When the driving record of a driver education instructor accumulates more than six demerit points based on convictions occurring in any calendar year, DMV is to notify the relevant local school division or private school of the name and driver's license number of the driver. Safe driving points shall not be used to reduce the six demerit points. No driver education program in a private school or public school division may retain its approval by the Department unless such instructor is removed from providing behind-the-wheel driver education instruction in the private school or public school division for a period of 24 months. HB 2672; CH. 463.

§ 46.2-342 amended. Organ donor program. Requires DMV, in coordination with the Virginia Transplant Council, to prepare a brochure on the organ donor program and mail a copy along with every driver's license renewal notice or application. HB 2670; CH. 330.

§§ 8.01-9, 16.1-77, 18.2-36.1, 18.2-51.4, 18.2-270, 46.2-356, 46.2-357, 46.2-360, 46.2-361, 46.2-362, 46.2-389, 46.2-391, 46.2-411 and 53.1-21 amended; § 46.2-355.1 added; §§ 46.2-351 through 46.2-355 repealed. DUI; additional alternative sanctions for habitual offenders. Makes third DUI offense within ten years a Class 6 felony, with fourth and subsequent offenses carrying a one-year mandatory minimum jail sentence. The bill repeals the determination and adjudication provisions of the Habitual Offender Act but retains restoration provisions. Adds indefinite period license revocation language to §§ 18.2-36.1 and 18.2-51.4, governing involuntary manslaughter and maiming resulting from a DUI. The bill provides for petition for a restricted license after expiration of three years of the revocation and for a petition for full reinstatement after five years. The offender is subject to felony punishment if he drives during the revocation period. The bill also provides for participation in alternative intermediate sanctions in lieu of incarceration for a second or third DUI or DUI maiming offense. Additionally, it requires drivers convicted of a second offense of driving on a suspended operators license under § 46.2-301 to report to a Virginia Alcohol Safety Action Program for an intervention. HB 1812; CH. 987/SB 841; CH. 945.

§ 46.2-360 amended. Habitual offender license reissuance. Ensures that no credit is given to an habitual offender receiving credit for a prior suspension period when calculating the three- or five-year suspension period if the prior suspension period followed a second DUI. The bill also removes the optional court-ordered VASAP assessment prior to a hearing for reissuance of a driver's license to an habitual offender. This change removes an internal conflict; the law already mandates assessment. HB 2294; CH. 742 (effective 3/28/99).

§ 46.2-613 amended. License plates. Prohibits display on any motor vehicle, trailer, or semitrailer of any license plate or decal currently issued for another vehicle. HB 2348; CH. 212.

§§ 46.2-640 and 58.1-3942 amended. Priority of security interests in motor vehicles. Clarifies that the title conveyed to the purchaser of personal property, including automobiles, sold for delinquent taxes is free from the claims of any person with a security interest in the property when the tax lien has priority over the security interest and the lienor is given notice of the sale. Sale proceeds are to be first applied to unpaid taxes and then to secured parties. Current provisions relating to the priority of security interests in automobiles do not address the priority of tax liens. Under current law, taxes specifically assessed per item or in bulk against property distrained have priority over all security interests. HB 1581; CH. 299.

§ 46.2-649.1:1 added; § 46.2-681 repealed. Registration of volunteer rescue squad and volunteer fire department vehicles. Provides for permanent registration, free of charge, for vehicles owned by volunteer fire departments and volunteer rescue squads and used by them exclusively for rescue, lifesaving, and firefighting purposes. This replaces a system of exemption from registration for these vehicles. HB 2656; CH. 329.

§ 46.2-676 amended. Golf carts. Allows over-the-road operation of unregistered golf carts by certain Goochland County employees on official business at Goochland Courthouse. HB 2336; CH. 211.

§ 46.2-730 amended. Antique motor vehicles. Increases the fee for registration of a motor vehicle as an antique motor vehicle from \$5 to \$10; authorizes, for certain vehicles, Virginia license plates with metal tabs issued for the same year as the model year of the vehicle; provides additional detail as to which antique vehicles may display only one license plate and which may display, instead of "antique vehicle" license plate, license plates issued for the same year as the model year of the vehicle; and provides additional limitations on "general transportation" use of vehicles registered as antique motor vehicles. SB 1193; CH. 292.

§§ 46.2-742.1, 46.2-743, 46.2-746.7, 46.2-746.8, and 46.2-749.4 amended; §§ 46.2-746.2:1, 46.2-746.2:2, and 46.2-749.12 through 46.2-749.26 added; § 46.2-746.2 repealed. Special license plates omnibus. Reduces the fee charged for license plates issued to recipients of certain military decorations and authorizes special license plates for: (i) persons awarded the Bronze Star with a "V" for valor; (ii) certain honorably discharged veterans; (iii) members and former members of the 82nd Airborne Division; (iv) members and former members of the 173rd Airborne Brigade; (v) members of the Prince Hall Grand Lodge of Virginia; (vi) members of the Society of Black Engineers; (vii) towns (displaying town logos); (viii) supporters of the Chincoteague Pony Association; (ix) Internet commerce; (x) supporters of Greyhound adoptions; (xi) Eagle Scouts; (xii) members of the Navy League; (xiii) members of the Order of AHEPA; (xiv) horse enthusiasts; (xv) supporters of public schools; (xvi) members of the Virginia State Police Alumni, Inc.; (xvii) Hampton Roads; (xviii) public safety communications professionals; (xix) tourism (VIRGINIA IS FOR LOVERS);

(xx) supporters of historic preservation programs in Fairfax County; (xxi) the 300th anniversary of Falls Church; and (xxii) the Natural Bridge of Virginia. HB 1797; CH. 907.

§§ 46.2-743, 46.2-749.3, and 46.2-749.4 amended; §§ 46.2-749.12 through 46.2-749.17 added. Special license plates. Authorizes display, on vehicles required to display official government-use only license plates, a device identifying those vehicles that use clean special fuels, so that those vehicles can enjoy the exceptional use of HOV lanes granted to vehicles displaying clean special fuel license plates; authorizes persons honorably discharged after at least six months of active duty service with the United States Army, Navy, Air Force, or Marine Corps to be issued special license plates currently authorized for issuance only to persons on active duty with or retired from those armed services. This bill also authorizes issuance of town logo special license plates; special license plates for members of the Amateur Radio Emergency Services (ARES), members of the Virginia State Police Alumni, Inc., and supporters of Operation Wildflower; and Oceana Naval Air Station, Boy Scouts of America, and Virginia lighthouses special license plates. SB 720; CH. 883.

§ 46.2-746.22 added. Special license plates; Sons of Confederate Veterans. Authorizes the issuance of special license plates to members of the Sons of Confederate Veterans. HB 1305; CH. 902.

§ 46.2-752 amended. Local motor vehicle licenses. Allows issuance of local vehicle licenses free of charge to volunteer deputy sheriffs. HB 1470; CH. 236.

§ 46.2-817 amended. Eluding police. Changes the penalty for failing to stop, and eluding police, from a Class 4 misdemeanor to a Class 3 misdemeanor and for eluding police while endangering persons or the police vehicle from a Class 1 misdemeanor to a Class 6 felony. The bill creates an affirmative defense to a charge of eluding police if the defendant reasonably believed his pursuer not to be a law-enforcement officer. The bill also provides for mandatory license suspension of 30 days for a misdemeanor and 90 days for driving more than 20 miles per hour over the speed limit when convicted of eluding police. HB 1800; CH. 720 (effective 7/1/00).

§ 46.2-833.01 amended. "Photo-red" enforcement of traffic light signals. Includes leased and rented vehicles in scope of "photo-red" traffic light signal enforcement programs. SB 775; CH. 884.

§§ 46.2-838 and 46.2-839 amended. Passing and overtaking animals and animal-drawn vehicles. Requires that ridden animals and animal-drawn vehicles be overtaken and passed in the same manner as bicycles, rather than in the manner of motor vehicles. HB 2048; CH. 999.

§ 46.2-870 amended. Speed limits. Provides for a maximum speed limit of 65 mph on Virginia Route 288. SB 799; CH. 142.

§ 46.2-871 amended. Speed limit for school buses. Provides for a maximum speed limit of 55 mph for school buses on highways where the speed limit is more than 55 mph. This does not affect speed limits in effect between the first and last stop of school buses taking on or discharging school children. HB 1498; CH. 166.

§ 46.2-878.2 amended. Speed limits. Provides that additional highways, functionally classified as minor arterials, are eligible for posting as residence district highways where speed limit violators are subject to enhanced penalties. HB 1598; CH. 87.

§ 46.2-882 amended. Laser speed determination devices. Allows the town of Vienna to use laser speed determination devices to enforce speed limits. HB 1960; CH. 724/SB 754; CH. 693.

§ 46.2-882 amended. Laser speed determination devices. Allows any locality in Planning District No. 8 (Northern Virginia) to use laser speed determination devices. HB 2032; CH. 729.

§ 46.2-882 amended. Laser speed determination devices. Allows Henrico County to use laser speed determination devices to enforce speed limits. HB 2157; CH. 733.

§ 46.2-882 amended. Laser speed determination devices. Allows Loudoun County and towns within its boundaries to use laser speed determination devices to enforce speed limits. Several other bills also amend this section to expand the authority of local law-enforcement agencies to use laser speed determination devices. SB 764; CH. 694.

§ 46.2-882 amended. Laser speed determination devices. Allows localities in Planning District No. 8 to use laser speed determination devices. SB 939; CH. 698.

§ 46.2-904 amended. Local regulation of sidewalks. Allows a locality by ordinance to prohibit the use of skateboards and roller skates on certain sidewalks. SB 738; CH. 943.

§ 46.2-936. See § 19.2-80.2; HB 1691/SB 820.

§ 46.2-941 amended. Parking violation notices. Reduces from one-half inch to 14-point type the minimum size of the legend "Law-Enforcement Notice" on envelopes used to provide notice of local parking violations. HB 2378; CH. 323/SB 1117; CH. 291.

§ 46.2-1001 amended. Out-of-service inspections. Adds Harrisonburg and Rockingham County to the lists of localities whose specially trained law-enforcement officers are authorized to perform motor vehicle out-of-service inspections. HB 1576; CH. 68.

§ 46.2-1001 amended. "Out of service" inspections. Adds Roanoke County to the list of localities whose specially trained law-enforcement officers are authorized to perform "out-of-service" vehicle inspections. HB 2350; CH. 279.

§ 46.2-1025 amended. Vehicle amber warning lights. Authorizes vehicles used for remote radio and TV broadcasts

to be equipped with amber warning lights, provided the lights are not lit when the vehicles are in motion. HB 1832; CH. 72.

§ 46.2-1025 amended. Amber warning lights. Allows vehicles used to lead or escort bicycle races to be equipped with amber warning lights. SB 740; CH. 18.

§ 46.2-1025 amended. Vehicular warning lights. Allows vehicles used on or after January 1, 2000, to lead or provide escorts for funeral processions to use either amber warning lights or purple warning lights, but not both at the same time. SB 961; CH. 232 (effective 1/1/00).

§ 46.2-1052 amended. Window films. Prohibits (i) operating motor vehicles whose windshields or windows have films or applications that produce holographic or prism effects and (ii) affixing such applications to motor vehicle windshields or windows. HB 1971; CH. 75.

§ 46.2-1143 amended. Trucks hauling gravel, sand, or crushed stone. Applies, until July 1, 2001, coal truck weight limits to certain trucks hauling gravel, sand, or crushed stone in counties that may impose a coal severance tax. HB 2209; CH. 915.

§ 46.2-1217 amended. Towing. Amends the law on local regulation of towing clearly to distinguish requests for towing made by police at the request of the owner or operator of a disabled vehicle from other police-requested towing. HB 2050; CH. 78.

§ 46.2-1220 amended. Parking. Adds Bath County to the list of counties (Augusta and Rockingham) that may regulate parking, but not install parking meters. HB 1746; CH. 71.

§ 46.2-1240 amended. Parking for persons with disabilities. Allows persons to whom "handicapped parking" placards are issued to cover their name, as it appears on the placard, with removable tape. HB 1848; CH. 188.

§§ 46.2-1500 and 63.1-133.46 amended; § 11-40.4 added. Motor vehicle for TANF recipients. Exempts the State Department of Social Services and local departments of social services from (i) licensure as motor vehicle dealers, (ii) the state public procurement act, and (iii) several statutes governing disposal of surplus state property when these agencies acquire used motor vehicles from the state motor pool and transfer them to TANF recipients. HB 1917; CH. 910.

§§ 46.2-1575, 46.2-1576, 46.2-1985, 46.2-1986, 46.2-1992.79, 46.2-1992.80, 46.2-1993.76, and 46.2-1993.77 amended. Motor vehicle dealers, T&M vehicle dealers, trailer dealers, and motorcycle dealers. Authorizes revocation or suspension of licenses of dealers who fail or refuse to pay certain civil penalties imposed by the Motor Vehicle Dealer Board or the DMV Commissioner. HB 2516; CH. 217.

§ 46.2-1601 amended. Salvage dealers. Allows DMV Commissioner to offer multi-year licensure option, with fees prorated on a per-year basis. HB 1993; CH. 53.

§ 46.2-2503 amended; §§ 46.2-2510.1 and 46.2-2511.1

added. Executive sedan carriers and limousine carriers. Authorizes enforcement by local authorities of state laws and DMV regulations pertaining to executive sedan carriers and limousine carriers; provides that violations of those laws and regulations are punishable as Class 3 misdemeanors (fine up to \$500); requires executive sedan carriers and limousine carriers to have established places of business that meet certain specifically listed requirements; and requires that executive sedan carriers and limousine carriers conduct their operations in a specific manner. HB 2054; CH. 199.

TITLE 51.1. PENSIONS, BENEFITS, AND RETIREMENT.

§ 51.1-124.3 amended; § 51.1-142.1 added. Virginia Retirement System; creditable service. Modifies the definition of creditable service to include uncompensated sick leave accumulated as of the employee's retirement date, certified by the employer to the Board. HB 189; CH. 974.

§ 51.1-124.3 amended. Retirement benefits; creditable compensation for members of the General Assembly. Excludes office expenses in determining creditable compensation for members of the General Assembly. HB 1437; CH. 929.

§ 51.1-124.12 added. Virginia Retirement System; employer withdrawal of funds. Provides a mechanism for withdrawing funds from the Retirement System to distribute to beneficiaries or transfer to another tax qualified retirement plan upon the termination of the employer's status as an agency or political subdivision of the Commonwealth. SB 831; CH. 284.

§ 51.1-124.36. See § 23-9.4; HB 2339.

§§ 51.1-126.5, 51.1-153, 51.1-155, 51.1-162, 51.1-165, 51.1-205, 51.1-207, 51.1-308, and 51.1-505 amended. Virginia Retirement System; technical corrections and administrative changes. Provides technical revisions to various VRS provisions. Additional changes simplify the administration of the system. These changes include (i) making vesting and final compensation consistent regardless of the date of termination so that the calculation of benefits is uniform and (ii) eliminating the requirement that a member's parents be "wholly dependent" in order to receive benefits if the member dies prior to retirement. HB 1612; CH. 111.

§ 51.1-138 amended. Regional jail superintendents and officers; benefits. Allows regional jail authorities to provide benefits to regional jail superintendents and jail officers that are equivalent to benefits provided under the State Police Officers' Retirement System. HB 1706; CH. 596.

§ 51.1-142 amended. Virginia Retirement System; prior service credit for interruption due to raising children. Allows any member in service who is granted an unpaid leave

of absence due to the birth or adoption of a child to purchase up to one year of service credit per child. SB 888; CH. 407.

§ 51.1-153 amended. Virginia Retirement System; retirement options. Allows state employees, teachers, and employees of political subdivisions that do not elect to be exempt, to retire from service with unreduced benefits when they reach 50 years of age and have 30 years of service credits. Currently, VRS members with 30 years of service credit must be at least age 55 to retire with unreduced benefits. HB 1542; CH. 591/HB 1613; CH. 592/HB 1762; CH. 598/HB 1805; CH. 599/SB 810; CH. 567/SB 818; CH. 568/SB 876; CH. 569.

§§ 51.1-162 and 51.1-207 amended. Virginia Retirement System; benefits paid to survivors. Provides that the beneficiary of a member who dies in service will receive the benefits that would have been payable had the member died at normal retirement age. HB 1017; CH. 510.

§§ 51.1-211 through 51.1-220 added. Commonwealth Law-Enforcement Officers' Retirement System. Creates a law-enforcement retirement system to include certain other law-enforcement officers in a retirement system similar to, but separate from, the State Police Officers' Retirement System and makes such membership compulsory. HB 715; CH. 585 (effective 10/1/99).

§ 51.1-513.1 added. Virginia Retirement System long-term care insurance program. Authorizes the Board of the Virginia Retirement System to develop, implement, and administer a long-term care insurance program. SB 220; CH. 5.

§§ 51.1-600 and 51.1-606. See § 2.1-20.1:2; HB 1704/HB1756.

§§ 51.1-1100, 51.1-1101, 51.1-1103, 51.1-1104, 51.1-1105, 51.1-1107, 51.1-1110, 51.1-1112, 51.1-1113, 51.1-1114, 51.1-1116, 51.1-1117, 51.1-1118, 51.1-1121, 51.1-1123 through 51.1-1129, and 51.1-1131 through 51.1-1135 amended; § 51.1-1135.1 added. Sickness and disability program. Makes technical revisions and corrections to the sickness and disability program for state employees. The changes add a definition of "state service" as the total period of an employee's service as an eligible employee, including classified full-time and classified part-time service and periods of leave without pay. The VRS Board is authorized to self-insure the long-term disability benefits. Additional changes (i) clarify the effective date of coverage for existing employees who elect to participate in the program in order to address lag pay issues, (ii) give the VRS Board authorization to allow appeals of decisions as provided under ERISA, and (iii) allow disability benefits to continue to employees whose disabilities are related to substance abuse if the employee is complying with a treatment plan and making substantial progress towards rehabilitation. SB 816; CH. 144 (effective 1/1/99).

§§ 2.1-1.6 and 9-6.25:2 amended; §§ 51.1-1200 through 51.1-1211 added. Volunteer Firefighters' and Rescue Squad Workers' Pension Fund. Establishes a voluntary defined contribution retirement plan for certain eligible volunteer

firefighters and rescue squad workers to be administered and managed by the Volunteer Firefighters' and Rescue Squad Workers' Pension Fund with the assistance of the Virginia Retirement System. Members are required to pay \$30 per quarter into the Fund. The Commonwealth will make additional contributions from such funds as may be appropriated, for a period not to exceed 20 years. HB 1735; CH. 860/HB 2023; CH. 664. (effective-see bill).

TITLE 51.5. PERSONS WITH DISABILITIES.

§§ 51.5-1, 51.5-2, 51.5-36 through 51.5-39, 51.5-39.1 through 51.5-39.11, 51.5-40, and 51.5-46. See § 37.1-1; SB 1224.

TITLE 52. POLICE (STATE).

§ 52-8.3. See § 2.1-116.05; HB 1985/SB 1023.

§ 52-14 amended. Virginia Criminal Information Network. Authorizes the Department of State Police to assess and collect from federal agencies, except the FBI, the costs of the monthly line fee for connecting to the Virginia Criminal Information Network. Currently, the Department provides VCIN services to 76 federal agencies other than the FBI, with more agencies requesting this service annually. SB 917; CH. 150 (effective-see bill).

TITLE 53.1. PRISONS AND OTHER METHODS OF CORRECTION.

§ 53.1-1. See § 19.2-298.1; SB 760.

§ 53.1-21. See § 46.2-356; HB 1812/SB 841.

§ 53.1-105 amended. Transportation of prisoners to and from regional jail or jail farm. Requires that prisoners transferred to regional jails and farms in Planning District 4 be transferred back to the transferring facility prior to being released from commitment if the prisoner has not arranged private transportation. HB 1847; CH. 990.

§ 53.1-109. See § 19.1-80.2; HB 1691/SB 820.

§ 53.1-109.01 added. Authority for correctional officers to carry weapons. Adds regional jail officers to the list of people who may carry weapons to prevent escapes, suppress rebellion, and defend or protect themselves or others in the course of their assigned duties. HB 2636; CH. 131.

§§ 53.1-116 and 53.1-129 amended. Good time credits earned in jail. Limits the good time credits available to a jail

inmate serving a felony sentence or awaiting felony disposition who works outside the jail to those credits set forth in Article 4 (§ 53.1-202.2 et seq.) of Chapter 6 of Title 53.1, i.e., no more than 15 percent of his sentence. Currently, a judge may allow or, in some cases, require, a person convicted of a felony to work on state, county, city or town property, with the consent of the county, city, town or state agency or the local public service authority involved, for such credit on his sentence as the judge may prescribe in his order. HB 2387; CH. 1007/SB 964; CH. 951.

§ 53.1-129 amended. Order permitting prisoners to work on public, nonprofit, or community improvement projects. Permits a court to allow prisoners to work on private property which is part of a community improvement project sponsored by a locality. HB 1951; CH. 277.

§§ 53.1-131.1 and 53.1-150. See § 17.1-275; SB 444.

§§ 53.1-181, 53.1-182, 53.1-182.1, and 53.1-184.2. See § 19.2-303.3; HB 1893.

TITLE 54.1. PROFESSIONS AND OCCUPATIONS.

§ 54.1-106 amended. Health professions; volunteers. Expands the immunity from liability protections for medical officers and dentists on active duty with the U.S. armed services and assigned to any military hospital or medical facility. This bill strikes the requirement for such medical officers and dentists to be serving in a military facility located in Virginia for these professionals to be deemed to be licensed in the Commonwealth for the purpose of providing immunity from liability for services provided free of charge at any clinic which is organized for the delivery of health care services without charge. Current law requires that these individuals must be assigned to a military facility located in the Commonwealth. HB 1974; CH. 834.

§ 54.1-202 amended. Professions and occupations; monetary penalties. Increases the monetary penalty from \$1,000 to \$2,500 for a violation by a regulant of any regulatory board's statute or regulation, which violation is not criminally prosecuted. HB 1861; CH. 37.

§§ 2.1-1.6, 2.1-20.4, 9-6.25:2, 54.1-202, 54.1-300 and 54.1-2000 through 54.1-2008 amended; § 54.1-2004.1 added. **Public Accountancy; Board for Accountancy.** Increases the requirements for an individual to become a Certified Public Accountant (CPA). Under the bill, a person would have to meet additional educational requirements to be licensed as a CPA and to be able to use the term "Certified Public Accountant" or "CPA." The bill defines "firm" and requires any firm practicing public accounting or using the term "Certified Public Accountant" or the designation "CPA" in its title to be registered by the Board. Included under the proposed definition of firm are sole proprietorships, partnerships, corporations,

limited liability companies, limited liability partnerships or any other form of organization permitted by law. Current law requires only professional corporations and professional limited liability companies to be registered. The terms "commission," "contingency fee," "peer review," "registration" and "substantial equivalency" are also defined in the bill. The bill provides for CPA certificate holders to organize firms in any form permitted by law and authorizes the Board to issue a registration certificate to any firm providing or offering to provide services involving the practice of public accountancy if (i) at least 51 percent of the owners or the voting equity interest of the firm hold a valid CPA certificate; (ii) all non-CPA owners work in the firm; (iii) all public accounting services are performed under the supervision of a person holding a valid CPA certificate meeting the experience requirements established by the Board; (iv) the firm undergoes peer review at least every three years; and (v) the accounting practice is conducted in conformity with the standards of practice and standards of conduct established by the Board.

In addition, the bill requires mandatory continuing professional education as a condition of the renewal of all CPA certificates, allows the Board to require that a registered firm submit to a peer review and that an individual CPA certificate holder complete additional specific continuing education credit hours in lieu of or in addition to the other enforcement authority of the Board. The name of the Board is changed from the Board for Accountancy to the Board of Accountancy. The bill also has technical amendments. SB 926; CH. 950.

§ 54.1-1103 amended. Board for Contractors; exemptions from licensure. Provides the Board for Contractors with the authority to waive the licensing requirement for Habitat for Humanity and certain not-for-profit organizations to construct single family dwelling for low-income persons. HB 1477; CH. 977/HB 1890; CH. 991/SB 1057; CH. 959.

§ 54.1-1106 amended. Board for Contractors; Class A licenses. Provides that if the Board determines that sufficient questions or ambiguities exist in an individual applicant's presentation of his financial information, the Board may require the applicant to provide a balance sheet reviewed by a certified public accountant licensed in accordance with § 54.1-2004. HB 2621; CH. 393.

§§ 54.1-1118 and 54.1-1120 amended. **Board for Contractors; Contractor Transaction Recovery Fund.** Provides that a claimant under the Contractor Transaction Recovery Act is (i) an individual with an unsatisfied judgment against a regulant of the Board for Contractors involving contracting for the claimant's residence or (ii) a property owners' association whose contract with the regulant involved contracting for improvements to the common area owned by such association. HB 2164; CH. 55.

§ 54.1-1120 amended. Recovery from the Virginia Contractor Transaction Recovery Fund. Clarifies that for a claimant to recover from the Virginia Contractor Transaction Recovery Fund in a matter regarding the claimants residence,

the residence must be located in the Commonwealth of Virginia. HB 2500; CH. 261.

§ 54.1-1123 amended. Recovery from the Virginia Contractor Transaction Recovery Fund. Raises the limitations on the amount recoverable from the Virginia Contractors Transaction Recovery Fund from \$20,000 to \$40,000 per biennium and excludes amounts that do not constitute actual monetary loss from the amount recoverable. HB 2501; CH. 262.

§§ 54.1-1128 through 54.1-1132, 54.1-1134, and 54.1-1135 amended. Board for Contractors; natural gas fitter providers. Requires, beginning July 1, 1999, all natural gas fitter providers to be licensed. The bill defines "natural gas fitter provider" as any individual who engages in or offers to engage in the incidental repair, testing, or removal of natural gas piping or fitting annexed to real property, excluding new installation of gas piping for hot water heaters, boilers, central heating systems, or other natural gas equipment which requires heating, ventilation and air conditioning or plumbing certification. The bill contains a waiver of the examination for (i) any natural gas fitter who applies for licensure before July 1, 2000, and who has five years' prior experience as a natural gas fitter provider, and (ii) an individual who has five years' experience in an apprenticeship capacity under the direct supervision of a gas fitter. HB 2280; CH. 343.

§§ 54.1-1131 and 54.1-1135 amended. Board for Contractors; tradesman; unlicensed activity; penalty. Increases from a Class 3 to a Class 1 misdemeanor the penalty for a person convicted of practicing (i) the electrical, plumbing and heating and HVAC trades or (ii) as a liquefied petroleum gas fitter without a license. The bill also contains an exemption from licensure for tradesmen not offering services to the public and where the value of the improvement to a single family residence is less than \$250. HB 1886; CH. 833.

§§ 54.1-1131 and 54.1-1133 amended. Board for Contractors; continuing education. Allows the Board for Contractors to establish requirements for continuing education as a prerequisite to renewal of any certificate. In addition, the Board may require continuing education for any individual who is found to be in violation of the statutes or regulations governing the practice of licensed tradesmen or certificate holders. The bill also corrects the license application dates for liquefied petroleum gas fitter to receive a waiver of the examination requirements. SB 1258; CH. 817 (effective 3/29/99).

§ 54.1-1703 amended. Health professions; opticians. Changes the nominating entity submitting the list from which appointments by the Governor may be made to the Board of Opticians from the Virginia Society of Prescription Opticians to the Opticians Association of Virginia. Current and continuing language also authorizes the Medical Society of Virginia to submit such nominations for physician appointees to the Board of Opticians. The bill also provides, in a second enactment, that the unexpired terms of current members of the Board will not be affected by this act. HB 1892; CH. 532.

§ 54.1-2010 amended. Real Estate Appraiser Board; license exemptions. Provides a license exemption for a licensed real estate broker or salesperson who, in the ordinary course of business, provides a valuation or analysis of real estate for a fee. However, such person shall not hold himself out as a real estate appraiser and the valuation shall not be referred to as an appraisal and shall not be used in lieu of an appraisal performed by a licensed real estate appraiser. HB 2334; CH. 259.

§ 54.1-2012 amended. Department of Professional and Occupational Regulation; Real Estate Appraiser Board; membership. Changes the membership of the Real Estate Appraiser Board by (i) increasing from four to six the number of licensed real estate appraisers, (ii) decreasing from two to one the number of members required to be familiar with mortgage lending of a financial institution, and (iii) decreasing from three to two the number of citizen members by deleting the full-time faculty member of a Virginia institution of higher learning. The bill also provides that the changes do not affect the members on the Board whose terms have not expired as of July 1, 1999. The bill contains technical amendments. HB 2246; CH. 208/SB 1243; CH. 505.

§ 54.1-2017 amended. Real Estate Appraiser Board. Provides that each licensed residential real estate appraiser, certified residential real estate appraiser, and certified general real estate appraiser shall authenticate all written appraisal reports with his signature, license designation and license number. Current law requires these appraisers to authenticate written appraisal reports with a seal. HB 2517; CH. 57.

§ 54.1-2106.1 amended. Real Estate Board; licenses required. Authorizes a business entity salesperson of which a single licensee is an owner or officer to be granted a license in a fictitious name. Currently, no such license may be granted in a fictitious name. HB 2503; CH. 82/SB 1330; CH. 105.

§ 54.1-2400.2 amended. Health professions; Health Practitioners Intervention Program. Provides for the release of otherwise confidential information in connection with health practitioners who apply to or participate in the program to the Health Practitioners' Intervention Program within the Department of Health Professions. SB 944; CH. 888.

§ 54.1-2517. See § 2.1-116.05; HB 1985/SB 1023.

§§ 54.1-2603 and 54.1-3606. See § 22.1-274.02; HB 2360/SB 1199.

§ 54.1-2820 amended. Irrevocable preneed funeral contracts. Clarifies that an irrevocable inter vivos trust established by funeral directors, to the extent created for the purpose of paying a grantor's funeral and burial expenses, is allowable and not against public policy, 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 1276; CH. 819.

§§ 54.1-2900 and 54.1-2956.9 amended. Board of Medicine; practice of acupuncture. Revises the definition of the "practice of acupuncture" to permit the use of herbal preparations and nutritional supplements and removes the requirement for a referral by a licensed practitioner of medicine, osteopathy, chiropractic or podiatry. The patient must still have a diagnostic examination from a practitioner of medicine, osteopathy, chiropractic or podiatry with regard to the ailment or condition to be treated by the acupuncturist. HB 2061; CH. 779.

§§ 2.1-1.6, 2.1-20.4, 9-6.25:1 and 54.1-2900 amended; §§ 54.1-2957.4, 54.1-2957.5 and 54.1-2957.6 added. Board of Medicine; athletic trainer certification. Requires athletic trainers to be certified by the Board of Medicine. The "practice of athletic training" is defined as the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletics or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or substantially similar injuries or conditions; and subsequent treatment and rehabilitation of such injuries or conditions related to physical activity, under the direction of a licensed physical therapist and the patient's physician, or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry or dentistry, while using heat, light, sound, cold, electricity, exercise, or mechanical or other devices; the Board of Medicine shall establish criteria for the certification which must include one of three testing programs; and an advisory board is established to assist the Board in developing its regulations. Exceptions are provided for (i) coaches, physical education instructors and persons conducting exercise or conditioning programs or classes within the scope of their duties and (ii) student athletic trainers practicing under the supervision of a certified athletic trainer or a person who is otherwise exempt from the athletic trainer certification requirements. No athletic trainer employed as such prior to June 30, 1999, will be required to comply with the certification requirements until June 30, 2002. The bill also contains technical amendments. HB 2367; CH. 747/HB 2547; CH. 682/SB 1191; CH. 639.

§§ 54.1-2901, 54.1-3001, 54.1-3005, and 54.1-3408. See § 22.1-274; SB 889

§§ 37.1-134.21, 54.1-2901, 54.1-2982, 54.1-2984, 54.1-2986, 54.1-2987.1, 54.1-2988, 54.1-2989, 54.1-2990, and 54.1-2991 amended. Health care decisions. Modifies the provisions on advance directives, Do Not Resuscitate Orders and judicial treatment decisions to clarify judicial health care decision-making authority and to establish a durable Do Not Resuscitate Order which follows the patient to various settings. This bill also confirms the validity of documents issued or consented to under previous law. SB 1174; CH. 814.

§ 54.1-2910.1 amended. Data reported to the Board of Medicine. Requires all podiatrists to submit to the Board of Medicine the same data that physicians of medicine and osteopathy are currently required to report, including credentials, insurance and Medicaid participation, practice

locations, hospital and faculty affiliations, and disciplinary actions. The Board is authorized to release this information to consumers, upon request. SB 975; CH. 573.

§ 54.1-2939 amended. Certain ambulatory surgery services. Allows podiatrists to perform outpatient podiatric surgery on patients under general anesthesia in hospitals accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) or in ambulatory surgery centers accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO), the Accreditation Association of Ambulatory Health Care, Inc. (AAAHC) or the American Association for Accreditation of Ambulatory Surgery Facilities, Inc. (AAAASF). Both JCAHO and AAAHC are accorded "deemed" status with the Health Care Financing Administration for the purpose of Medicare reimbursement. The third association, AAAASF, has been approved for "deemed" status, pending publication in the Code of Federal Regulations. "Deemed" status means the granting of automatic certification for reimbursement. HB 1534; CH. 651.

§§ 54.1-2952.1, 54.1-2957.01 54.1-3301, and 54.1-3303 amended. Health professions; prescriptive authority of nurse practitioners and physician assistants. Adds authority for licensed nurse practitioners and physician assistants who have prescriptive authority to receive and dispense manufacturers' professional samples of Schedule VI controlled substances. HB 2341; CH. 745.

§ 54.1-2969 amended. Consent by minors. Deems a minor an adult for the purpose of consenting to the release of medical records relating to medical treatment required for (i) infectious diseases which the State Board of Health requires to be reported or (ii) birth control, pregnancy or family planning. The bill also deems a pregnant minor to be an adult for the purpose of consenting for herself and her child for surgical and medical treatment relating only to the delivery of the child when such surgical or medical treatment is provided during the delivery of the child or the duration of the hospital admission relating to the delivery of the child; thereafter, the minor mother is deemed an adult for the purpose of giving consent to surgical and medical treatment for her child. The bill clarifies that these consent provisions do not alter the requirements of parental notification before an abortion is performed on a minor as set forth in § 16.1-241. HB 2107; CH. 1001.

§§ 32.1-126.01, 32.1-162.9:1, 54.1-3005, and 63.1-173.2 amended; §§ 22.1-326.1 and 54.1-3006.2 added. Certified nurse aide programs. Requires proprietary schools and other health care entities, e.g., nursing homes, home health care organizations, hospices, and adult care residences, operating certified nurse aide programs to notify all students prior to or upon enrollment in a certified nurse aide program of the Commonwealth's law requiring a criminal history check as a condition of employment in certain health care facilities, and to provide such students with a copy of applicable Virginia law. Students and applicants must also be furnished a list of crimes which pose a barrier to employment in such facilities. Under present law, a conviction for certain crimes, i.e. murder,

assaults and bodily woundings, robbery, arson, sexual assault, pandering, crimes against nature involving children, abuse and neglect of children, taking indecent liberties with children, abduction for immoral purposes, abuse and neglect of incapacitated adults, failure to secure medical attention for an injured child, and neglect of incapacitated adults, failure to secure medical attention for an injured child, and obscenity offenses, constitutes a barrier to employment in certain health care facilities. Currently, many persons who invest time and money in a certified nurse aide program discover that they cannot get a job in the field after completing the program due to past convictions for crimes which pose a barrier to employment. Other persons with convictions for crimes which do not pose a barrier to employment under the law frequently are denied admission to certified nurse aide programs, or have been dismissed from jobs which they have held for many years due to misinterpretation of the law. Given minimum educational requirements and skills necessary to enter the certified nurse aide field, many low-income and unskilled individuals, minorities, and persons with prior felony and misdemeanor convictions are disproportionately represented in this field, and because of their socioeconomic circumstances, often cannot afford re-training for another occupation. Prior notice to students desiring training in a certified nurse aide program that a criminal history records check for employment in certain health care facilities is required under Virginia law would facilitate consistency in the interpretation and application of the law, and allow person seeking employment in this field with prior convictions for such barrier crimes to save time and money on job training that they cannot use.

This is a recommendation of the Joint Subcommittee Studying the Status and Needs of African-American Males. SB 1129; CH. 637.

§ 54.1-3028. See § 32.1-138; HB 2228.

§ 54.1-3215 amended. **Health professions; optometry.** Provides the Board of Optometry with the authority to revoke or suspend a license or reprimand the licensee for violating, assisting, inducing or cooperating with others in violating any provisions of law relating to the practice of optometry, including the provisions of the optometry practice act or any regulations of the Board of Optometry. HB 1972; CH. 937.

§ 54.1-3300 amended; § 54.1-3300.1 added. **Health professions; pharmacy.** Provides authority for pharmacists to enter into collaborative agreements with practitioners of medicine, osteopathy, or podiatry for the purpose of improving patient outcomes. This bill defines "collaborative agreement" as a voluntary written arrangement to improve patient outcomes, authorizing cooperative procedures with respect to treatment of patients using drug therapy, laboratory tests or medical devices. Collaborative agreements can include written protocols for the modification, continuation or discontinuation of drug therapy; the ordering of laboratory tests; and other patient care management measures for monitoring or improving patient outcomes through drug therapy. Patients must consent to participation in these arrangements and the

involved pharmacists must not exceed their scopes of practice; any pharmacist who exceeds his scope of practice will be subject to Board disciplinary actions such as revocation, suspension, monetary penalties, probation with conditions on his practice, etc. The scope of pharmacy practice is modified to include the management of patient care pursuant to a collaborative agreement. The Boards of Medicine and Pharmacy will approve the protocols and will jointly promulgate regulations on collaborative agreements, including a procedure to allow for the approval or disapproval of specific protocols by the Boards, if review of the protocol is requested by a practitioner or pharmacist. Section 54.1-3303 is specifically validated in this bill, thus requiring that these agreements be implemented only when there is a patient relationship with the pharmacist and the practitioner. This act sunsets on July 1, 2004. A third enactment requires emergency regulations and prohibits the use of collaborative agreements until 90 days after the effective date of the emergency regulations. This bill is almost identical to SB 1154. HB 2428; CH. 1011.

§ 54.1-3300 amended; § 54.1-3300.1 added. **Health professions; pharmacy.** Provides authority for pharmacists to enter into collaborative agreements with practitioners of medicine, osteopathy, or podiatry for the purpose of improving patient outcomes. The provisions of this act expire July 1, 2004. This bill is almost identical to HB 2428. SB 1154; CH. 895.

§§ 54.1-3301 and 54.1-3401 amended; § 54.1-3434.02 added. **Automated drug dispensing systems.** Establishes definitions and requirements for automated drug dispensing systems in hospitals. "Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs. "Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432. This provision establishes conditions for the operation of automated drug dispensing systems, including having the drugs placed in the system in a hospital and under the control of a pharmacy providing services to the hospital; requiring the pharmacist-in-charge of the pharmacy to establish procedures for assuring the accurate stocking, proper storage, accountability, and security of all drugs utilized in the automated drug dispensing system until the time such drugs are removed from the automated drug dispensing system for administration to the patients; requiring drugs be removed from any automated drug dispensing system for administration to patients only pursuant to a valid prescription or lawful order of

a prescriber; requiring adequate security for automated drug dispensing systems to be provided, as evidenced by written policies and procedures for preventing unauthorized access, complying with federal and state regulations on prescribing and dispensing controlled substances, and maintaining patient confidentiality; and assuring compliance with these conditions. In addition, accountability for drugs dispensed from automated drug dispensing systems is vested in the pharmacist-in-charge of the relevant pharmacy; filling and stocking of all drugs in automated drug dispensing systems must be performed under the direction of the pharmacist-in-charge; the task of filling and stocking of drugs into an automated drug dispensing system must be performed by a pharmacist or the designee of the pharmacist-in-charge, who must be an employee of the provider pharmacy and must be properly trained in accordance with established standards set forth in a policy and procedure manual maintained by the provider pharmacy. Delegation of filling and stocking tasks to a nonpharmacist cannot be conditioned on the use of the automated drug dispensing system as a floor stock system or a patient-specific drug dispensing system; however, the filling and stocking must be performed by a person who holds current certification by the National Pharmacy Technician Certification Board as a pharmacy technician. The pharmacist stocking and filling the automated drug dispensing system or, if a nonpharmacist is delegated this task, the pharmacist-in-charge will be responsible for the proper and accurate stocking and filling of the automated drug dispensing system. Drugs placed into and removed from automated drug dispensing systems for administration to patients must be in the manufacturer's or distributor's sealed original packaging or in unit-dose containers packaged by the pharmacy. The relevant pharmacist-in-charge is responsible for establishing procedures for periodically inspecting and auditing automated drug dispensing systems to assure the proper storage, security, and accountability for all drugs placed in and removed from automated drug dispensing systems, and for reviewing the operation and maintenance of automated drug dispensing systems. This monitoring must only be performed by a pharmacist while on the premises of the hospital and in accordance with the pharmacist-in-charge's procedures and the Board of Pharmacy's regulations. Emergency regulations are required. HB 2461; CH. 750.

§§ 18.2-247 and 54.1-3401 amended. Drug Control Act; definition of marijuana. Modifies the definition of marijuana to include as "marijuana" (i) any oily extract containing less than 12 percent of tetrahydrocannabinol (THC) by weight, when the oily extract is mixed or intermingled with marijuana, and (ii) the mature stalks, fibers, oil, or cake made from the seeds of the plant if mixed with other parts of the plant. The bill also includes every compound, manufacture, salt, derivative, mixture or preparation of the marijuana plant (*Genus Cannabis*), its seeds or resin. HB 1819; CH. 661.

§§ 18.2-247, 18.2-248 and 54.1-3446 amended. Use of term "imitation controlled substance." Expands the meaning of "imitation controlled substance" to include "substance in any

other form whatsoever." Under current law, this definition includes a pill, capsule, or tablet. The bill also adds any plant material from which Cathinone may be derived to Schedule I under the Drug Control Act. HB 1896; CH. 722.

§§ 54.1-3452 and 54.1-3455 amended. Drug control; scheduling. Adds the drugs Modafinil and Sibutramine to Schedule IV and clarifies labeling requirements for Schedule VI drugs. These changes are to conform Virginia law to federal changes regarding scheduling and labeling. HB 2281; CH. 605.

§ 54.1-3508 amended. Health professions; substance abuse practitioners. Provides that the Board may establish a time-limited period, but not less than one year, where it shall issue a license to those persons who wish to apply for licensure based on previous experience and education acceptable to the board and who have completed at least one year of supervised clinical experience in substance abuse treatment. HB 1976; CH. 863.

§ 54.1-3515 amended. Health professions; rehabilitation providers. Exempts from current certification requirements certain persons who provided rehabilitation services for at least two years immediately prior to July 1, 1997, and have done so since that time without interruption and have passed a Board approved examination. HB 2442; CH. 609.

§§ 54.1-3605, 54.1-3609, 54.1-3610 and 54.1-3611 amended. Health professions; sex offender treatment providers. Removes the sunset clause on the sections regarding the certification of sex offender treatment providers. The sections were to expire on July 1, 1999. SB 991; CH. 630.

§ 54.1-3708 added. Licensed social workers; continuing education requirements. Requires the Board of Social Work of the Department of Health Professions to promulgate regulations establishing continuing education requirements for licensed social workers. SB 1004; CH. 575.

§§ 54.1-4005, 54.1-4008, and 54.1-4012 amended. Professions and occupations; regulation of pawnbrokers. Authorizes a pawnbroker to sell, in the event of a default by the pawner, a motor vehicle which has been pawned; provides that an annual percentage rate computed and disclosed under the federal Truth-in-Lending Act is not a violation of the pawnbroker law; and provides that no property received on deposit or pledge by any pawnbroker shall be disfigured or its identity destroyed or affected in any manner in an effort to obtain a serial number or other information for identification purposes. HB 2583; CH. 327.

§§ 54.1-4300 through 54.1-4304 added. Professions and occupations; regulation of itinerant merchants. Defines itinerant merchant, sets out their record-keeping requirements, and authorizes federal, state, and local law-enforcement officers to examine their records. The bill is an attempt to reduce larceny by eliminating the point of sale for stolen merchandise. SB 977; CH. 701.

**TITLE 54.1. MISCELLANEOUS -
PROFESSIONS AND OCCUPATIONS.**

Department of Health Professions; prescriptive authority of licensed nurse practitioners. Removes the January 1, 2000, sunset provision of Chapter 506 of the 1995 Acts of Assembly. As a result, physicians can continue to supervise or direct at any one time up to four nurse practitioners. With the sunset, physicians would not be allowed to supervise more than two nurse practitioners. HB 1958; CH. 601/SB 744; CH. 19.

TITLE 55. PROPERTY AND CONVEYANCES.

§§ 55-9 and 55-21 amended; § 55-20.1 added. Tenants by the entireties. Clarifies that a tenancy by the entireties may be created in personal property and that the part of a person's estate held in such tenancy is manifestly intended to go to the other tenant upon death. HB 1997; CH. 196.

§§ 55-44 and 55-45. See § 31-1; HB 1633.

§§ 55-66.1:1, 55-248.4, and 55-248.49. See § 46.2-100; HB 2016.

§ 55-66.5 amended. Releases made by court; costs and attorneys fees. Reduces the presumption period that an encumbrance on realty or personal property has been satisfied from 20 to 15 years after the date of maturity on the encumbrance. HB 1444; CH. 66.

§§ 55-79.58, 55-79.58:1, 55-79.62, 55-79.90, and 55-374 amended. Condominium Act; conveyance of units not yet completed. Conforms the Condominium Act to the Real Estate Time-Share Act in allowing for the conveyance of a time-share interest in a condominium unit that has not been substantially completed. In this instance, the bill requires the developer to post, with the Real Estate Board, a completion bond for 100 percent of the cost of completion of the unit. The bill also requires disclosure of the not-yet-complete status of the unit as well as the existence of the completion bond to the purchaser of the time-share interest. The bill contains technical amendments. HB 2534; CH. 560.

§§ 55-79.74:1 and 55-510 amended. Condominium and Property Owners' Associations; access to books and records. Requires (i) requests for records be made for a purpose related to the owner's membership in the association and (ii) clarification of the types of documents to which an association may deny access, including the private files of individual condominium or lot owners. The bill also contains technical amendments. HB 1632; CH. 594.

§ 55-79.97 amended. Condominium Act; resale certificate. Requires condominium unit owners, when selling their units, to disclose to the purchaser in the purchase contract that (i) the

unit is located within a development which is subject to the Condominium Act, (ii) the Act requires the seller to obtain from the unit owners' association a resale certificate and provide it to the purchaser, (iii) the purchaser may cancel the contract within three days after receiving the resale certificate, and (iv) the right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement. The bill provides that (i) if the contract does not contain the required disclosure, the purchaser's sole remedy is to cancel the contract prior to settlement; (ii) the information contained in the resale certificate shall be current as of a specified date within 30 days of the date of the contract; (iii) the purchaser may cancel the contract (a) within three days after the date of the contract, if the purchaser receives the resale certificate on or before the date that the purchaser signs the contract; (b) within three days after receiving the resale certificate if the resale certificate is hand-delivered; or (c) within six days after the postmark date if the resale certificate is sent to the purchaser by United States mail; and (iv) the notice of cancellation shall be hand-delivered or sent by United State mail, return receipt requested, to the unit owner selling the unit. Such cancellation shall be without penalty and the unit owner shall cause any deposit to be returned promptly to the purchaser. The above requirements conform the Condominium Act to the Property Owners' Association Act. HB 2699; CH. 263.

§ 55-248.4 amended. Virginia Residential Landlord and Tenant Act; definitions. Clarifies that the definition of "natural person" includes general partnerships, limited liability partnerships, registered limited liability partnerships or limited liability companies. HB 2331; CH. 258.

§ 55-248.4 amended; § 55-248.31:01 added. Virginia Residential Landlord and Tenant Act; barring invitees of a tenant. Provides that a guest or invitee of a tenant may be barred from the premises by a landlord upon written notice served personally upon the guest or invitee of the tenant for conduct on the landlord's property where the premises are located which violates the terms and conditions of the rental agreement, local ordinance, or state or federal law. The notice shall describe the acts of the guest or invitee which are the basis for the landlord's action. In addition to the remedies against the tenant authorized by the Act, a landlord may apply to the magistrate for a warrant for trespass, provided the guest or invitee has been personally served with notice by the landlord. The bill also allows a tenant to file a tenant's assertion in accordance with §§ 55-248.27 and 55-248.30 requesting that the general district court review the landlord's action to bar the guest or invitee. The bill defines the term "guest or invitee of a tenant." HB 2537; CH. 390/SB 1175; CH. 359.

§ 55-248.11 amended. Residential Landlord and Tenant Act; security deposits; annual rate of interest. Requires that security deposits accrue interest at an annual rate equal to one percent below the Federal Reserve Discount rate as of January 1 of each year. Under current law, this interest rate must be

equal to the Federal Reserve Discount rate as of January 1 of each year. SB 933; CH. 231.

§ 55-248.16 amended. Virginia Residential Landlord and Tenant Act; tenants' obligations. Provides that a tenant shall not remove or tamper with a properly functioning smoke detector, including removing any working batteries, so as to render the smoke detector inoperative. HB 2302; CH. 80.

§ 55-248.18 amended; §§ 55-79.80:01 and 55-464.1 added. Notice of use of pesticides. Requires landlords, condominium unit owners' associations and proprietary lessees' associations to post conspicuous signs at least 48 hours before pesticides are applied in common areas. HB 1369; CH. 65.

§ 55-248.25:1 added. Virginia Residential Landlord and Tenant Act; rent escrow required in certain cases. Provides that where a landlord has filed an unlawful detainer action seeking possession of the premises and the tenant seeks to obtain a continuance of the action or to set it for a contested trial, the court shall, upon request of the landlord and as a condition of granting the continuance or contested trial date, order the tenant to pay an amount equal to the rent that would be due as of the continuance or contested trial date into the court escrow account. Upon payment of the required amount by the tenant, the action shall be continued in the court's discretion or set for a contested trial, with the provision that should the tenant fail to pay future rent due under the rental agreement, the court shall enter judgment against the tenant upon request of the landlord. The court shall not require the rent to be escrowed where it finds the tenant has asserted a good faith defense or if the landlord has requested the continuance or the contested trial. The bill also contains a provision allowing the court, to meet the ends of justice, to grant a tenant an additional week to pay the rent due into the court escrow account. HB 2276; CH. 382.

§ 55-248.25:1 added. Landlord and tenant; escrow of rent for continuance. Requires the tenant to place rent due as of the initial court date into escrow in an unlawful detainer action in order for the court to allow a continuance or schedule the case for a full hearing. Failure to pay the rent due into escrow results in a judgment against the tenant. However, if the court finds that the tenant has asserted a good faith defense, the court shall not require the rent to be escrowed. If the landlord requests a continuance or sets the matter for contested trial, the court shall not require the rent to be escrowed. The court may disburse the moneys held in escrow to the landlord for payment of his mortgage or other expenses relating to the dwelling unit. SB 1323; CH. 506.

§ 55-248.42:1 amended. Manufactured Home Lot Rental Act; renewal of rental agreement. Prohibits park owners from increasing the amount of a security deposit or requiring an additional security deposit from a year-round resident upon automatic renewal of his rental agreement. The bill also provides for the Virginia Housing Study Commission to review the issue of security deposits as it relates to the automatic renewal of a manufactured home lot rental. HB 1454; CH. 513.

§§ 64.1-57 and 64.1-68 amended; §§ 55-277.1 through 55-277.3 added; §§ 55-253 through 55-268 repealed.

Uniform Principal and Income Act. Replaces the prior uniform act to reflect modern trust investment practices in the allocation of principal and income. The bill provides procedures for trustees administering estates in separating principal from income, and ensuring that the intention of the creator of the trust is the guiding principle for trustees.

The bill is recommended by the Virginia Commissioners to the National Conference of Commissioners on Uniform State Laws. HB 842; CH. 975 (effective 1/1/00).

§ 55-418 amended. Self-service storage facilities; liens. Increases, from \$150 to \$250, the amount that a self-service storage facility owner's lien on personal property stored in a leased space has priority over other liens or security interests encumbering the property. The measure also increases the amount of a self-service storage facility owner's lien on a stored motor vehicle or watercraft that is subject to a recorded lien from \$150 to \$250. SB 902; CH. 149.

§ 55-510 amended. Property Owners' Association Act; notice of meetings. Provides that meetings of the association shall be held in accordance with the provisions of the bylaws at least once each year after the formation of the association. The bylaws shall specify an officer who shall, at least 14 days in advance of any annual or regularly scheduled meeting, and at least seven days in advance of any other meeting, send to each member notice of the time, place, and purposes of such meeting. Notice shall be sent by United States mail to all members at the address of their respective lots and to such other addresses as any of them may have designated to such officer, or notice may be hand-delivered by the officer, provided the officer certifies in writing that notice was delivered to the member. This bill conforms the Property Owners' Association Act to the Condominium Act as it relates to notice of meetings. HB 1595; CH. 654.

§ 55-510 amended; § 55-510.1 added. Property Owners' Association Act; meetings of the board of directors. Provides additional notice requirements for meetings of the board of directors of a property owners' association. Under the bill, members of the association who have requested notice must be provided with the time, date and place of each meeting. The bill also provides that members may (i) request to be notified on a continual basis and (ii) receive reasonable notice of special or emergency meetings. At least one copy of all agenda packets that are furnished to members shall be made available at the same time such documents are furnished to the board of directors. The bill also prohibits the board of directors from voting by secret or written ballot in an open meeting except for election of officers. SB 1138; CH. 1029.

§ 55-511 amended. Property Owners' Association Act; right of cancellation. Provides that whenever a contract is canceled by a purchaser based on seller's failure to provide certain contract disclosures or pursuant to the right of cancellation provided by the Property Owners' Association Act, any deposit or escrowed funds shall be returned within 30

days of the cancellation, unless the parties to the contract agreed upon a shorter period. SB 1090; CH. 809.

§ 55-515.1 amended. Property owners' associations; amendment of declaration. Provides that a declaration may be amended by agreement of owners of two-thirds of the lots subject to that declaration. The bill also authorizes an association created before July 1, 1999, to "opt-in" to the two-thirds amendment provision created under this bill, provided the "opt-in" is accomplished in accordance with the declaration. The bill also provides (i) that an action to challenge the validity of an amendment may not be brought more than one year after the amendment is effective and (ii) when an amendment is effective. SB 999; CH. 805.

TITLE 55. MISCELLANEOUS - PROPERTY AND CONVEYANCES.

Property exchange. Authorizes the Department of Conservation and Recreation to convey a parcel of land in Pedlar Hills in Montgomery County in exchange for a right-of-way across private property. SB 736; CH. 467.

TITLE 56. PUBLIC SERVICE COMPANIES.

§ 56-1.2 amended. Public utilities; persons not designated as public utility, public service corporation, etc. Excludes from the definitions of public utility, public service corporation, and public service company any person who owns or operates property and provides electricity, natural gas or water to residents or tenants on the property, if such person (i) purchases such electricity, natural gas or water from a public utility, public service corporation, public service company, municipality or other public body, (ii) only charges the resident or tenant an amount not exceeding such tenant's or resident's actual utility charges and does not charge for meter reading, and (iii) maintains three years' billing records for such charges. HB 1937; CH. 778.

§§ 25-233 and 56-49 amended. Public service corporations and electric authorities; eminent domain. Clarifies that public service corporations which have not been (i) allotted territories for public utility service by the Virginia State Corporation Commission (SCC) or (ii) issued certificates to provide public utility service may not acquire property through eminent domain for lines and other facilities until they have obtained from the SCC the requisite certificates of public convenience and necessity required for such lines and facilities. The bill also furnishes clarification concerning petition and public hearing requirements applicable to the exercise of eminent domain by (i) public service corporations and (ii) electric authorities established pursuant to the provisions of

Chapter 54 (§ 15.2-5400 et seq.) of Title 15.2. HB 1881; CH. 531/SB 899; CH. 484.

§ 56-210 amended. Electric cooperatives; purpose; prohibited activities. Establishes July 1, 2000, as the date when electric cooperatives may provide within their certificated service territories specified energy and engineering services, such as sales and service of HVACR equipment, sales of propane fuel oil, etc. Currently, cooperatives may begin providing such services on July 1, 1999. HB 2013; CH. 415.

§ 56-224.2 added. Distribution cooperatives; donation of certain patronage capital to the cooperative. Allows cooperative bylaws or member agreements to deem that retired patronage capital of (i) a deceased person with no identifiable spouse or next of kin or (ii) a member or former member who has terminated service and may not be located is a gift to the cooperative. Such credits may be deemed a gift to the distribution cooperative only if the cooperative publishes notice of such retired patronage capital in its regular member publication and a publication of general circulation, and the retired patronage capital credit remains unclaimed for at least 120 days, or longer if set out in the bylaws or member agreement. If the cooperative does not publish such notice or does not have a provision in its bylaws or member agreement pertaining to retired patronage capital, the unclaimed retired patronage capital is treated in accordance with the Uniform Disposition of Unclaimed Property Act.

The bill also declares that its provisions are applicable only to cooperatives organized on a mutual, not-for-profit basis, with a democratically elected board. The bill's provisions with respect to its notice and publication provisions become effective July 1, 1999, and the other provisions of the bill are declared to be declaratory of existing law. HB 2355; CH. 939/SB 1334; CH. 940 (effective-see bill).

§§ 56-231.15 through 56-231.37 and 56-231.38 through 56-231.52 added; §§ 56-209 through 56-231.14 repealed. Public service companies; restructuring utility cooperatives. Establishes new enabling statutes for distribution electric cooperatives and power supply cooperatives. The legislation makes the following changes concerning distribution cooperatives: (i) introduces several structural revisions including amended membership qualifications and a mechanism for changing the number of classes of directors, (ii) ensures that the regulated activities of cooperatives will remain regulated to the same extent as the same activities of other entities, and that unregulated activities will not be regulated, (iii) clarifies the authority of cooperatives to offer multiple types of utility services, directly or through subsidiaries, and (iv) increases the limit on early pay-outs of capital credits to the next of kin of deceased members from \$5,000 to \$10,000. The measure makes the following changes concerning power supply cooperatives: (i) authorizes them to engage in sales at retail, (ii) revises their membership qualifications and classes of membership, (iii) clarifies the legality of cooperative independent system operators and regional power exchanges, (iv) authorizes generation

cooperatives to issue preferred stock, and (v) emphasizes their ability to recover the costs of investments that have become stranded as a consequence of electric utility industry restructuring. The bill also requires the Virginia State Corporation Commission to establish codes of conduct governing relations between cooperatives and their affiliates, when such affiliates are engaged in business activities that are not regulated utility services. The bill also establishes a private right of action that accrues to any person sustaining any loss resulting from a violation of any provisions of such codes of conduct. The bill also stipulates that neither existing cooperatives nor their subsidiaries may, subject to certain exceptions, engage in the sale or service of HVACR equipment or service, or in the sale or distribution of propane or fuel oil, or equipment using the same, until July 1, 2000. HB 2438; CH. 874.

§ 56-232 amended. Public utilities; small power producers; exemption from utility regulation. Exempts from the definition of "public utility," for the purpose of public utility rate and service regulation by the Virginia State Corporation Commission (SCC) under Chapter 10 (§ 56-232 et seq.) of Title 56, small power producers (qualified as such under the federal Public Utilities Regulatory Act of 1978, and FERC regulations implementing the same) (i) whose rated capacity does not exceed 7.5 megawatts and (ii) whose output is not sold to residential customers. Under current law, small hydroelectric producers not exceeding 20 megawatts of rated capacity are exempt from SCC rate and service regulation if their output is sold to fewer than five end users, none of whom may be residential customers. The bill also exempts from SCC regulation aggregators of such small power producers. HB 2646; CH. 419.

§ 59.1-199 amended; § 56-235.8 added. Gas utilities; retail supply choice; taxation; consumer protection. Authorizes gas utilities operating in Virginia to offer retail supply choice to all their customers. Transportation and delivery of gas would continue to be regulated by the State Corporation Commission ("SCC"). Gas utilities seeking to offer retail supply choice must file a plan for implementation with the SCC. The SCC must accept the plan if it contains (i) a schedule for implementing retail supply choice for all customers, (ii) tariff revisions and terms and conditions of service designed to provide nondiscriminatory open access over a gas utility's transportation system, thereby allowing competitive suppliers to sell gas directly to a gas utility's existing customers, (iii) provisions for complete recovery of non-mitigable costs prudently incurred to support the gas utility's merchant obligation, (iv) tariff provisions to balance the receipt and deliveries of gas supplies to retail supply choice customers, (v) a mechanism for offering to gas suppliers and customers a right of first refusal to acquire the gas utility's upstream transmission and/or storage capacity, (vi) a code of conduct designed to prevent anti-competitive or discriminatory conduct and the unlawful exercise of market power, and (vii) other requirements established by the SCC. The SCC must approve the plan to offer retail supply choice unless, after notice and

opportunity for hearing, the SCC determines the plan (i) jeopardizes or impairs the safety or reliability of natural gas service by the gas utility or the provision of adequate service to the gas utility's customers, (ii) produces a rate of return for the gas utility unreasonably in excess of authorized levels, (iii) adversely affects the gas utility's customers not participating in the retail supply choice plan, or (iv) unreasonably discriminates against one class of the gas utility's customers in favor of another class. Plans approved by the SCC may not be placed into effect before July 1, 2000. The bill also establishes a private right of action for individuals harmed by gas suppliers' deceptive or unfair practices in providing or marketing gas service. The Senate Finance Committee, House Finance Committee, Senate Committee on Local Government and House Committee on Counties, Cities and Towns are required to conduct a joint study of taxation of gas utilities and submit their recommendations by December 15, 1999. In formulating their findings and recommendations, the committees are required to consider and assess the effect of state and local taxation of gas utilities and natural gas suppliers on the economic development goals and objectives of the Commonwealth. Furthermore, the committees are required to formulate and recommend specific statutory language to ensure (i) revenue neutrality for the Commonwealth and its local governments and (ii) that any revisions to the existing regime of local and state taxation of gas utilities and natural gas suppliers do not increase the tax rate applicable to, or tax burdens borne by, gas utilities, natural gas suppliers and gas customers, as of the date of enactment of this legislation. This measure expires July 1, 2000. SB 1105; CH. 494.

§ 56-265.1 amended. Public utilities; Utilities Facilities Act; exemption. Exempts from regulation under the Utilities Facilities Act authorities created pursuant to the Virginia Water and Waste Authorities Act making a sale or ancillary transmission or delivery service of landfill gas to a commercial or industrial customer from a solid waste management facility permitted by the Department of Environmental Quality and operated by that same authority, if such an authority limits off-premises sale, transmission or delivery service of landfill gas to no more than one purchaser. SB 1273; CH. 768.

§ 56-484.11 amended. Wireless Enhanced Public Safety Telephone Service Act; audit of Board's accounts. Requires the Auditor of Public Accounts, or his legally authorized representatives, to annually audit the accounts of the Wireless E-911 Service Board (the Board). The cost of such audit services will be borne by the Board. The Board must furnish copies of such audit to the Governor. HB 1880; CH. 530.

§ 15.2-1500 amended; §§ 56-484.12, 56-484.13, and 56-484.14 added; second enactment of Chapter 906 of the 1998 Acts of Assembly repealed. Local telecommunications services. Grants localities, electric commissions or boards, industrial development authorities and economic development authorities the ability to lease on nondiscriminatory terms, for a term not to exceed 10 years, a certain telecommunications infrastructure to one or more certificated local exchange telephone companies and to not-for-profit educational schools

and institutions, hospitals, health clinics and medical facilities for use in serving their not-for-profit purposes. The price for such lease may include reasonable provisions for the recovery of the cost of the network and installation of additional fiber and related facilities to complete the lessor's network but shall not otherwise be related to the revenue or profit of the lessee. The lessor may not profit from the leasing of such facilities. No such lease shall be effective unless, prior to entering into such lease: (i) the proposed lessee petitions the State Corporation Commission to approve such lease of the dark fiber and (ii) the Commission, after notice and an opportunity for hearing in the affected area, issues a written order approving the lease or fails to approve or disapprove the lease within 60 days after notice. The State Corporation Commission shall find that it is in the public interest to approve such lease unless one of several factors can be demonstrated to the Commission. The July 1, 2000, sunset provision is repealed. HB 2277; CH. 916.

§§ 56-576 through 56-595 added. Virginia Electric Utility Restructuring Act. Restructures Virginia's electric utility industry. The bill deregulates the generation component of electric service, eventually permitting all Virginia electricity customers to purchase generation service from the provider of their choice. Customer choice of generation suppliers will be phased in beginning in 2002, to be completed by 2004. The Virginia State Corporation Commission (SCC) can delay this schedule's implementation - but not beyond 2005 - based on considerations of reliability, safety and market power. Transmission and distribution will remain regulated services, with transmission regulated principally by the Federal Energy Regulatory Commission (FERC) and distribution by the Virginia State Corporation Commission. Electric utilities will retain ownership and control over their current transmission systems and distribution service territories. Additionally, electric utilities are required by 2001, to join or establish regional transmission entities which will manage and control their transmission assets.

During the transition from fully regulated electricity prices to generation customer choice, capped rates for electricity service will be in effect during the period 2001 through 2007. Capped rates fall into two categories: (i) comprehensive ("bundled") rates for generation, transmission and distribution and (ii) rates for "unbundled" generation services only. The rates will be established on the basis of (i) utilities' rates in effect on July 1, 1999, or (ii) rates established through utility rate cases filed before January 1, 2001, by utilities not currently bound by any rate case settlements with the SCC. During the capped-rate period, the SCC may adjust these rates to reflect changes in fuel costs, taxes, or utilities' financial distress beyond their control. The SCC is also authorized, after 2004, to terminate capped rates in an electric utility's former service territory. Such termination must follow a finding that there is effective competition for generation services within that service territory.

Customers who purchase generation services from alternate generation suppliers (suppliers other than the incumbent electric utilities furnishing electric service to these customers

prior to restructuring) during the capped-rate period may be required to pay a usage-based surcharge, or "wires charge." This charge will cover these "shopping customers'" pro rata share of incumbent utilities' potential losses, if any, resulting from market-based generation prices that are lower than the capped generation rates. The wires charge will also cover the shopping customers' pro rata share of any costs incurred by these customers' former electric utilities as part of their transition to a competitive market for generation services (and determined by the SCC to be just and reasonable). However, the combination of wires charges, together with (i) the unbundled charges for transmission and distribution services and (ii) projected market prices for generation, cannot exceed the capped rate for bundled electric service in effect for each utility during the capped-rate period. The bill stipulates that it is through capped rates or wires charges that Virginia's electric utilities will recover their just and reasonable net "stranded costs," if any, that exceed zero value in total.

Customers who are either unable or unwilling to shop for alternative generation suppliers are entitled to receive bundled electric service from "default" providers. Default service would be available after customer choice is available for all customers (as early as 2004, but no later than 2005). The bill requires the SCC to designate default service providers in all of the incumbent utilities' former service territories. These providers may be designated from among incumbent utilities or from among other suppliers willing to provide one or more components of default service. Rates charged for default generation service will be established by the SCC. On and after July 1, 2004, the SCC is required to annually determine whether default service can be eliminated for particular customers, customer classes, or in particular geographic areas of the Commonwealth. The SCC's findings are to be reported annually to the Legislative Transition Task Force.

The bill establishes licensing procedures for all persons and entities proposing to furnish competitive generation services in Virginia, either as suppliers or as aggregators. The legislation directs the Virginia State Corporation Commission to establish licensing criteria for both suppliers and aggregators, including requirements concerning (i) technical capabilities, (ii) access to generation and generation reserves, and (iii) adherence to market standards. The bill expressly permits public service companies' affiliates or subsidiaries to be licensed as suppliers or aggregators under this Act, even if electrical supply or aggregation is not "related or incidental to" these companies' stated public service company businesses. These affiliates and subsidiaries are also permitted to own, manage or control generation plants or equipment. Additionally, the SCC is directed to establish a reasonable period in which retail customers may cancel, without penalty or cost, any contract for services entered into with licensed suppliers or aggregators. The bill permits local governments and other political subdivisions of the Commonwealth to aggregate (i) the electrical load of governmental installations and facilities and (ii) the energy load of residential, commercial and industrial retail customers within their boundaries on a voluntary, opt-in

basis. The Commonwealth is also permitted to aggregate its governmental load.

The bill states that the SCC may not require any incumbent electric utility to divest itself of any generation, transmission or distribution assets as part of the restructuring process. However, these utilities are directed to functionally separate generation, retail transmission and distribution by January 1, 2002, with plans for that purpose to be submitted to the SCC by January 1, 2001. Additionally, the SCC is directed to develop rules and regulations governing conduct between these functionally separate units to prohibit cost-shifting and cross-subsidies between them, and to prohibit them from engaging in discriminatory behavior toward nonaffiliated units. The SCC is also provided review authority concerning any proposed mergers, acquisitions, consolidations or other transfers of control over providers of noncompetitive electric services. However, such authority does not extend to such transactions involving providers of default service. The bill also provides that its provisions are not to be construed as exempting or immunizing from punishment conduct violative of federal or state antitrust laws.

A customer education program, preparing consumers for the transition to a restructured market, is addressed by the bill. The SCC is directed to develop a comprehensive program addressing such issues as customers' rights and obligations in the purchase of electricity, and marketing and billing information. The SCC will present its findings and recommendations to the Legislative Transition Task Force on or before December 1, 1999, with particular emphasis on such a program's scope and on its funding. The SCC is also directed to develop regulations governing marketing practices, with particular emphasis on regulations addressing unauthorized switching of suppliers and improper solicitation activities. Standards for marketing and billing information will also be developed by the SCC through regulations.

The SCC is directed by this bill to establish or maintain a complaint bureau to receive and investigate complaints by retail customers against public service companies, licensed suppliers and aggregators, and other providers of competitive services. The SCC may enjoin or punish any violations of the provisions of this bill, pursuant to its existing authority. The Attorney General is authorized to participate in any such proceedings. Additional remedies available to electricity customers include a private right of action designed to provide compensation for customer losses resulting from (i) violations of the marketing regulations developed by the SCC pursuant to this bill or (ii) other deceptive or fraudulent practices. Customers can initiate civil actions to recover their actual damages or \$500, whichever is greater. In the case of willful violations, customers may recover treble damages.

A Legislative Transition Task Force is established by the bill to monitor the work of the SCC in implementing the restructuring of Virginia's electricity market. The bill also indicates that the task force will be receiving reports from the Commission concerning restructuring programs implemented in other states.

During its tenure (July 1, 1999, through July 1, 2005), the task force (composed of 10 legislators—six from the House of Delegates and four from the Senate) will also examine several specific issues, including the potential discounting of capped generation rates, utility worker protection, energy assistance programs for low-income households, energy efficiency and renewable energy programs, and the reliability of generation, transmission and distribution systems. Significantly, the task force is also directed to monitor stranded cost recovery authorized under this bill after the commencement of customer choice. This oversight will be accomplished with the assistance of the SCC, the Office of the Attorney General, incumbent electric utilities, suppliers, and retail customers. The purpose of the monitoring is to determine whether the recovery of stranded costs via capped rates and wires charges has resulted or is likely to result in the over-recovery or under-recovery of just and reasonable net stranded costs. The task force will make annual reports to the Governor and General Assembly, and it will be assisted in its efforts by a 17-member Consumer Advisory Board. The bill also indicates that recommendations of the task force will have at their core the policy of maintaining low electricity costs in Virginia, and ensuring that residential and small business customers will benefit from competition.

Other provisions in the bill (i) authorize the SCC to conduct retail customer choice pilot programs, (ii) exempt municipal power systems from retail competition unless the municipalities operating them (a) elect to permit it or (b) compete for electric customers outside the service territories currently served by such systems, (iii) permit electric cooperatives to furnish default service in their current service territories unless they seek to provide default service in the former service territories of other electric utilities, (iv) permit the SCC to adjust generation rates within transmission-constrained areas to the extent necessary to protect customers from the effects of market power, (v) eliminate the use of eminent domain in conjunction with generation facilities constructed on and after January 1, 2002, (vi) require the SCC to submit annual reports on the potential for future competition in metering, billing and other electric services not made competitive by this bill, and (vii) permit customer-generators who are self-generating with solar, wind or hydroelectrical generating systems to employ "net metering" equipment, subject to capacity restrictions and the provisions of regulations to be developed by the SCC. SB 1269; CH. 411.

TITLE 57. RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES.

§§ 57-35.14:1 and 57-39.22. See § 26-39; HB 841.

§ 57-59 amended. **Solicitation of contributions; enforcement; penalties.** Authorizes the Attorney General, any attorney for the Commonwealth or the attorney for any city,

county or town to bring an action in the name of the Commonwealth when they have reason to believe that any charitable or civic organization, professional fund-raising counsel or professional solicitor has operated or is about to operate in violation of the laws governing charitable solicitations. Current law authorizes such actions when they have reason to believe such organizations or individuals are currently operating in violation of the laws governing charitable solicitations. The bill also provides for the separate award of attorney's fees in actions brought to enforce the chapter. The fees, if awarded, will be paid into the state or local general fund. HB 2392; CH. 81.

§ 57-60. See § 2.1-373; HB 2632.

§ 57-61 amended. **Professional solicitors.** Requires professional solicitors to file a final accounting report with the Commissioner of Agriculture and Consumer Services within 90 days of the completion of a solicitation campaign. The bill also provides for an extension of the filing period and the fees that may be imposed for late filing. HB 2148; CH. 40.

TITLE 58.1. TAXATION.

§ 58.1-15 amended. **Interest rates; tax overpayments.** Provides that the interest rate paid on refunds of overpayments by taxpayers shall be the "overpayment rate" for noncorporate taxpayers established by the Internal Revenue Code plus two percent. HB 1678; CH. 180/SB 868; CH. 146 (effective 1/1/00).

§§ 58.1-106, 58.1-107, and 58.1-108 amended. **Reproductions of tax documents.** Authorizes the Tax Commissioner to make reproductions of any correspondence, documents, forms, statements, reports, and working papers kept by the Department of Taxation, and to destroy the originals of the reproduced documents. Currently, only reproductions of state tax returns are authorized, and documents other than tax returns must be held for three years. Attested reproductions of such documents are also made admissible in court proceedings for the same purposes as the original. SB 794; CH. 103.

§ 58.1-322 amended. **Income tax; subtraction for unemployment benefits.** Provides a subtraction from federal adjusted gross income for unemployment compensation benefits when computing Virginia taxable income. HB 1487; CH. 588 (effective-see bill).

§ 58.1-322 amended. **Income tax; deduction for long-term health care insurance.** Provides a deduction, from federal adjusted gross income in calculating Virginia taxable income, for long-term health care insurance premiums, for taxable years beginning on and after January 1, 2000, provided the individual has not claimed a deduction for federal income tax purposes. HB 1546; CH. 298.

§ 58.1-322 amended. **Income tax; subtraction for first \$15,000 of military basic pay.** Allows a subtraction of \$15,000 from income tax for military basic pay with such amount being reduced dollar-for-dollar when the taxpayer's military basic pay exceeds \$15,000 and no subtraction allowed if such basic pay equals or exceeds \$30,000. HB 1584; CH. 365 (effective-see bill).

§§ 2.1-342, 2.1-344, 23-38.75, 23-38.76, 23-38.77, 23-38.80, 23-38.81, 23-38.86, 23-38.87, and 58.1-322 amended. **Savings trust accounts; income tax deduction.** Authorizes the Board of the Higher Education Tuition Trust Fund to create a savings trust account program pursuant to § 529 of the Internal Revenue Code. Savings trust accounts will be offered in addition to the existing prepaid tuition contracts. The measure also establishes an individual income tax deduction for amounts contributed to a savings trust account. The amount of the deduction shall not exceed \$2,000 per savings trust account in any taxable year. Unused portions of the deduction may be carried forward until the contribution has been fully deducted. The tax deduction is effective for taxable years beginning on and after January 1, 1999. The existing Freedom of Information Act exemptions for the prepaid tuition contract program are extended to apply to savings trust accounts. HB 1600; CH. 518/SB 919; CH. 485.

§ 58.1-322 amended. **Income tax deduction for purchase of prepaid tuition contracts.** Allows taxpayers who are age 70 or older to deduct the full amount paid for the purchase of a prepaid tuition contract. Currently, the amount of the deduction that may be taken by a taxpayer in any year is limited to \$2,000 per contract. HB 1933; CH. 535 (effective 1/1/98).

§ 58.1-322 amended. **Income tax deduction for teacher education expenses.** Establishes a state income tax deduction for 20 percent of the costs incurred by a licensed primary or secondary school teacher for unreimbursed tuition to attend required continuing teacher education courses provided the individual is not reimbursed for such costs and did not claim a deduction for such costs on his federal income tax return. SB 877; CH. 285.

§ 58.1-322 amended. **Virginia taxable income; subtraction for military basic pay.** For taxable years beginning on or after January 1, 2000, allows a subtraction of \$15,000 from income tax for military basic pay with such amount being reduced dollar-for-dollar when the taxpayer's military basic pay exceeds \$15,000 and no subtraction allowed if such basic pay equals or exceeds \$30,000. It also allows a subtraction for the first \$15,000 of salary for federal and state employees whose annual salary is \$15,000 or less, effective January 1, 2000. The act will take effect January 1, 2000, unless one of the circuit-breakers in the Personal Property Tax Relief Act of 1998 has occurred prior to that date. If such an event has occurred, the effective date is postponed until January 1 after the year when a circuit-breaking event has not occurred. SB 1160; CH. 498 (effective-see bill).

§§ 58.1-322 and 58.1-402 amended. **Capital gains tax; relief for land dedicated to open space.** Provides for a subtraction

from the income of individuals and corporations the gain on the sale of land or an easement which dedicates the land or easement to an open-space use. To the extent a subtraction is taken, no credit for donating land for preservation shall be allowed for three years after the subtraction is taken. SB 1222; CH. 339.

§ 58.1-332 amended. Individual income tax; credit for taxes paid other states. Provides a credit to Virginia residents on their income tax when they pay tax to another state for any gain on the sale of a capital asset, effective for taxable years beginning on and after January 1, 2000, provided none of the car tax triggers occurs prior to such date; if one or more of such triggers occurs prior to January 1, 2000, the bill will take effect January 1 in the year after the year none of such triggers occurs. HB 2223; CH. 317.

§ 58.1-339.2 amended. Historic rehabilitation tax credit. Allows partners and S corporation shareholders to allocate historic rehabilitation tax credits among themselves either in proportion to their ownership interest in their partnership or corporation, or as they mutually agree. This provision is effective retroactive to January 1, 1997. The measure also adds language, stated to be declaratory of existing law, providing that the regulations promulgated by the Director of the Department of Historic Resources for this tax credit program shall establish the extent to which this tax credit is co-extensive with the federal historic rehabilitation tax credit. The Director is authorized to allow taxpayers to make a one-time transfer of credits earned with respect to projects prior to final publication of program regulations. HB 1739; CH. 183/SB 957; CH. 152 (effective - see bill).

§ 58.1-339.2 amended. Historic rehabilitation tax credit. Allows any Virginia-resident individual, trust, estate, or corporation to qualify for the historic rehabilitation tax credit for eligible expenses incurred in the rehabilitation of a certified historic structure in another state if the other state has a reciprocal program and agreement. The measure is effective for taxable years beginning on or after January 1, 2002. To qualify, the reciprocal program and agreement must apply to residents of the other state who rehabilitate historic structures in Virginia. HB 2370; CH. 213.

§ 58.1-339.6 added. Income tax; accessibility features for the disabled tax credit. Provides an income tax credit to individuals who add certain features to their homes so they are accessible to the disabled. The tax credit is available for taxable years beginning on and after January 1, 2000, provided none of the car tax triggers occurs prior to that date. If one or more of such triggers occurs, the bill is effective January 1 of the year following the year in which none of the triggers occurs. The amount of the credit is 25 percent of the amount spent on such features, not to exceed \$500 or the individual's tax liability in the taxable year the feature is completed. The taxpayer must apply for the credit to the Department of Taxation. Tax credits granted for such proposals shall not exceed \$1 million in any taxable year. HB 2358; CH. 404 (effective-see bill).

§ 58.1-339.6 added. Income tax; credit for political contributions. Establishes a tax credit for individuals who make contributions to candidates for state or local political office equal to 50 percent of the amount of the contribution, subject to a \$25 limit for individuals and a \$50 limit for married taxpayers filing jointly. The credit will be effective for taxable years beginning on and after January 1, 2000. HB 2749; CH. 464.

§ 58.1-346.1:1 amended. Income tax; voluntary contribution to the U. S. Olympic Committee. Removes the sunset date for making voluntary contributions from tax refunds to the U. S. Olympic Committee. HB 1887; CH. 32.

§§ 10.1-1119.1, 32.1-324.2, 58.1-345.9 and 58.1-346.10 added. Income tax; check-offs for State Forests Systems Fund and Uninsured Medical Catastrophe Fund. Creates the State Forests System Fund and allows taxpayers receiving a tax refund to designate all or part of it as a contribution to such fund for the development and implementation of conservation and education initiatives in the state forests system. The measure also creates the uninsured Medical Catastrophe Fund and allows taxpayers to contribute all or part of their tax refunds to the Fund, to be used to provide a source of payment for medical treatment of uninsured medical catastrophes. HB 2047; CH. 998.

§ 58.1-346.9 added. Income tax; Jamestown-Yorktown Foundation voluntary contribution. Allows taxpayers who are due an income tax refund to make contributions of at least one dollar to the Jamestown-Yorktown Foundation for the Jamestown 2007 quadricentennial celebration, for taxable years beginning on and after January 1, 2000, but before January 1, 2008. HB 2335; CH. 210.

§§ 58.1-346.9, 58.1-346.10, and 58.1-346.11 added. Voluntary income tax contributions; Virginia Foundation for the Humanities and Public Policy, Center for Governmental Studies, and Law and Economics Center. Allows individual taxpayers to make voluntary contributions from income tax refunds to the Virginia Foundation for the Humanities and Public Policy, the Center for Governmental Studies at the University of Virginia, and the Law and Economics Center at George Mason University. Each of these provisions has a January 1, 2005, sunset date. SB 923; CH. 948.

§§ 58.1-401, 58.1-402, 58.1-439.2, 58.1-504, 58.1-2600 through 58.1-2604, 58.1-2606, 58.1-2609, 58.1-2610, 58.1-2611, 58.1-2626, 58.1-2627, 58.1-2628, 58.1-2633, 58.1-2660, 58.1-2682, 58.1-3731 and 58.1-3814 amended; §§ 58.1-400.2, 58.1-433.1, 58.1-440.1 and 58.1-2900 through 58.1-2903 added. Taxation of electric utilities. Eliminates the state gross receipts tax, the State Corporation Commission special assessment tax, and the local gross receipts tax on electric suppliers. In place of these taxes, consumers of electricity will pay a declining block consumption tax and corporations will be subject to corporate income tax. The consumption tax, which contains components for a state gross receipts tax, SCC regulatory tax, and local consumption tax,

will be levied at rates of (i) \$0.00155 for the first 2,500 kWh consumed; (ii) \$0.00099 for between 2,500 and 50,000 kWh; and (iii) \$0.00075 for power consumed in excess of 50,000 kWh. These combined rates may be reduced to reflect lower SCC regulatory charges and to omit the local tax component in localities served by municipal-owned electric utilities that opt not to assess the local tax. In addition, most electric suppliers will pay a net corporate income tax. Electric cooperatives are not subject to the corporate income tax except to the extent sales are made to nonmember customers. Electric suppliers will report real and personal property to the State Corporation Commission, which will centrally assess their property. These changes are in anticipation of federal deregulation of the electric utility industry. SB 1286; CH. 971 (effective - see bill).

§ 58.1-408 amended. Corporate income tax; apportionment. Revises the formula for calculating the portion of a corporation's income that is subject to the Virginia corporate income tax. Currently, Virginia generally uses a three-factor test by which the total of the property factor, payroll factor, and sales factor is divided by three. Under this measure the sales factor is double-weighted, with the result that, when all three factors are present, the property factor, payroll factor, and twice the sales factor will be divided by four. The measure is effective for taxable years beginning on and after January 1, 2000, unless one of the car tax circuit breakers occurs prior to that date, in which case the bill will be effective on January 1 in the year following the year in which none of such circuit breakers occurs. HB 1818; CH. 186 (effective-see bill).

§ 58.1-439.11 added. Technology and biotechnology investment incentives. Creates a research and development tax credit, not to exceed 15 percent of the amount spent by the taxpayer on an eligible research and development activity. The maximum credit is \$100,000 per year. The tax credit will become effective only if reenacted by the 2000 General Assembly Session. The bill also directs the Secretaries of Technology and Commerce and Trade to conduct a study of tax incentives for research and development initiatives. HB 1667; CH. 450 (effective-see bill).

§ 58.1-439.11 added. Employees with disabilities tax credit. Creates a tax credit for an employer who employs an otherwise-qualified individual with a disability. The credit is equal to 20 percent of the first \$6,000 in wages paid annually to the employee for a period not to exceed two years. HB 1676; CH. 304.

§§ 58.1-510 through 58.1-513 added. Tax credits; preservation of land. Provides an income tax credit for individuals and corporations donating land for preservation purposes. The tax credit is 50 percent of the fair market value of the land transferred, not to exceed \$50,000 in FY 2000, \$75,000 in FY 2001, \$100,000 in FY 2002. The credit may only be used to offset taxes owed, but it may be carried forward for a period of five years. If this credit is taken, the taxpayers shall not be allowed to take a subtraction, for three years following the year the credit is taken, for the gain on the sale of land or easements dedicated to open-space use. The measure is

effective January 1, 2000, unless any one of the car tax triggers occurs before that date, in which case the act will be effective January 1 in the year after the year none of the car tax triggers occurs. HB 1752; CH. 983/SB 1218; CH. 968. (effective-see bill).

§§ 58.1-535, 58.1-3916, 58.1-3918, 58.1-3981, and 58.1-3987 amended; § 58.1-3991 repealed. Overpayments of local taxes. Requires a locality that charges interest on delinquent taxes to pay interest on overpayments paid to taxpayers due to erroneous assessments. Provisions authorizing the payment of interest on refunded overpayments are repealed; this measure requires the payment of interest notwithstanding the failure of a locality to conform its ordinance to these provisions. SB 1008; CH. 631.

§ 58.1-602 amended. Sales and use tax definitions. Exempts certain tangible personal property used to provide Internet services to customers from the retail sales and use tax. The exemption applies to computer hardware and software services, hosting equipment, and distribution equipment purchased by an Internet service provider who provide a package of services, including access to proprietary content, to end-user subscribers. HB 1713; CH. 981.

§ 58.1-602 amended. Sales and use tax; transfer of manufacturer's tooling, etc. Provides that the transfer of title to property after its use as tools, tooling, machinery or equipment will not be considered a "retail sale" for sales tax purposes if (i) at the time of transfer, the purchaser is obligated under the terms of a written contract and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufacturer goods. HB 1820; CH. 187.

§ 58.1-602 amended. Sales tax on leased personal property. Excludes from the retail sales and use tax any separately stated local property tax charges. HB 1911; CH. 723.

§ 58.1-602 amended. Sales and use tax; transfer of manufacturer's tooling, etc. Provides that the transfer of title to property after its use as tools, tooling, machinery or equipment will not be considered a "retail sale" for sales tax purposes if (i) at the time of transfer, the purchaser is obligated under the terms of a written contract and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods. SB 774; CH. 138.

§ 58.1-606 amended. Use tax distribution in certain localities. Requires the Tax Commissioner to develop a uniform method to distribute local use tax. Any significant changes to the method of local use tax distribution shall be phased in over a five-year period. Distribution information shall be shared with localities prior to such changes. SB 1064; CH. 156.

§ 58.1-608.1 amended. Sales and use tax; refund for certain building materials. Extends the sunset date from June 30, 1999, to June 30, 2004, for the refund of sales tax paid on building materials purchased by certain non-profit organizations. HB 1636; CH. 12.

§ 58.1-608.1 amended. Sales tax refund on building materials. Extends through June 30, 2004, the ability of certain tax exempt organizations organized for the purpose of building or rehabilitating low-cost homes to apply for refunds of sales tax paid on building materials. The authorization for the refunds is scheduled to expire on June 30, 1999. SB 847; CH. 334.

§§ 30-19.05, 30-19.1:3, 58.1-608.2, 58.1-609.1, 58.1-609.4, 58.1-609.7 through 58.1-609.10, 58.1-623, and 58.1-623.1 amended. Sales and use tax exemptions. Extends the expiration date for existing sales and use tax exemption provisions for certain nonprofit organizations to June 30, 2001. Beginning July 1, 2000, nonprofit organizations, except churches, exempt from the sales and use tax under §§ 58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9 or 58.1-609.10 will be required to submit the same information currently required to be provided by organizations requesting a new exemption. Such information will be updated beginning prior to the 2002 Session, and will thereafter be updated every five years. Failure to file complete and timely information will result in loss of the state sales and use tax exemption. Committee consideration of sales tax exemption legislation will be contingent on a Tax Department determination that the benefited organizations have provided the required information. The measure also clarifies that bills extending sales and use tax exemptions must be introduced by the first day of a legislative session, and requires the Tax Department to issue a preliminary determination that an organization complies with applicable requirements before legislation renewing an exemption is drafted. HB 1571; CH. 776/SB 829; CH. 762.

§ 58.1-608.3 amended. Sales taxes from Suffolk conference center. Entitles the City of Suffolk to sales tax revenue generated from transactions at a conference center owned by the city, hotel and related public facilities. The tax revenue shall be applied to repayment of bonds issued by the city for the project. HB 1785; CH. 184.

§ 58.1-608.3 amended. Sales taxes from Suffolk conference center. Entitles the City of Suffolk to sales tax revenue generated from transactions at a city-owned conference center, hotel and related facilities. The tax revenue shall be applied to repayment of bonds issued by the city for the project on or after January 1, 1999, but before July 1, 2001. SB 790; CH. 141.

§ 58.1-609.1 amended. Sales and use tax; governmental and commodities exemptions. Provides that the exemption from sales tax for the Commonwealth and its political subdivisions does not apply to property they acquire and then transfer to private businesses for their use in a facility to be used by a private entity or for nongovernmental purposes. An exception is made for property acquired for the Advanced Shipbuilding and Carrier Integration Center in Newport News. HB 1765; CH. 401.

§ 58.1-609.1 amended. Sales and use tax liability of industrial development authorities. Curtails the sales and use tax exemption currently available to industrial development

authorities (IDAs) that purchase construction materials tax-free and furnish them to private companies. The measure excludes tangible personal property purchased by IDAs from the governmental sales tax exemption unless it is paid for out of public funds. An exception is carved out for the Advanced Shipbuilding and Carrier Integration Center. SB 781; CH. 471.

§ 58.1-609.2 amended. Agricultural sales and use tax exemptions; forest products. Defines the harvesting of forest products to include operations prior to the transport of the harvested products that are necessary for removing forest products from the harvesting site, complying with environmental protection and safety requirements, obtaining access to the harvesting site, and loading cut forest products onto highway vehicles. Currently machinery and tools used directly in the harvesting of forest products are exempt from sales and use tax. SB 864; CH. 229.

§§ 58.1-609.7 and 58.1-609.10 amended. Sales and use tax; exemptions. Extends the expiration date for sales and use tax exemptions for the Cave Spring Softball League, the Lewis-Gale Foundation and the Tranquillity Cancer Foundation to June 30, 2000. The measure also makes the sales and use tax exemption for Williamsburg Radiation Therapy Services effective retroactive to July 1, 1995. HB 1552; CH. 1440.

§ 58.1-609.7 amended. Sales and use tax; medical-related exemption. Exempts controlled drugs purchased for use by optometrists in their professional practice and eyeglass cases and contact lens storage and cleaning materials, when distributed free of charge, from the retail sales and use tax. HB 1650; CH. 523.

§ 58.1-609.7 amended. Medical-related sale and use tax exemption. Exempts from the retail sales and use tax controlled drugs purchased for use by optometrists, licensed nurse practitioners, or licensed physician assistants in their professional practice and eyeglass cases and contact lens storage and cleaning materials, when distributed free of charge. SB 782; CH. 472.

§ 58.1-609.7 amended. Sales and use tax; medical-related exemptions. Clarifies that medicines and drugs purchased for use or consumption by for-profit hospitals are exempt from sales tax. SB 869; CH. 847 (effective 7/1/00).

§ 58.1-611.1 added. Sales and use tax on food products for home consumption. Reduces the state sales and use tax rate on food purchased for human consumption one-half percent each year for four years beginning January 1, 2000, for a total reduction of two percent. On and after April 1, 2003, the state sales and use tax rate on such food will be one and one-half percent. The Transportation Trust fund one-half percent, the school-age population one percent and the local option one percent rate will not be affected by this legislation. The gradual rate reduction will not occur in any year if (i) the actual general fund revenues for the second fiscal year preceding a fiscal year in which a rate reduction is planned do not exceed the official general fund revenue estimates for such second fiscal year, as

estimated in the most recently enacted and approved general appropriation act, by at least one percent or (ii) any of the circuit breakers in the Personal Property Tax Relief Act of 1998 occur. SB 735; CH. 466.

§ 58.1-638 amended. Washington Metropolitan Area Transit Authority (WMATA). Requires that local payments of WMATA rail transit bonds shall be paid first and apportioned to each locality using the WMATA capital formula, using 95 percent of state aid for these payment, and that remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the relative WMATA-allocated subsidies and relative shares of local transit subsidies. The bill further requires that capital costs must include 20 percent of annual local bus capital expenses and that the Northern Virginia Transportation Commission's November 5, 1998, hold-harmless protections remain in effect. HB 1492; CH. 397/SB 749; CH. 281.

§ 58.1-638. See § 33.1-269; SB 1256.

§ 58.1-811 amended. Recordation tax exemption in Amherst County. Provides an exemption from recordation tax on deeds transferring property in Amherst County from a Habitat for Humanity-type nonprofit organization. The exemption also applies to deeds of trust or mortgage securing loans made by such an organization. HB 1722; CH. 400.

§ 58.1-815.1. See Bonds; HB 2088.

§§ 58.1-1101 and 58.1-3507 amended. Taxation of well drilling equipment. Equalizes the taxation of water well drilling machinery and mining machinery. Currently, water well drilling machinery is taxable as personal property generally, while the same type of machinery is taxable as intangible personal property or machinery and tools if used in mining. SB 1312; CH. 396.

§ 58.1-1205 amended. Bank franchise tax; computation of net capital. Requires all banks to add back to taxable capital one-half of the bank's loan loss reserve net of applicable deferred tax. The measure is retroactive to tax years beginning on or after January 1, 1995, unless the statute of limitations for a refund or assessment has expired. Any bank entitled to a reserve for loan losses under § 585 of the Internal Revenue Code for a tax year from 1995 through 1998 shall for such year add to its gross capital the amount by which the bank's net loan loss reserves exceed the reserve allowable under § 585. If a locality's obligation to make refunds to banks exceeds the amount of additional assessments collected by the locality for tax years 1995 through 1998, the amount of the excess refunds shall be refunded by the Commonwealth from additional taxes collected by the Commonwealth as the result of this act. Any bank franchise tax return required to be filed by March 1, 1999, shall be due instead by April 1, 1999. SB 1017; CH. 84 (effective 3/12/99).

§§ 58.1-2401, 58.1-2403, and 58.1-2425. See § 46.2-100; HB 2016.

§ 58.1-2526 amended. State Corporation Commission taxes; refund of overpayment. Authorizes the SCC to refund excess payments of retaliatory taxes. SB 908; CH. 571.

§ 58.1-2606 amended. Local taxation of real and tangible personal property of public service corporations. Requires aircraft owned by public service corporations to be taxed at the same rate as other aircraft in the locality. Currently, such aircraft are taxed at the real property tax rate. HB 2092; CH. 866.

§ 58.1-2706 amended. Road tax; credit for payment of motor fuel, diesel fuel and liquefied gases tax. Makes motor carriers eligible for a 16 cents per gallon credit against the road tax on liquefied gases. This is the same credit amount available for motor fuel and diesel fuel. HB 1934; CH. 94.

§ 58.1-3013 amended. Payment of taxes by credit card. Authorizes any treasurer to accept payment of local taxes, fees, and charges by credit card. Currently, the local governing body must adopt an ordinance authorizing their use. The amount of service charge a treasurer may levy is increased from four percent to the greater of 4.5 percent or six dollars. HB 2497; CH. 216.

§ 58.1-3118 amended. Personal property tax; book produced by electronic means. Allows the commissioner of the revenue to produce the personal property tax book by electronic means in addition to the methods now authorized, including microfiche, microfilm and other microphotographic processes. HB 1944; CH. 52.

§ 58.1-3123 amended. Town treasurers. Provides that town officials who perform the duties of treasurer shall have the same authority in the collection of taxes that is available to county and city treasurers. HB 1814; CH. 90 (effective 3/15/99); HB 1841; CH. 777 (effective 3/28/99).

§§ 58.1-3128 and 58.1-3921 amended. Local revenue collection procedures. Clarifies that writs, warrants, summons or other process that a treasurer is authorized to serve shall be served by the sheriff or by the treasurer or his designee and provides treasurers with 60 days from the end of the fiscal year to prepare lists of delinquent taxpayers. Currently, the lists are due by August 1. HB 1942; CH. 192.

§ 58.1-3211 amended. Taxable real estate; exemptions for elderly and disabled. Permits the Town of Lovettsville to raise the income and net worth requirements for elderly and disabled persons to qualify for real property tax exemptions or deferrals, to the same higher levels which certain localities, including Loudoun County, may use. HB 2136; CH. 205.

§§ 58.1-3231, 58.1-3234 and 58.1-3237 amended. Special assessments; sliding scale and roll back taxes. Permits localities to establish a sliding scale tax rate which would lower tax rates for real estate subject to land-use taxation which is held for longer periods of time. The landowner and locality are required to execute and record a written agreement, for a term not exceeding 20 years. A change in use prior to the end of the agreed-upon holding period will result in a tax due from the

date of the agreement at the highest tax rate for the year it ceases to be in a land-use program. HB 2754; CH. 1026.

§ 58.1-3245.1 amended. Tax increment financing; open-space uses. Provides that real estate devoted to open-space use constitutes a public facility which may be financed using tax increment financing. HB 1877; CH. 190/SB 1221; CH. 162.

§ 58.1-3292 amended; § 58.1-3292.1 added. Real estate tax assessments; new construction. Authorizes any county operating under the urban county executive form of government to provide by ordinance that new buildings shall be assessed when substantially completed or fit for use and occupancy. Real estate taxes on the newly constructed buildings shall be prorated based on the number of days in the tax year that the building is completed. Penalties for nonpayment of tax on new construction completed after November 1 shall not be imposed until the later of December 5 or 30 days after completion. Currently, any locality may elect to assess new buildings if completion occurs prior to November 1, and if it is completed after that date, the new construction is not assessed until the following January 1. SB 776; CH. 760.

§ 58.1-3506 amended. Classification for business personal property. Establishes a separate class of tangible personal property for tax rate purposes consisting of business personal property used in manufacturing, testing, or operating satellites by a trade or business located within a Multicounty Transportation Improvement District, such as the Route 28 tax district. The classification applies only to property put into service within the District on or after July 1, 1999. The authorization for this classification expires on the first to occur of June 30, 2009, or the date that a special improvements tax is no longer levied on property within the Multicounty Transportation Improvement District. The rate of tax on property in this category shall not exceed the locality's machinery and tools tax rate. The measure also eliminates the classification for machines and tools assessed at \$100 million or more and used in a commercial airline's maintenance, repair, and rebuilding facility. SB 995; CH. 289.

§§ 58.1-3506, 58.1-3902 and 58.1-3912 amended. Tangible personal property tax on certain small boats and watercraft. Adds two new classifications, for tangible personal property tax purposes, for watercraft which is under 18 feet and either motorized or nonmotorized. It also requires marina owners who report to the commissioners of the revenue to include, with the list of boat owners, certain boat-by-size categories. Finally, it allows the treasurer not to send a tax bill if the amount is for \$20 or less. SB 1134; CH. 358.

§§ 58.1-3509 and 58.1-3704 amended. Tax on merchants. Allows localities to exempt merchants from the merchant's capital tax, the BPOL tax, or both. HB 2062; CH. 200.

§ 58.1-3523 amended. Personal property tax relief. Provides that a locality's tangible personal property tax rate to be used in calculating the state's payment obligations under the Personal

Property Tax Relief Act will be the rate in effect on July 1, 1997, or August 1, 1997, whichever is greater. Currently, the August 1, 1997, rate is used for all localities. This measure is effective retroactive to January 1, 1998. HB 1851; CH. 189 (effective 3/17/99).

§ 58.1-3526 amended. Certification of value of qualifying vehicles. Allows commissioners of the revenue to identify vehicles qualifying for the tax relief provided under the Personal Property Tax Relief Act of 1998 by means other than use of the certified personal property tax book. HB 2312; CH. 99.

§ 58.1-3650.749 amended. Property tax exemption; Samaritan House, Inc. Makes the property tax exemption for the Samaritan House, Inc., (formerly, Virginia Beach Ecumenical Housing, Inc.) for its real and personal property located in the City of Virginia Beach. In 1998, the General Assembly enacted a property tax exemption for Samaritan House, Inc., but did not provide that it was retroactive to the date that Virginia Beach Ecumenical Housing, Inc., changed its name to Samaritan House, Inc. HB 1802; CH. 30 (effective 9/23/96).

§ 58.1-3650.804 added. Property tax exemption; Forest Youth Athletic Association. Provides a local tax exemption for the Forest Youth Athletic Association, located in Bedford County. HB 1515; CH. 237/SB 784; CH. 223.

§ 58.1-3650.804 added. Property tax exemption; Maupin-Sizemore Foundation. Provides a local tax exemption for the Maupin-Sizemore Foundation, located in the City of Bedford. HB 1516; CH. 238/SB 785; CH. 224.

§ 58.1-3650.804 added. Property tax exemption; Colonial Beach Moose Lodge. Provides a local tax exemption for Colonial Beach Moose Lodge #1267 in Westmoreland County. HB 1526; CH. 239.

§ 58.1-3650.804 added. Property tax exemption; 121 Verona Corporation. Provides a local tax exemption for the 121 Verona Corporation in Augusta County. HB 1549; CH. 240.

§ 58.1-3650.804 added. Property tax exemption; Blue Ridge Housing Development Corp. Grants a property tax exemption to the Blue Ridge Housing Development Corp., for real property it owns in the City of Roanoke. HB 1554; CH. 517.

§ 58.1-3650.804 added. Property tax exemption; Alliance for the Physically Disabled, Inc. Exempts real and personal property located in Fairfax County and owned by the Alliance for the Physically Disabled, Inc. HB 1572; CH. 25.

§§ 58.1-3650.804 and 58.1-3650.805 added. Property tax exemption; Central Virginia Education Telecommunication Corporation and Rainbow Center 4-H Therapeutic Equestrian Program, Inc. Provides a local property tax exemption for Central Virginia Education Telecommunication Corporation located in Stafford County and the Rainbow

Center 4-H Therapeutic Equestrian Program, Inc., in Prince William County. HB 1597; CH. 340.

§ 58.1-3650.804 added. **Property tax exemption; Point of Honor, Inc.** Exempts property of Point of Honor, Inc., located in the City of Lynchburg, from taxation. HB 1602; CH. 270/SB 786; CH. 264.

§ 58.1-3650.804 added. **Property tax exemption; Wintergreen Nature Foundation.** Provides a local property tax exemption for the Wintergreen Nature Foundation in Nelson County. HB 1617; CH. 26.

§ 58.1-3650.804 added. **Personal property tax; Middlesex County Museum, Inc.** Provides a local property tax exemption for Middlesex County Museum, Inc., in Middlesex County. HB 1621; CH. 173.

§ 58.1-3650.804 added. **Property tax exemption; CANDII.** Provides a local property tax exemption for CANDII, in the City of Hampton. HB 1641; CH. 13/SB 840; CH. 477.

§ 58.1-3650.804 added. **Property tax exemption; Isle of Wight-Smithfield-Windsor Chamber of Commerce.** Provides a local property tax exemption for the Isle of Wight-Smithfield-Windsor Chamber of Commerce in Isle of Wight County. HB 1646; CH. 522.

§ 58.1-3650.804 added. **Property tax exemption; Central Valley Habitat for Humanity, Inc.** Provides a local property tax exemption for Central Valley Habitat for Humanity, Inc., located in Rockingham County. HB 1649; CH. 175.

§ 58.1-3650.804 added. **Property tax exemption; Vetshouse, Inc.** Provides local property tax exemption for Vetshouse, Inc., in the City of Virginia Beach. HB 1674; CH. 179/SB 772; CH. 137.

§ 58.1-3650.804 added. **Property tax exemption; Virginia Beach "HOME," Inc.** Provides a local property tax exemption for Virginia Beach "HOME," Inc., in the City of Virginia Beach. HB 1675; CH. 243.

§§ 58.1-3650.804 and 58.1-3650.806 added. **Property tax exemptions; Francis Makemie Society, Accomack County Nursing Home Commission, Inc., and Eastern Shore of Virginia Habitat for Humanity, Inc.** Provides local property tax exemptions for the Francis Makemie Society and Accomack County Nursing Home Commission, Inc., in Accomack County and the Eastern Shore of Virginia Habitat for Humanity, Inc. HB 1684; CH. 655.

§ 58.1-3650.804 added. **Property tax exemption; Meals on Wheels of Greater Richmond, Inc.** Provides a local property tax exemption, effective January 1, 2000, for Meals on Wheels of Greater Richmond, Inc., in Henrico County. HB 1694; CH. 657/HB 1784; CH. 660/SB 732; CH. 616/SB 862; CH. 621.

§ 58.1-3650.804 added. **Property tax exemption; Blanks Memorial Foundation, Ltd.** Provides a local tax exemption for Blanks Memorial Foundation, Ltd., in Halifax County. HB 1712; CH. 305.

§ 58.1-3650.804 added. **Property tax exemption; Newport News Green Foundation, Inc.** Provides a property tax exemption for Newport News Green Foundation, Inc., in the City of Newport News. HB 1723; CH. 27/SB 795; CH. 226.

§ 58.1-3650.804 added. **Property tax exemption; Odiero, Ltd.** Provides a personal property tax exemption for Odiero, Ltd., operating as SEEDS (Seek Education, Explore, DiScover), located in Montgomery County. HB 1724; CH. 244/SB 825; CH. 474.

§ 58.1-3650.804 added. **Property tax exemption; DeHart Botanical Gardens, Inc.** Provides a property tax exemption for DeHart Botanical Gardens, Inc., in Patrick County. HB 1728; CH. 524.

§ 58.1-3650.804 added. **Property tax exemption; Highland Center, Inc.** Provides a property tax exemption for Highland Center, Inc., in Highland County. HB 1749; CH. 245.

§§ 58.1-3650.804, 58.1-3650.805, and 58.1-3650.806 added. **Property tax exemptions; Beach Health Clinic, Inc., Judeo-Christian Outreach Center, Inc., and Virginia Beach "HOME," Inc.** Exempts property of Beach Health Clinic, Inc., Judeo-Christian Outreach Center, Inc., and Virginia Beach "HOME," Inc., located in the City of Virginia Beach, from taxation. The exemptions for Beach Health Clinic, Inc., and Judeo-Christian Outreach Center, Inc., are effective retroactive beginning July 1, 1998. HB 1764; CH. 246.

§§ 58.1-3650.804 and 58.1-3650.809 added. **Property tax exemptions; American Roentgen Ray Society, et al.** Exempts the following organizations from property taxes in Loudoun County: The Center for Pastoral Counseling; Door of Hope; Loudoun Transportation Association; Regional Properties, Inc.; Resources for Independence of Virginia, Inc.; and the American Roentgen Ray Society. HB 1781; CH. 28.

§ 58.1-3650.804 added. **Property tax exemption; Chesterfield Alternatives, Inc.** Exempts certain property of Chesterfield Alternatives, Inc., located in Chesterfield County, from taxation. HB 1787; CH. 36.

§ 58.1-3650.804 added. **Property tax exemption; Richmond Animal League.** Exempts certain property of Richmond Animal League, located in Chesterfield County, from taxation. HB 1788; CH. 29.

§ 58.1-3650.804 added. **Property tax exemption; Larrymore Lawns Community Park Association.** Provides a property tax exemption for Larrymore Lawns Community Park Association in the City of Norfolk for locations known as 7001 Winn Lane, 164.09 ft. Larrymore Lawns Sec. 1 S S Winn Avenue, and parcel 220.66 ft. S S Johnston Road. HB 1809; CH. 247/SB 859; CH. 478.

§ 58.1-3650.804 added. **Property tax exemption; United Way branch.** Provides a local real estate tax exemption for the property located at 2515 Walmer Avenue and owned by the United Way of South Hampton Roads. HB 1811; CH. 31.

§ 58.1-3650.804 added. **Property tax exemption; Capital Area Community Food Bank, Inc.** Exempts certain real and personal property of the Capital Area Community Food Bank, Inc., located in Fairfax County, from taxation. SB 741; CH. 134.

§ 58.1-3650.804 added. **Property tax exemption; Somerset-Olde Creek Recreation Club, Inc.** Exempts certain property of the Somerset-Olde Creek Recreation Club, Inc., located in Fairfax County, from taxation. SB 755; CH. 468.

§ 58.1-3650.804 added. **Property tax exemption; Judeo-Christian Outreach Center, Inc.** Exempts property of Judeo-Christian Outreach Center, Inc., located in the City of Virginia Beach, from taxation. The organization obtained a property tax exemption in 1990 when it was named Virginia Beach Christian Outreach Group, Inc. The exemption is retroactive to July 1, 1998. SB 773; CH. 222.

§§ 58.1-3650.804, 58.1-3650.805, and 58.1-3650.806 added. **Property tax exemptions.** Exempts from taxation the property of (i) American Type Culture Collection, located in Prince William County; (ii) Lakeview Swim Club, Inc., located in Fairfax County; and (iii) Rainbow Center 4-H Therapeutic Equestrian Program, Inc., located in Prince William County. SB 783; CH. 566.

§ 58.1-3650.804 added. **Property tax exemption; Virginia Association for the Blind, Inc.** Exempts property of the Virginia Association for the Blind, Inc., located in the City of Chesapeake, from taxation. SB 789; CH. 225.

§ 58.1-3650.804 added. **Property tax exemption; Beach Health Clinic, Inc.** Exempts property of Beach Health Clinic, Inc., located in the City of Virginia Beach, from taxation. SB 811; CH. 227 (effective 7/1/98).

§ 58.1-3650.804 added. **Property tax exemption; Goodwin House, Inc.** Exempts certain property of Goodwin House, Inc., located in the City of Alexandria, from taxation effective January 1, 1999. SB 873; CH. 147.

§ 58.1-3715 amended. **BPOL tax; out-of-state contractors.** Subjects any contractor without a definite place of business in any Virginia locality to the BPOL tax or fee imposed by a locality when the amount of the business done there will exceed \$25,000 for the license year. HB 2106; CH. 203.

§ 58.1-3734 amended. **BPOL tax; license tax on motor vehicle dealers.** Allows localities to provide by ordinance that any motor vehicle dealer who collects excess business license tax from purchasers shall return the overpayment to the purchasers within 120 days of discovering the overpayment and certifying such to the local commissioner of the revenue or other local assessing official. Any amounts which are not refunded shall be paid to the commissioner of the revenue or other local assessing official as additional business license tax. HB 1930; CH. 862.

§ 58.1-3734 amended. **Soil survey.** Extends the date for completion of the inventory of Virginia's soil resources from the year 2000 to 2006 and makes completion of the survey

contingent upon the availability of state and federal resources. SB 1028; CH. 957.

§ 58.1-3813 amended. **Local tax; E-911.** Provides that counties with populations of no less than 10,000 and no more than 12,000, no less than 21,000 and no more than 21,500, and no less than 27,500 and no more than 28,000 may authorize the payment of the E-911 director with the proceeds of the E-911 tax. Such counties would include Culpeper, Greene, Madison, and Orange. Bedford, Frederick, Tazewell, and Washington Counties already have the authority to use proceeds from the E-911 tax for payment of the director's salary. HB 1569; CH. 364.

§ 58.1-3818 amended; § 15.2-1104.1 added. **Admissions tax.** Provides that localities may elect not to charge admissions tax for attendance of any event, the net receipts of which go wholly to charitable purposes, if the sponsor of the event is exempt from sales and use tax under the categories for educational, medical, nonprofit civic and community service, or miscellaneous organizations. HB 1810; CH. 986.

§ 58.1-3819 amended. **Transient occupancy tax.** Authorizes Rockbridge County (described by population) to levy a transient occupancy tax at a rate not to exceed five percent. HB 1618; CH. 241.

§ 58.1-3819 amended. **Transient occupancy tax; Prince William County.** Allows any county which has adopted the county executive form of government and which is contiguous to any county operating under the urban county executive form of government to impose an additional three percent for the transient occupancy tax and to use the additional amount for tourism and marketing of tourism, as determined by consulting with local tourism organizations. HB 2086; CH. 253.

§ 58.1-3819 amended. **Transient occupancy tax; increase in certain counties.** Allows Franklin County, defined by population brackets, to increase the transient occupancy tax from two percent to five percent. The additional tax revenues from the portion of the rate over two percent must be spent for tourism initiatives as determined in consultation with local tourism industry organizations. HB 2386; CH. 260.

§ 58.1-3819 amended. **Transient occupancy tax.** Adds Rockbridge County, defined by population brackets, to the list of counties authorized to levy a transient occupancy tax at a rate not exceeding five percent. Currently, it is subject to the general rate limitation of two percent. The revenue generated by the portion of rate in excess of two percent is required to be used for tourism, marketing of tourism or initiatives that, as determined in consultation with the local tourism industry organizations, attract travelers to the locality and generate tourism revenues in the locality. SB 1050; CH. 233.

§ 58.1-3819 amended. **Transient occupancy tax.** Adds Franklin County, defined by population brackets, to the list of counties authorized to levy a transient occupancy tax at a rate not exceeding five percent. Currently, it is subject to the general rate limitation of two percent. The revenue generated by the portion of rate in excess of two percent is required to be

used for promoting tourism or travel, or business that generates tourism or travel, in the locality. SB 1098; CH. 234.

§ 58.1-3822 amended. Additional transient occupancy tax; sunset date. Extends the sunset date from December 31, 1999, to December 31, 2002, for the additional transient occupancy tax allowed any county with the county manager plan of government. HB 1626; CH. 242/SB 837; CH. 228.

§§ 58.1-3833 and 58.1-3840 amended; § 58.1-611.1 added. Sales and use tax; reduced rate on food purchased for human consumption; Food Tax Reduction Program. Reduces the state sales and use tax rate on food purchased for human consumption one-half percent each year for four years beginning January 1, 2000, for a total reduction of two percent. The next one-half percent will be removed April 1, 2001, until on and after April 1, 2003, the state sales and use tax rate on such food will be one and one-half percent. The local option one percent rate will not be affected by this legislation. The gradual rate reduction will not occur in any year when the actual general fund revenues for the second fiscal year preceding a fiscal year in which a rate reduction is planned do not exceed the official general fund revenue estimates for such second fiscal year, as estimated in the most recently enacted and approved general appropriation act, by at least one percent or if any of the circuit breakers in the Personal Property Tax Relief Act of 1998 occur. Finally, a Food Tax Reserve Fund is created on the books of the Comptroller to be used for purposes of the Food Tax Reduction Program. HB 1601; CH. 366 (effective-see bill).

§ 58.1-3842 added. Combined transient occupancy and food and beverage tax. Authorizes Rappahannock County, defined by population brackets, to levy a combined transient occupancy and food and beverage tax on the aggregate charges for rooms and meals when such charges are not separately stated. This measure applies only to bed and breakfast establishments. The maximum rate of the combined tax is four percent of the combined charges. The tax may be levied only if the county has approved a food and beverage tax by referendum. SB 778; CH. 617.

§ 58.1-3906 amended. Taxation; failure to pay certain local taxes. Provides that any member, manager or employee of a limited liability company is an individual who may be held personally liable for any delinquent local admissions, transient occupancy, food and beverage, or daily rental tax which he willfully fails to pay. HB 2154; CH. 541.

§ 58.1-3942. See § 46.2-640; HB 1581.

§ 58.1-3958 amended. Local administrative costs for delinquent taxpayers. Allows localities to impose a fee for administrative costs when collecting on a nuisance abatement lien equal to the lesser of \$150 or 25 percent of the cost, but in no event less than \$25. HB 2535; CH. 389.

§§ 58.1-3965 and 58.1-3969 amended. Local tax administration; sale of land for delinquent taxes. Provides that real estate may be presumed to be abandoned if it is assessed at \$20,000 and (i) the tax is delinquent for three years

and (a) the land or structure has been declared a nuisance (b) proper notice has been given but the owner of record has failed to act, and (c) the locality has placed liens on the property to pay for abatement of code violations which have not been paid; or (ii) the tax is delinquent for seven years. If property is deemed abandoned, the court shall not be required to refer the case to a commissioner in chancery prior to its sale for delinquent taxes. Currently referral to a commissioner in chancery is optional. HB 2211; CH. 674.

§ 58.1-3967 amended. Distribution of proceeds of tax sales. Establishes a procedure addressing the distribution of the portion of the proceeds from the tax sale of real estate due to the unknown beneficiary of a lien on the property. The proceeds from the sale of property sold for delinquent taxes are required to be applied, after payment of the taxes, penalties, interest, fees, and costs, to liens against the property, and any balance is to be paid to the former owner. If the beneficiary of a deed of trust or other lien on the property is unknown and does not claim his money within two years of the sale, the clerk of court is required to pay the money to the locality. If the lienholder later comes forward and shows he is entitled to the funds, the locality may pay the money to him, which is the same process currently in effect with respect to unknown former owners of the land. Currently, the proceeds due to an unknown lienholder escheat to the Commonwealth. HB 1977; CH. 403.

§ 58.1-3967 amended; § 58.1-3970.1 added. Local taxes; deeding title of certain real estate to locality. Allows for certain real estate on which delinquent taxes or other liens are due to be conveyed to the locality by a special commissioner appointed by the circuit court in lieu of the locality selling it at public auction. Notice must be given and opportunity for a hearing provided before the special commissioner is appointed. Any surplus from the locality's eventual sale of the property shall be payable to the former owner, his heirs or assigns, or to the beneficiaries of any lien against the property. HB 2231; CH. 869.

§ 58.1-3980 amended. Corrections of local taxes. Authorizes taxpayers assessed with any local tax to apply to the commissioner of the revenue or other assessing official for a correction of the assessment. Currently, taxpayers may apply to the commissioner or other official only about taxes on tangible personal property, machinery and tools, or merchants' capital, and regarding local license taxes. HB 1941; CH. 123.

§§ 58.1-3980 and 58.1-3981 amended. Correcting erroneous real estate assessments. Authorizes commissioners of revenue to correct real estate assessments resulting from factual errors made by other appraisers conducting general reassessments without a petition to court by the taxpayer or the commissioner. A commissioner currently has the ability to make such corrections if the commissioner conducted the erroneous assessment or if the mistake was clerical. Currently, a taxpayer or the commissioner is required to petition the circuit court for relief from an erroneous assessment caused by the factual error of a real estate appraiser. HB 2313; CH. 677/SB 914; CH. 624.

§ 58.1-3984 amended; § 58.1-3983.1 added. Local business taxes; appeals and rulings. Provides for a similar appeals and rulings process through the local assessor and the state Tax Commissioner for all local business taxes (i.e. machinery and tools tax, business tangible personal property tax and merchant's capital tax) as is currently allowed for the BPOL tax. The effective date is January 1, 2000, except the provisions relating to valuation will be effective for assessments made on or after January 1, 2001. The bill also directs interested parties to propose recommendations relating to valuation, rate classification, and associated matters by December 15, 1999. HB 2085; CH. 202/SB 780; CH. 470 (effective-see bill).

§ 58.1-4007 amended. Lottery; powers of Board. Provides that the Lottery Board shall have the power to accept, modify or reject any revenue projections before they are forwarded to the Governor. HB 1507; CH. 716.

§ 58.1-4007.1 amended. State lottery law; Gamblers Anonymous. Removes the sunset date on the provision requiring that all lottery tickets bear a telephone number for Gamblers Anonymous or similar organizations. HB 2190; CH. 736.

§ 58.1-4019 amended. Identity of lottery winners. Limits the requirement that lottery prize winners disclose their identity and social security number to instances where the prize is greater than \$100 and the winning ticket is redeemed at an office of the Lottery Department. Currently, the identity and social security number of all natural persons receiving any portion of the proceeds of a winning lottery ticket, regardless of the prize amount or where redeemed, must be provided. HB 2475; CH. 34.

TITLE 58.1. MISCELLANEOUS - TAXATION.

Third enactment of Chapter 637 of the 1994 Acts of Assembly amended. Income tax; voluntary contribution to the Community Policing Fund. Eliminates the sunset date of December 31, 1999, for the income tax check-off for contributions to the Community Policing Fund. HB 1491; CH. 23.

First and second enactments of Chapter 644 of the 1998 Acts of Assembly reenacted. Corporate income tax; apportionment. Reenacts legislation enacted by the 1998 Session which revised the formula for calculating the portion of a corporation's income that is subject to the Virginia corporate income tax. Currently, Virginia generally uses a three-factor test by which the total of the property factor, payroll factor, and sales factor is divided by three. Under this measure the sales factor is double-weighted, with the result that, when all three factors are present, the property factor, payroll factor, and twice the sales factor will be divided by four. The measure is effective for taxable years beginning on and after January 1, 2000, unless one of the circuit breakers in the Personal Property Tax Relief Act of 1998 has occurred

prior to that date. If such an event has occurred, the effective date will be postponed until January 1 after the year when a circuit-breaking effect has not occurred. SB 1076; CH. 158 (effective-see bill).

TITLE 59.1. TRADE AND COMMERCE.

§ 59.1-148.3 amended. Purchase of handguns of certain officers. Allows Hanover's sheriff to sell to certain auxiliary or volunteer deputies their service handguns. The bill also allows other weapons issued by the Department of State Police for personal duty use of an officer to be sold to the officer, subject to the qualifications of § 59.1-148.3, and if the weapon is a type and configuration that can be purchased at a regular hardware or sporting goods store by a private citizen without restrictions other than the instant background check. HB 2091; CH. 312.

§ 59.1-199. See § 56-235.8; SB 1105.

§§ 59.1-207.2 and 59.1-313. See § 46.2-100; HB 2016.

§ 59.1-207.16 amended. Motor Vehicle Warranty Enforcement Act; limitations of action. Modifies the motor vehicle "lemon law" statute of limitations as follows: (i) establishes a flat, 18-month period following the original delivery of the motor vehicle as the general rule and (ii) limits the application of an alternate limitations period to 12 months following a manufacturer's action under its informal dispute settlement procedures. The consumer would have the longer of either period to file an action. The bill provides, however, that the alternate 12-month limitations period is applicable only if the dispute settlement procedure was properly resorted to within 18 months of the motor vehicle's delivery, and the matter was not satisfactorily resolved. Under current law, the consumer may bring a civil action against the manufacturer within the longer of (i) the "lemon law rights period" (an 18-month period following delivery that can be extended if the defect has not been repaired within the initial 18-month period) or (ii) an alternate period of 12 months following the manufacturer's final action under its dispute settlement procedures. HB 2484; CH. 387.

§ 59.1-274 amended. Enterprise zone designations. Increases the maximum number of enterprise zones from 50 to 55. Five of the zones designated after July 1, 1999, shall be located in localities that (i) have annual average unemployment rates that are 50 percent higher than the statewide average or (ii) are within planning districts that have average unemployment rates at least one percent greater than the statewide average. HB 1953; CH. 249.

§ 59.1-274 amended. Enterprise zone designations. Increases the maximum number of enterprise zones from 50 to 55. Five of the zones designated after July 1, 1999, shall be located in localities that (i) have annual average unemployment rates that are 50 percent higher than the statewide average or

(ii) are within planning districts that have average unemployment rates at least one percent greater than the statewide average. SB 1187; CH. 235.

§§ 59.1-284.16 through 59.1-284.19 added. Information Technology Employment Performance Grant Program. Provides a grant to any electronics equipment or computer and data processing services firm that after July 1, 1999, creates at least 50 permanent full-time positions within (i) the planning district with the highest rate of unemployment or (ii) an adjacent planning district. If such a firm employs the workers for 36 consecutive months, it becomes entitled to a grant of \$1,000 per employee per year, not to exceed \$150,000. A firm is eligible for one grant. Grants are payable from a special fund, comprised of appropriated funds and any other sums made available to it from any public or private source and all interest and income from fund investments. If sufficient funds are not available in the fund in any year to pay all claims, they will be paid on a pro rata basis and the shortfall will be carried over to succeeding years. SB 1188; CH. 441.

§ 59.1-389 amended. Virginia Racing Commission; consideration of application. Requires the Virginia Racing Commission to deny the application and refuse to issue a permit to any applicant who has been convicted of a crime involving (i) unlawful wagering, (ii) fraudulent use of a credential, (iii) unlawful transmission or possession of drugs or (iv) any felony considered by the Commission to be detrimental to horse racing in the Commonwealth, within the five years preceding the date of the application. The bill provides the Commission with the discretion to deny or grant waivers to applicants if the conviction occurred more than five years before the application date. SB 1073; CH. 356.

§§ 59.1-475, 59.1-476, and 59.1-477 added. Structured settlements; authorization for transfer. Conditions the direct or indirect transfer of structured settlement payment rights upon the prior authorization of a court of competent jurisdiction or a responsible administrative authority. The court or authority, as appropriate, must make several findings as a precondition to transfer, including a finding that the proposed transfer satisfies any federal hardship standard then in effect. The bill also requires the proposed transferee to make disclosures concerning fees, charges and other amounts that will be deducted from the proceeds payable by the transferee to the transferor. The transferee must also disclose to the transferor the structured settlement's discounted present value, together with the discount rate used to compute that value. A structured settlement is an arrangement for periodic payment of damages for personal injuries established by a settlement or judgment in resolution of a tort claim, or for periodic payments in settlement of a workers' compensation claim. Lump sum payments under the Virginia Workers' Compensation Act are not subject to the provisions of this bill. The bill's provisions will expire on July 1, 2001, unless federal legislation has been enacted by that date which establishes a federal hardship standard governing the transfer of structured settlement payment rights. HB 1922; CH. 993.

§ 59.1-480 added. Fingerprinting in connection with business, commercial and financial transactions. Stipulates that persons requiring a fingerprint or fingerprints to be given in conjunction with any business, commercial or financial transaction must return the original prints to the person giving such prints within 21 days of the transaction's completion or termination. Additionally, all copies of such prints, including electronic or facsimile copies, must be destroyed by the person requiring and obtaining the prints. HB 507; CH. 715.

TITLE 60.2. UNEMPLOYMENT COMPENSATION.

§ 60.2-112. See § 9-6.23; HB 2558/SB 1257.

§ 60.2-113 amended. Employment; critical shortage of qualified workers list. Requires the Virginia Employment Commission to determine and publish a list of jobs, trades, and professions for which a high demand for qualified workers exists or is projected by the Commission. The Commission is required to consult with the Statewide Workforce Training Council in making such determination. SB 1130; CH. 357.

§§ 60.2-513, 60.2-536, 60.2-619 and 60.2-620 amended. Appeal of Virginia Employment Commission decisions. Establishes as 30 days the time limit for appealing certain Virginia Employment Commission ("VEC") decisions, including appealing a decision of (i) the VEC that an employing unit failed to submit a required report, (ii) the VEC assigning an experience record in the course of a business acquisition, (iii) a deputy commissioner, and (iv) an appeals tribunal. HB 2299; CH. 79.

§ 60.2-618 amended. Unemployment compensation; disqualification for benefits; misconduct. Establishes, as a basis for unemployment compensation benefits disqualification, false statements of a material nature concerning criminal convictions made in job applications. However, such statements must be a basis for the termination, and the employer must have terminated the employee promptly upon discovering such false statements. The Commissioner is authorized to consider evidence of mitigating circumstances in determining whether misconduct occurred. HB 2311; CH. 919.

TITLE 62.1. WATERS OF THE STATE, PORTS AND HARBORS.

§ 62.1-44.15:5. See § 28.2-1308; SB 582.

§ 62.1-44.17:1.1 added. Poultry waste management in the Chesapeake Bay watershed. Requires the State Water Control Board to establish a regulatory program for poultry waste

management. The program will require that growers with more than 200 animal units of poultry (about 20,000 chickens) obtain coverage under a general permit and have and implement nutrient management plans. The plans will limit poultry litter land application rates based on crop nutrient needs and crop nutrient uptake. The bill also requires commercial poultry growers to file plans with the Department of Environmental Quality detailing the ways in which they will provide assistance to the poultry growers with whom they contract to ensure that poultry waste is properly stored and managed and transported to areas where it can be used. HB 1207; CH. 1.

§ 62.1-44.34:13 amended. Petroleum storage tank fee. Changes the threshold amount that has to be maintained in the Virginia Petroleum Storage Tank Fund before the fee on motor and heating fuels can be decreased. Currently, a fee of one-fifth of one cent on each gallon of various motor and home heating fuels is imposed on dealers and suppliers of these fuels. The fees collected are deposited in the Fund to be used in cleaning up spills from leaking aboveground and underground petroleum tanks. When the balance in the Fund is likely to or has fallen below \$3 million, the fee is increased to three-fifths of one cent per gallon, until the Fund reaches \$6 million, whereupon the fee reverts to one-fifth of one cent. This bill would keep the three-fifths of one cent fee in place until the Fund reaches \$12 million (as opposed to the current \$6 million trigger), at which time the fee would then be reduced to one-fifth of one cent per gallon. HB 1859; CH. 119.

§ 62.1-44.34:13 amended. Petroleum Storage Tank Fund fees. Clarifies who is liable to the Department of Motor Vehicles for the payment of fees on the sale of certain fuels. The fees are those which go to the Virginia Petroleum Storage Tank Fund. HB 2014; CH. 124.

§ 62.1-44.34:16 amended. Oil facility financial assurance. Requires that operators of oil facilities annually demonstrate and maintain evidence of financial responsibility for containment and cleanup as may be required by regulations developed by the State Water Control Board. Provisions regarding the expiration of financial responsibility are deleted. HB 1860; CH. 91.

§§ 62.1-199 and 62.1-203. See § 5.1-30-1; SB 1203.

§ 62.1-204 amended. Virginia Resources Authority. Allows the Virginia Resources Authority to provide other forms of credit enhancements not backed by the moral obligation of the Commonwealth; however, bonds issued by the Authority and local government obligations guaranteed by the Authority, which are secured by the Authority's current capital reserve fund and are backed by the moral obligation of the Commonwealth, would continue to be capped at \$550 million. SB 1310; CH. 104.

§§ 62.1-224, 62.1-225, 62.1-228 and 62.1-229 amended. Virginia Water Facilities Revolving Fund. Allows loans to be made from the fund to private wastewater treatment

facilities, if such loans are permitted by federal law. HB 2432; CH. 1012.

§ 62.1-229.1 added. Virginia Water Facilities Revolving Loan Fund. Allows the State Water Control Board to loan money from the Fund to an individual for the implementation of agricultural best management practices, to a local government which has developed a low-interest loan program to provide loans or other incentives to facilitate the implementation of agricultural best management practices, or to a financial institution working with a local government to establish such a program. SB 1147; CH. 497.

§§ 62.1-245 and 62.1-247 amended. Surface water management area voluntary agreements. Provides that voluntary agreements among water users in a surface water management area control in lieu of a permit issued by the State Water Control Board (SWCB) when the SWCB finds that the agreement complies with the surface water management area law. The bill requires the Board to hold a public hearing prior to approving the agreement and to become a party to the agreement. The public participation procedure for the amendment of such an agreement by the SWCB is changed from one under the Administrative Process Act to one that requires a public hearing. Notice for a public hearing must be provided 60 days in advance to the general public, to those withdrawing water and to recreational user groups, conservation organizations and fisheries management agencies. There is also a technical amendment. HB 2574; CH. 561.

TITLE 63.1. WELFARE (SOCIAL SERVICES).

§§ 63.1-4 and 63.1-24 amended; §§ 63.1-331 through 63.1-335 added. Virginia Caregivers Grant Program. Provides a \$500 grant to individuals with Virginia adjusted gross income between \$5,000 and \$50,000 who provide unreimbursed care to a physically or mentally impaired relative who required assistance with two or more activities of daily living during more than half the year. Eligible caregivers shall submit grant applications to the local area agency on aging by March 31 of the year following the year the care is provided, and payment of grants will be made from such funds as are appropriated by the General Assembly. The grants will be available for care provided in years 2000 through 2005. The program will be administered by the Department of Social Services. HB 2193; CH. 737/SB 910; CH. 763.

§ 63.1-26 amended. Board of Social Services; employment standards. Provides that any person hired by the Department of Social Services and its local units may not hire a person for any social work position that provides direct client services unless that person holds at least a baccalaureate degree. Persons employed prior to January 1, 1999, are grandfathered. SB 1168; CH. 854.

§§ 63.1-55.1 and 63.1-55.3 amended. Adult protective services. Clarifies that adult protective services shall be

provided to persons who are found to be abused, neglected or exploited and who meet one of the following criteria: (i) the person is 60 years of age or older or (ii) the person by reason of impaired health, or physical or mental disability, cannot take care of himself or his affairs. The bill also requires mandated reporters of adult abuse, neglect and exploitation who maintain a record on a person who is the subject of such a report to cooperate with the investigating adult protective services worker and make available information, records or reports which are relevant to the investigation to the extent permitted by state and federal law. HB 2439; CH. 749.

§§ **63.1-56 and 63.1-204.** See § 16.1-278.3; SB 1014.

§ **63.1-105 amended. Temporary Assistance to Needy Families (TANF) Program.** Eliminates the deprivation requirement as an eligibility criterion for TANF assistance. The "deprivation requirement" meant that a child would be eligible under this program if deprived of the support of one of the parents due to death or absence. Originally, this meant that two-parent families were not eligible. Over the years, two-parent families became eligible for assistance, but inequities remained. Virginia's welfare reform law states that TANF shall be provided to needy two-parent families on the same terms and conditions that TANF is provided to single-parent families. In 1997, the TANF Advisory Committee recommended the elimination of the determination of deprivation because it results in additional administrative procedures and is largely irrelevant to the child's financial circumstances. SB 1190; CH. 638.

§§ **63.1-133.44 and 63.1-133.45.** See § 9-6.23; HB 2558/SB 1257.

§§ **63.1-133.46.** See § 46.2-1500; HB 1917.

§ **63.1-133.49 amended. Public assistance.** Provides that local departments of social services may place a VIEW participant, subject to his consent, in a vocational educational program targeted to skills required for local employment if the participant is in need of job skills and would benefit from immediate job skills training. The participant would be exempt from the job search requirement if he has two of the following criteria: (i) less than a high school education, (ii) reading or math skills at or below the eighth grade level, (iii) not retained a job for six months in the prior two-year period, or (iv) is undergoing treatment for substance abuse or family violence. The program shall be for a minimum of 30 hours per week and the participant shall be required to work an average of eight hours per week during the program. Prior to placing the VIEW participant in the vocational educational program, the local department shall have a memorandum of understanding with an employer that the participant may be placed, if qualified and the employer has an opening, in a job with the employer. SB 767; CH. 759.

§ **63.1-173.2.** See § 54.1-3005; SB 1129.

§§ **63.1-175 and 63.1-177 amended. Social services; adult care residences.** Authorizes the Commissioner of the Department of Social Services to issue licenses to adult care

residences for periods based on the judgment of the Commissioner regarding the compliance history of the facility and the extent to which the adult care residence meets or exceeds state licensing standards. Based on this judgment, the Commissioner may issue licenses or renewals for periods of six months, one year, two years or three years. The bill also requires the Joint Commission on Health Care and the Secretary of Health and Human Resources to study (i) options for making adult care residence regulations more outcome oriented, (ii) means for making such regulations more focused on obtaining resident and family input, and (iii) the advisability of deemed status for nationally accredited adult care residences. SB 1173; CH. 964.

§§ **63.1-182.1 and 63.1-314.8.** See § 37.1-1; SB 1224.

§§ **63.1-196, 63.1-198.1, 63.1-200 and 63.1-201 amended. Child welfare agencies.** Provides that when a child welfare agency is granted a variance to a regulation, the Commissioner or his designee shall review each allowable variance annually and address the impact of the allowable variance on persons in care, adherence by the licensee to any conditions attached, and the continuing need for the allowable variance. The bill disallows automatic approval for foster care facilities if the Commissioner fails to take action on an application for a license. The bill also states that, at the conclusion of six months, a provisional license for a child welfare agency shall be denied if it has not substantially met the standards or requirements. There are also technical amendments. HB 2259; CH. 740.

§§ **63.1-196.001 and 63.1-196.3:1 amended. Licensure of preschool or nursery school programs.** Expands the list of accrediting bodies that permit a private school or preschool to be exempt from licensure in conjunction with additional requirements. The new accrediting bodies are the Association of Christian Schools International, the National Early Childhood Program Accreditation, the National Accreditation Council for Early Childhood Professional Personnel and Programs, the International Academy for Private Education, Standards for the American Montessori Society Accreditation, the International Accreditation and Certification of Childhood Educators, Programs, and Trainers or the National Accreditation Commission. HB 2205; CH. 454.

§ **63.1-198.5 added. Child care; records checks; penalty.** Provides that whenever any unlicensed or unregistered child day center or family day home applies to enter into a contract with a local department of social services to provide child care services to clients of the local department of social services, the local department shall require both criminal records and child protective services central registry checks of the applicant, his employees, volunteers, agents and any other adult living in a family day home. HB 1992; CH. 727.

§§ **16.1-241, 20-124.1, 63.1-204, 63.1-220.2, 63.1-220.3 and 63.1-225 amended. Adoption; custody.** Provides that a birth father's consent to adoption is not necessary when the birth father was convicted of carnal knowledge of a child between 13 and 15 years of age and the child to be adopted was conceived

as a result of the violation. The bill also bars the person convicted from having a legitimate interest in the custody and visitation, etc., of a child conceived as a result of the violation. SB 907; CH. 1028.

§§ 9-173.8 and 63.1-248.3 amended. **Child abuse and neglect; reporting.** Adds persons who act as court-appointed special advocates for children to the list of those who are mandated to report suspected cases of child abuse and neglect encountered in their official or professional capacity. The list currently includes doctors, nurses, social workers, teachers and a number of others who might encounter such evidence in the course of their professional work. HB 2394; CH. 606.

§ 63.1-248.5:1.01 amended. **Crimes; false reports of child abuse.** Increases the penalty for the first offense of knowingly making a false report of child abuse from a Class 4 misdemeanor to a Class 1 misdemeanor and for the second or subsequent offense from a Class 2 misdemeanor to a Class 6 felony. HB 1628; CH. 828.

§ 63.1-248.13:1. See § 18.2-67.9; HB 2058.

§§ 63.1-321 and 63.1-324 amended; § 63.1-325.1 added. **Neighborhood Assistance Act.** Allows donations of services by licensed contractors for the development, construction, renovation, or repair of (i) homes of impoverished people or (ii) buildings used by neighborhood organizations to qualify for tax credits under the Neighborhood Assistance Act. The value of the contracting services, for purposes of determining the amount of the tax credit, is the lesser of the reasonable cost for similar services from other providers or \$50 per hour. Currently, professional services are the only type of service eligible for the tax credit. HB 1866; CH. 909/SB 1021; CH. 890.

§ 63.1-325 amended. **Neighborhood Assistance Act; donation of professional services.** Expands the list of eligible medical professionals who can receive tax credits for services rendered free of charge at a health clinic providing free or reduced cost medical services to include nurse practitioners, physician assistants, optometrists and pharmacists. Physicians and dentists are already eligible. This is a recommendation of the Joint Commission on Health Care. HB 2290; CH. 917.

§ 63.1-325 amended. **Neighborhood Assistance Act; donation of professional services.** Expands the list of eligible medical professionals who can receive tax credits for services rendered free of charge at an eligible clinic or medical facility to include nurse practitioners, physician assistants, optometrists, dental hygienists and pharmacists. Physicians and dentists are already eligible. This is a recommendation of the Joint Commission on Health Care. SB 1153; CH. 894.

TITLE 64.1. WILLS AND DECEDENTS' ESTATES.

§§ 64.1-5.1 and 64.1-5.2. See § 32.1-286; HB 2114.

§ 64.1-16.1 amended. **Augmented estate; exclusions; valuation.** Resolves two issues concerning property and the augmented estate: (i) its exclusion from a decedent's augmented estate to the extent it was gratuitously received and (ii) valuation of includible joint property. HB 2000; CH. 38.

§ 64.1-57. See § 26-39; HB 841.

§§ 64.1-57 and 64.1-68. See § 55-277.1; HB 842.

§ 64.1-57.1 amended. **Grant powers of fiduciaries; venue.** Establishes venue for a motion by a personal representative or trustee for grant of certain powers of fiduciaries pursuant to § 64.1-57. The venue provided is the circuit court for the jurisdiction in which the grantor resides or resided at the time of his death, where a trustee resides, or where a corporate trustee has an office. HB 1998; CH. 995.

§ 64.1-57.2 amended. **Personal representatives; qualified terminable interest trusts.** Authorizes the personal representative of a qualified terminable interest trust to elect the marital deduction when there has been no qualification of a personal representative for the estate of the decedent who created the trust. HB 1999; CH. 197.

§ 64.1-57.3 added. **Personal representatives and trustees.** Authorizes such fiduciaries to donate conservation easements on land of their decedents and settlors in order to obtain benefit of an estate tax exclusion allowed under the Internal Revenue Code. This is a recommendation of the Commission on the Future of Virginia's Environment. HB 1876; CH. 527/SB 1220; CH. 503.

§ 64.1-73 amended; § 64.1-73.1 added. **Pour-over wills.** Limits Virginia's pour-over statute to deaths occurring prior to July 1, 1999, and replaces it with the 1991 version of the Uniform Testamentary Additions to Trust Act, which is now in force in 46 states. The surety requirement applicable to a nonresident trustee of a receptacle trust is eliminated, and the prohibition against pour-overs to trusts being administered by out-of-state banks is eliminated. The proposed bill allows a pour-over into a receptacle trust to be executed before, concurrently with or after the testator's death. The bill also recognizes posthumous trust amendments unless prohibited by the testator's will. HB 1996; CH. 252.

§ 64.1-136.1 added. **Funeral expenses.** Provides that reasonable funeral and burial expenses are an obligation of the decedent's estate and a representative of the estate may make arrangements for the decedent's funeral and burial and bind the estate for such expenses. HB 1945; CH. 193.

TITLE 65.2. WORKERS' COMPENSATION.

§ 65.2-101 amended. Volunteer firefighters. Deems volunteer firefighters to be employees of the Virginia Department of Forestry for workers' compensation purposes, when the firefighters are engaged in firefighting activities under the supervision and control of the Department. The bill also establishes compensation benefit levels for such volunteer firefighters as the maximum compensation payable under the Virginia Workers' Compensation Act. HB 2365; CH. 1006.

§ 65.2-302 amended. Statutory employers; property management companies. Exempts from the operation of "statutory employer" liability persons engaged in the business of property management services if, at the time of an injury sustained by a worker engaged in the maintenance or repair of real property managed by such person, and for which injury compensation is sought, such persons are acting merely as agents for the property's owner and (i) are not engaged in and have no employees engaged in the same business, trade or occupation as the injured worker and (ii) do not profit from the services of individuals engaged in the same business, trade or occupation as the injured worker. HB 2505; CH. 877.

§ 65.2-307 amended. Voluntary payments. Authorizes employers subject to the Virginia Workers' Compensation Act to voluntarily pay an employee workers' compensation benefits above and beyond those benefits provided under the Act. The bill stipulates that such payments are not to be treated as affecting or altering any existing right or remedy of an employer or employee under the Virginia Workers' Compensation Act. HB 2724; CH. 842.

§ 65.2-402 amended. Presumption as to death or disability from hypertension or heart disease; Virginia Marine Patrol officers. Extends the presumption for work-related death or disability from hypertension or heart disease under workers' compensation to include Virginia Marine Patrol officers. HB 1742; CH. 597.

§ 65.2-402 amended. Presumption as to death or disability; game wardens. Adds game wardens who are full-time sworn members of the enforcement division of the Department of Game and Inland Fisheries to the category of employees entitled to the presumptions of § 65.2-402—commonly termed "the heart, lung and hypertension act." Hypertension or heart disease causing disability or death are presumed to be occupational diseases for employees included within the coverage of this statute. The preponderance can be overcome, however, by competent evidence to the contrary. HB 1970; CH. 602.

§ 65.2-402 amended. Presumption as to death or disability from hypertension or heart disease; Capitol Police officers. Extends the presumption for work-related death or disability from hypertension or heart disease under workers' compensation to include Capitol Police officers. HB 2256; CH. 604.

§ 65.2-402 amended. Cancer presumption. Provides that leukemia, as well as various other cancers, causing death or total or partial disability of a volunteer or salaried firefighter hazardous materials officer who has 12 years of continuous service and who has contact with a toxic substance in the line of duty is presumed to be an occupational disease. This bill is identical to Senate Bill 1248. HB 2413; CH. 607/SB 1248; CH. 581.

§ 65.2-524 amended. Failure to pay compensation; good cause. Allows the Workers' Compensation Commission to waive the penalty imposed when benefits are not paid within two weeks after becoming due if the Commission finds that any required payment has been made as promptly as practicable and (i) there is good cause outside the control of the employer for the delay or (ii) in the case of a self-insured employer, the employer has issued the required payment to the employee as a part of the next regular payroll after the payment becomes due. HB 2132; CH. 782.

§ 65.2-603 amended. Duty to furnish medical attention. Permits employers or insurers to include chiropractors on the panel of physicians furnished injured employees. However, chiropractors are to be included only if employees' injuries can be treated within chiropractors' scope of practice. HB 2067; CH. 780.

§ 65.2-604 amended. Furnishing copy of medical report. Requires all health care providers attending an injured employee to furnish, upon request, a copy of any medical report to the injured employee, the employer, and any of their representatives. This requirement is currently imposed only on physicians. HB 2131; CH. 314.

§ 65.2-706 amended. Suspension of award pending appeal to Virginia Supreme Court. Declares that an appeal from the decision of the Court of Appeals to the Supreme Court concerning a workers' compensation award suspends the award, and any payment thereon, pending the award's ultimate determination. HB 2271; CH. 938.

TITLE 65.2. MISCELLANEOUS - WORKERS' COMPENSATION.

Unemployment compensation; tax rates for new employers. Repeals the sunset provision on the current statutory provisions prescribing unemployment tax rates for employers new to the Virginia unemployment compensation program. Legislation passed in 1995 replaced a three-year 2.5 percent flat rate and allowed new employers to be experience-rated at an earlier time. These provisions will presently expire on January 1, 2000. HB 2130; CH. 313.

APPROPRIATIONS AND BONDS.

Budget bill. Amends Chapter 464 of the Acts of Assembly of 1998, as amended by Chapter 1, Acts of Assembly of 1998, Special Session I, which appropriated the public revenue for the two years. HB 1450; CH. 935 (effective 4/7/99).

Revenue bonds; Southampton Reception and Classification Center. Reduces the amount of the bond authorization for the Southampton Reception and Classification Center renovation to \$259,210. The Virginia Public Building Authority was authorized to issue \$5.1 million in bonds for this project in 1996. HB 2409; CH. 214.

U. S. Route 58 Commonwealth of Virginia Transportation Revenue Bond Act of 1999. Increases the maximum principal amount of the Transportation Revenue Bonds for the U.S. Route 58 Corridor Development Program from \$600 million to \$704.3 million. The measure also increases the amount of bonds that may be issued for the Northern Virginia Transportation District Program by \$104.3 million. HB 2088; CH. 538.

CLAIMS.

Bates, Wayne W. Provides \$4,469.51 in relief for Wayne W. Bates. Mr. Bates is a federal retiree who was not able to receive a settlement payment under the Harper settlement because he filled out the forms incorrectly. HB 1605; CH. 398.

Bergers, Arlene C.; estate. Provides for the payment of \$2,719.68 to the estate of Arlene C. Bergers. The late Mrs. Bergers and her husband overpaid state income taxes on their federal retirement income from 1985 through 1988 by that amount. Mrs. Bergers received the forms required to participate in the Harper settlement legislation, and told her daughter that she had signed and returned the forms to the Department of Taxation. The Department has told the executor of her estate that Mrs. Bergers did not sign the required form. Mrs. Bergers was hospitalized and receiving chemotherapy throughout the relevant period. SB 861; CH. 480.

Boylan, Sara Ann; estate. Provides \$ 694.27 in relief to the estate of Sara Ann Boylan, whose Harper settlement form was never received by the Department of Taxation. HB 1640; CH. 399.

McCormick, Cyrus and Hyder, Lowe & Galston. Provides \$10,944.14 in relief to Cyrus McCormick to reimburse him for health insurance premium payments. The Department of Social Services failed to inform Mr. McCormick of the Health Insurance Premium Payment Program (HIP program). The bill also grants \$2,015.90 in relief to the law firm of Hyder, Lowe & Galston for reimbursement of legal expenses. HB 1719; CH. 982.

McDaniel, Roger L. Provides \$13,675 in relief for Roger L. McDaniel, to be paid from the Onsite Sewage Indemnification Fund. Mr. McDaniel purchased property in Frederick County, Virginia, in August 1990 based on an existing septic system permit issued for the property by the State Board of Health in 1987. When the permit expired in 1991, the Board refused to renew the permit or issue a new permit for a septic system and required the installation of an alternative discharge system which caused Mr. McDaniel to incur additional costs. HB 1495; CH. 775.

Mecklenburg County. Provides for the payment of \$56,000 to Mecklenburg County to reimburse the county for medical expenses paid for the treatment of an inmate. The injuries occurred during the arrest of the inmate. HB 1590; CH. 301.

Russell, Beverly Q. Provides \$129,500 in relief for Beverly Q. Russell. One-half of such sum is payable on or before July 1, 1999, and the balance is to be paid in five equal installments from July 1, 2000, through July 1, 2004, contingent upon written mental and physical evaluations, and upon her not returning to work as a nurse or if the VRS Medical Board finds she may work as a nurse without losing her VRS retirement benefits. HB 1821; CH. 908/SB 870; CH. 885.

Slemp, Campbell B. Requires Virginia Tech to retroactively classify the position of Campbell B. Slemp, a retired employee, as an assistant director of the Powell River Project. Mr. Slemp was improperly classified as a research associate by his employer, which prevented him from retiring with the full monthly retirement benefit that would have been provided under the Workforce Transition Act. HB 1528; CH. 297.

Slis, Robert A. and Victoria R. Provides for the payment of \$5,850 from the Onsite Sewage Indemnification Fund to Robert and Victoria Slis for repairs to the sewage disposal system at their residence. The Health Department negligently inspected and approved the installation of the system by an unlicensed contractor in 1991. After the system failed in 1995, it was learned that the contractor installed a drainfield with an area of 780 square feet, rather than 1,440 square feet as required by the construction permit. The Health Department has revoked the operations permit for their four-bedroom home, and reissued a smaller capacity permit which reduces their home's value. SB 822; CH. 761.

Stinnette, Glen W. Provides \$1,666.40 in relief for Glen W. Stinnette. Mr. Stinnette is a federal retiree whose Harper settlement form was never received by the Department of Taxation. HB 1789; CH. 402.

Webb, Troy L. Provides \$375,000 in relief for Troy L. Webb, who was wrongfully incarcerated for crimes which he did not commit. Mr. Webb petitioned the Governor for executive clemency and was granted an absolute pardon in 1996 for all offenses for which he was convicted. Of the total amount, \$225,000 is payable over 10 years through an annuity. HB 1467; CH. 774.

CONSTITUTIONAL AMENDMENTS.

Constitutional amendment (first resolution); Lottery Proceeds Fund. Requires the General Assembly to establish a Lottery Proceeds Fund which will consist of the net revenues from any lottery conducted by the Commonwealth. Proceeds from the Fund will be distributed to counties, cities, and towns to be expended for public education purposes. The General Assembly may appropriate a portion of the lottery revenues for other purposes by a four-fifths vote of the members voting in each house. Any locality accepting a distribution from the Fund must fund its portion of the cost of maintaining standards of quality without the use of Fund distributions. HJ 607; CH. 933/SJ 460; CH. 934.

Constitutional amendment (first resolution); rights of the people to hunt, fish, and harvest game. Adds a provision to Article XI, Conservation, to state that the people have the right to hunt, fish, and harvest game subject to regulations and restrictions that the General Assembly may prescribe by general law. HJ 523; CH. 932.

BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY

Bill	Chapter	Page No.
HB86	821	28
HB189	974	70
HB235	444	36
HB284	445	36
HB309	45	26
HB346	294	25
HB376	770	27
HB421	21	28
HB424	771	25
HB507	715	93
HB581	295	19
HB699	858	64
HB701	267	28
HB712	508	23
HB715	585	71
HB721	586	59
HB748	936	27
HB814	509	15
HB841	772	48
HB842	975	78
HB871	649	62
HB1017	510	71
HB1043	64	32
HB1115	773	5
HB1206	976	13
HB1207	1	94
HB1248	446	35
HB1270	447	35
HB1274	2	60
HB1305	902	69
HB1369	65	78
HB1385	587	27

Bill	Chapter	Page No.
HB1437	929	70
HB1441	163	24
HB1442	22	66
HB1444	66	77
HB1445	512	12
HB1446	903	29
HB1449	164	2
HB1450	935	98
HB1451	448	42
HB1452	363	24
HB1454	513	78
HB1462	1027	41
HB1465	514	60
HB1467	774	98
HB1468	296	29
HB1470	236	69
HB1475	165	21
HB1477	977	72
HB1484	106	48
HB1485	107	48
HB1487	588	83
HB1489	650	41
HB1491	23	92
HB1492	397	87
HB1495	775	98
HB1496	46	56
HB1498	166	69
HB1499	67	67
HB1501	24	66
HB1503	515	46
HB1507	716	92
HB1510	589	50

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
HB1514	590	47
HB1515	237	88
HB1516	238	88
HB1518	167	21
HB1519	168	21
HB1520	268	21
HB1521	516	41
HB1522	47	10
HB1526	239	88
HB1527	48	11
HB1528	297	98
HB1529	930	50
HB1532	85	49
HB1534	651	74
HB1542	591	71
HB1543	86	60
HB1546	298	83
HB1548	269	26
HB1549	240	88
HB1552	1040	86
HB1554	517	88
HB1555	822	65
HB1556	823	65
HB1557	824	65
HB1558	825	65
HB1559	826	65
HB1563	169	21
HB1565	652	11
HB1566	170	21
HB1567	108	47
HB1569	364	90
HB1571	776	86

Bill	Chapter	Page No.
HB1572	25	88
HB1576	68	69
HB1577	449	31
HB1579	109	8
HB1581	299	68
HB1582	110	14
HB1583	717	22
HB1584	365	83
HB1586	653	58
HB1587	300	21
HB1590	301	98
HB1591	302	21
HB1592	303	21
HB1593	69	9
HB1595	654	78
HB1596	171	7
HB1597	340	89
HB1598	87	69
HB1599	88	56
HB1600	518	83
HB1601	366	91
HB1602	270	89
HB1605	398	98
HB1610	718	18
HB1612	111	70
HB1613	592	71
HB1614	827	21
HB1615	172	21
HB1616	7	66
HB1617	26	89
HB1618	241	90
HB1621	173	89

BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY

Bill	Chapter	Page No.
HB1623	593	67
HB1624	10	24
HB1626	242	91
HB1628	828	96
HB1630	174	18
HB1631	112	7
HB1632	594	77
HB1633	16	50
HB1634	719	48
HB1635	519	2
HB1636	12	85
HB1637	11	22
HB1639	520	21
HB1640	399	98
HB1641	13	89
HB1642	521	20
HB1645	14	3
HB1646	522	89
HB1647	271	21
HB1648	15	12
HB1649	175	89
HB1650	523	86
HB1651	176	21
HB1652	177	21
HB1654	113	7
HB1662	178	16
HB1663	17	11
HB1667	450	85
HB1668	904	26
HB1669	978	18
HB1670	70	1
HB1671	859	11

Bill	Chapter	Page No.
HB1672	451	44
HB1673	595	36
HB1674	179	89
HB1675	243	89
HB1676	304	85
HB1678	180	83
HB1684	655	89
HB1688	114	67
HB1689	656	31
HB1691	829	28
HB1692	89	20
HB1694	657	89
HB1700	181	21
HB1704	980	2
HB1706	596	70
HB1709	115	46
HB1712	305	89
HB1713	981	85
HB1714	905	26
HB1719	982	98
HB1722	400	87
HB1723	27	89
HB1724	244	89
HB1725	830	37
HB1726	831	42
HB1727	412	1
HB1728	524	89
HB1732	367	25
HB1733	182	21
HB1735	860	71
HB1739	183	84
HB1742	597	97

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
HB1743	272	21
HB1745	658	24
HB1746	71	70
HB1747	906	14
HB1749	245	89
HB1751	273	26
HB1752	983	85
HB1756	984	2
HB1760	659	27
HB1762	598	71
HB1764	246	89
HB1765	401	86
HB1769	116	63
HB1775	985	58
HB1778	368	30
HB1781	28	89
HB1784	660	89
HB1785	184	86
HB1787	36	89
HB1788	29	89
HB1789	402	98
HB1794	525	21
HB1795	341	57
HB1797	907	69
HB1800	720	69
HB1801	721	25
HB1802	30	88
HB1805	599	71
HB1806	185	18
HB1809	247	89
HB1810	986	90
HB1811	31	89

Bill	Chapter	Page No.
HB1812	987	68
HB1814	90	87
HB1817	526	39
HB1818	186	85
HB1819	661	76
HB1820	187	85
HB1821	908	98
HB1825	430	18
HB1828	414	20
HB1831	274	25
HB1832	72	70
HB1834	369	24
HB1835	988	30
HB1837	431	32
HB1839	49	56
HB1840	306	56
HB1841	777	87
HB1842	50	24
HB1843	989	2
HB1844	832	1
HB1847	990	71
HB1848	188	70
HB1849	307	13
HB1851	189	88
HB1852	861	46
HB1853	117	46
HB1854	118	46
HB1859	119	94
HB1860	91	94
HB1861	37	72
HB1862	275	19
HB1863	120	47

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
HB1865	370	22
HB1866	909	96
HB1867	662	29
HB1873	92	17
HB1874	371	29
HB1876	527	96
HB1877	190	88
HB1878	528	20
HB1879	529	9
HB1880	530	80
HB1881	531	79
HB1885	308	67
HB1886	833	73
HB1887	32	84
HB1888	309	56
HB1890	991	72
HB1891	93	7
HB1892	532	73
HB1893	372	29
HB1894	432	42
HB1895	452	35
HB1896	722	76
HB1899	73	10
HB1901	992	60
HB1902	533	66
HB1905	51	2
HB1906	663	6
HB1911	723	85
HB1913	534	27
HB1915	121	12
HB1916	310	56
HB1917	910	70

Bill	Chapter	Page No.
HB1921	122	67
HB1922	993	93
HB1925	191	32
HB1928	600	54
HB1930	862	90
HB1933	535	83
HB1934	94	87
HB1935	248	16
HB1936	276	63
HB1937	778	79
HB1938	95	9
HB1941	123	91
HB1942	192	87
HB1944	52	87
HB1945	193	96
HB1946	74	47
HB1949	373	9
HB1951	277	72
HB1953	249	92
HB1958	601	77
HB1959	374	47
HB1960	724	69
HB1961	725	47
HB1962	250	18
HB1963	375	18
HB1964	251	57
HB1965	311	19
HB1968	536	50
HB1970	602	97
HB1971	75	70
HB1972	937	75
HB1974	834	72

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
HB1975	994	37
HB1976	863	76
HB1977	403	91
HB1982	376	6
HB1985	726	3
HB1987	911	4
HB1990	194	16
HB1992	727	95
HB1993	53	70
HB1994	195	56
HB1995	33	13
HB1996	252	96
HB1997	196	77
HB1998	995	96
HB1999	197	96
HB2000	38	96
HB2001	76	16
HB2004	728	54
HB2008	453	22
HB2010	864	47
HB2012	996	27
HB2013	415	79
HB2014	124	94
HB2016	77	67
HB2023	664	71
HB2026	39	57
HB2032	729	69
HB2033	665	22
HB2034	54	22
HB2035	278	19
HB2036	198	11
HB2039	865	20

Bill	Chapter	Page No.
HB2041	666	27
HB2043	997	24
HB2047	998	84
HB2048	999	69
HB2050	78	70
HB2054	199	70
HB2056	537	34
HB2057	667	66
HB2058	668	25
HB2061	779	74
HB2062	200	88
HB2067	780	97
HB2074	125	9
HB2075	669	5
HB2076	730	22
HB2077	670	37
HB2080	912	55
HB2081	201	14
HB2085	202	92
HB2086	253	90
HB2087	1032	43
HB2088	538	98
HB2091	312	92
HB2092	866	87
HB2095	539	56
HB2096	540	20
HB2097	1000	52
HB2104	96	11
HB2106	203	90
HB2107	1001	74
HB2110	671	19
HB2111	126	18

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
HB2114	781	54
HB2122	731	37
HB2124	204	49
HB2125	254	49
HB2126	255	49
HB2128	867	54
HB2130	313	97
HB2131	314	97
HB2132	782	97
HB2136	205	87
HB2138	127	16
HB2139	315	56
HB2141	377	37
HB2144	732	41
HB2146	378	47
HB2148	40	83
HB2152	41	4
HB2153	206	5
HB2154	541	91
HB2155	672	6
HB2157	733	69
HB2158	1002	10
HB2159	913	26
HB2164	55	72
HB2170	734	27
HB2171	316	20
HB2176	735	36
HB2177	379	20
HB2178	207	14
HB2185	868	54
HB2188	433	1
HB2189	542	45

Bill	Chapter	Page No.
HB2190	736	92
HB2191	603	12
HB2193	737	94
HB2195	673	55
HB2196	1003	24
HB2204	914	55
HB2205	454	95
HB2206	738	51
HB2209	915	70
HB2210	256	67
HB2211	674	91
HB2213	739	59
HB2217	543	27
HB2219	128	46
HB2220	1033	50
HB2221	544	49
HB2222	97	60
HB2223	317	84
HB2228	783	53
HB2229	784	4
HB2230	1034	55
HB2231	869	91
HB2233	785	13
HB2236	455	26
HB2238	318	56
HB2241	870	33
HB2242	786	51
HB2245	342	5
HB2246	208	73
HB2248	380	8
HB2249	98	7
HB2250	545	9

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
HB2251	835	8
HB2252	546	13
HB2254	56	25
HB2255	434	45
HB2256	604	97
HB2259	740	95
HB2263	1035	43
HB2266	547	48
HB2267	548	2
HB2268	549	15
HB2269	741	48
HB2271	938	97
HB2274	381	45
HB2276	382	78
HB2277	916	81
HB2278	675	21
HB2279	550	48
HB2280	343	73
HB2281	605	76
HB2283	1004	63
HB2290	917	96
HB2292	918	60
HB2294	742	68
HB2295	676	51
HB2296	743	26
HB2297	319	22
HB2299	79	93
HB2302	80	78
HB2303	320	56
HB2306	551	48
HB2307	129	59
HB2311	919	93

Bill	Chapter	Page No.
HB2312	99	88
HB2313	677	91
HB2314	920	51
HB2315	383	29
HB2318	257	15
HB2321	456	34
HB2322	209	7
HB2323	678	7
HB2324	1041	19
HB2331	258	77
HB2332	679	27
HB2334	259	73
HB2335	210	84
HB2336	211	68
HB2337	871	53
HB2340	744	19
HB2341	745	74
HB2343	384	3
HB2345	321	61
HB2348	212	68
HB2350	279	69
HB2354	921	62
HB2355	939	79
HB2358	404	84
HB2360	1005	41
HB2365	1006	97
HB2366	746	29
HB2367	747	74
HB2369	922	52
HB2370	213	84
HB2373	322	28
HB2378	323	69

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
HB2379	748	32
HB2381	787	2
HB2384	552	38
HB2385	923	63
HB2386	260	90
HB2387	1007	72
HB2391	344	17
HB2392	81	83
HB2393	1008	17
HB2394	606	96
HB2397	385	2
HB2401	553	48
HB2405	457	41
HB2407	836	30
HB2408	100	17
HB2409	214	98
HB2411	837	20
HB2412	324	10
HB2413	607	97
HB2415	554	31
HB2420	1009	56
HB2426	873	26
HB2427	1010	53
HB2428	1011	75
HB2430	608	15
HB2431	130	10
HB2432	1012	94
HB2436	924	13
HB2437	1013	45
HB2438	874	80
HB2439	749	95
HB2441	416	17

Bill	Chapter	Page No.
HB2442	609	76
HB2443	555	14
HB2445	1036	25
HB2450	556	56
HB2451	788	10
HB2455	925	20
HB2460	875	5
HB2461	750	76
HB2462	1014	57
HB2463	789	63
HB2471	876	15
HB2474	386	19
HB2475	34	92
HB2476	435	36
HB2477	1015	37
HB2478	557	43
HB2480	680	34
HB2482	458	45
HB2483	459	67
HB2484	387	92
HB2485	325	7
HB2487	215	49
HB2489	790	43
HB2490	558	16
HB2491	1016	50
HB2494	610	9
HB2497	216	87
HB2500	261	73
HB2501	262	73
HB2503	82	73
HB2505	877	97
HB2506	791	2

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
HB2509	460	44
HB2511	751	7
HB2514	681	48
HB2515	417	19
HB2516	217	70
HB2517	57	73
HB2519	838	19
HB2521	559	34
HB2522	839	10
HB2529	388	32
HB2532	792	19
HB2534	560	77
HB2535	389	91
HB2537	390	77
HB2539	83	17
HB2543	926	52
HB2547	682	74
HB2548	752	45
HB2552	683	11
HB2553	461	37
HB2555	611	14
HB2556	612	15
HB2557	613	15
HB2558	840	12
HB2560	326	11
HB2564	436	4
HB2566	793	6
HB2568	614	58
HB2569	684	5
HB2571	931	57
HB2572	685	58
HB2574	561	94

Bill	Chapter	Page No.
HB2575	462	67
HB2577	1018	57
HB2582	686	10
HB2583	327	76
HB2585	794	13
HB2589	927	15
HB2590	218	49
HB2591	391	33
HB2592	405	56
HB2595	392	57
HB2596	687	21
HB2598	841	19
HB2600	688	8
HB2601	1019	48
HB2604	58	23
HB2607	753	36
HB2608	754	6
HB2611	1020	27
HB2617	878	54
HB2621	393	72
HB2624	345	19
HB2625	437	43
HB2629	879	12
HB2632	1021	4
HB2633	689	32
HB2635	880	13
HB2636	131	71
HB2638	438	3
HB2639	418	57
HB2646	419	80
HB2647	795	46
HB2651	219	47

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
HB2652	328	56
HB2655	755	54
HB2656	329	68
HB2658	690	30
HB2659	346	6
HB2666	420	56
HB2668	220	14
HB2670	330	68
HB2671	562	45
HB2672	463	68
HB2673	394	30
HB2683	796	57
HB2684	756	8
HB2689	1022	14
HB2692	563	49
HB2693	797	18
HB2696	928	34
HB2697	1023	39
HB2698	395	39
HB2699	263	77
HB2702	881	4
HB2705	798	14
HB2708	331	8
HB2710	1037	38
HB2711	757	39
HB2717	1024	54
HB2719	101	17
HB2721	102	17
HB2724	842	97
HB2734	882	20
HB2746	564	36
HB2748	1025	30

Bill	Chapter	Page No.
HB2749	464	84
HB2751	691	55
HB2753	221	11
HB2754	1026	88
HB2757	1042	44
HB2758	332	55
HB2759	843	46
HB2765	565	45
HJ523	932	99
HJ607	933	99
SB187	3	11
SB220	5	71
SB244	35	64
SB325	615	67
SB370	844	28
SB430	941	62
SB444	9	24
SB448	4	60
SB559	465	31
SB582	8	49
SB720	883	69
SB724	692	19
SB726	132	21
SB728	758	1
SB729	42	56
SB730	133	24
SB732	616	89
SB734	942	55
SB735	466	87
SB736	467	79
SB738	943	69
SB739	347	21

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
SB740	18	70
SB741	134	90
SB744	19	
SB745	406	20
SB746	280	56
SB749	281	87
SB754	693	69
SB755	468	90
SB756	135	21
SB757	136	18
SB760	845	29
SB764	694	69
SB765	469	45
SB767	759	95
SB772	137	89
SB773	222	90
SB774	138	85
SB775	884	69
SB776	760	88
SB777	139	21
SB778	617	91
SB779	695	33
SB780	470	92
SB781	471	86
SB782	472	86
SB783	566	90
SB784	223	88
SB785	224	88
SB788	140	21
SB789	225	90
SB790	141	86
SB794	103	83

Bill	Chapter	Page No.
SB795	226	89
SB799	142	69
SB801	473	15
SB805	6	66
SB806	696	4
SB808	421	1
SB810	567	71
SB811	227	90
SB814	143	21
SB815	282	24
SB816	144	71
SB817	944	35
SB818	568	71
SB819	145	1
SB820	846	28
SB821	283	18
SB822	761	98
SB825	474	89
SB827	475	42
SB829	762	86
SB830	333	57
SB831	284	70
SB832	799	21
SB833	476	21
SB835	618	24
SB837	228	91
SB838	800	27
SB840	477	89
SB841	945	68
SB843	619	5
SB845	946	58
SB846	265	21

BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY

Bill	Chapter	Page No.
SB847	334	86
SB848	697	25
SB849	348	26
SB851	620	6
SB853	349	24
SB859	478	89
SB860	479	21
SB861	480	98
SB862	621	89
SB864	229	86
SB865	947	15
SB868	146	83
SB869	847	86
SB870	885	98
SB872	481	7
SB873	147	90
SB874	801	29
SB876	569	71
SB877	285	83
SB879	148	18
SB881	886	26
SB885	350	22
SB886	622	23
SB887	623	24
SB888	407	71
SB889	570	40
SB892	59	60
SB893	408	20
SB894	482	64
SB895	483	59
SB897	60	9
SB899	484	79

Bill	Chapter	Page No.
SB900	44	60
SB901	20	65
SB902	149	78
SB903	266	28
SB907	1028	96
SB908	571	87
SB909	61	61
SB910	763	94
SB911	572	50
SB912	230	16
SB914	624	91
SB915	625	25
SB917	150	71
SB918	848	6
SB919	485	83
SB921	887	67
SB922	351	25
SB923	948	84
SB924	949	26
SB925	626	27
SB926	950	72
SB927	286	29
SB930	352	19
SB932	486	43
SB933	231	78
SB935	627	6
SB937	151	18
SB938	802	20
SB939	698	69
SB940	287	56
SB941	353	11
SB942	803	55

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
SB944	888	73
SB947	628	27
SB949	487	18
SB956	699	56
SB957	152	84
SB958	288	17
SB959	62	9
SB961	232	70
SB962	488	38
SB963	1038	53
SB964	951	72
SB966	952	22
SB967	153	11
SB971	629	4
SB974	804	20
SB975	573	74
SB976	700	29
SB977	701	76
SB979	489	49
SB983	954	10
SB984	490	60
SB990	574	30
SB991	630	76
SB992	335	65
SB995	289	88
SB996	955	10
SB999	805	79
SB1002	154	46
SB1004	575	76
SB1008	631	85
SB1010	956	53
SB1011	702	28

Bill	Chapter	Page No.
SB1014	889	23
SB1015	491	60
SB1017	84	87
SB1018	806	65
SB1019	63	9
SB1021	890	96
SB1023	703	3
SB1026	704	6
SB1027	336	9
SB1028	957	90
SB1029	155	14
SB1035	849	54
SB1037	632	51
SB1039	958	24
SB1042	439	44
SB1045	409	19
SB1047	422	34
SB1049	354	33
SB1050	233	90
SB1053	705	19
SB1054	764	55,59
SB1055	576	58
SB1056	850	12
SB1057	959	72
SB1062	633	53
SB1063	290	56
SB1064	156	85
SB1065	157	20
SB1066	337	20
SB1067	492	32
SB1068	960	55
SB1069	807	25

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
SB1071	355	9
SB1073	356	93
SB1076	158	92
SB1077	891	26
SB1084	634	30
SB1085	808	30
SB1089	338	12
SB1090	809	79
SB1092	577	30
SB1095	892	1
SB1098	234	91
SB1102	493	59
SB1105	494	80
SB1106	495	12
SB1107	635	19
SB1109	578	4
SB1111	159	4
SB1112	160	16
SB1117	291	69
SB1119	636	55
SB1123	810	47
SB1124	851	46
SB1126	423	32
SB1127	765	2
SB1128	440	35
SB1129	637	75
SB1130	357	93
SB1131	579	51
SB1134	358	88
SB1135	706	41
SB1136	707	41
SB1138	1029	78

Bill	Chapter	Page No.
SB1139	708	16
SB1142	852	4
SB1143	961	5
SB1144	496	55
SB1145	1030	38
SB1146	893	14
SB1147	497	94
SB1148	766	57
SB1149	811	18
SB1153	894	96
SB1154	895	75
SB1158	812	53
SB1159	853	29
SB1160	498	83
SB1165	962	13
SB1166	963	28
SB1168	854	94
SB1171	499	45
SB1172	813	55
SB1173	964	95
SB1174	814	74
SB1175	359	77
SB1176	709	59
SB1178	161	23
SB1186	965	54
SB1187	235	93
SB1188	441	93
SB1190	638	95
SB1191	639	74
SB1193	292	68
SB1194	966	17
SB1196	640	5

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
SB1199	967	41
SB1200	501	44
SB1201	580	14
SB1202	896	20
SB1203	897	8
SB1210	424	43
SB1214	1031	51
SB1216	710	23
SB1217	815	63
SB1218	968	85
SB1219	502	20
SB1220	503	96
SB1221	162	88
SB1222	339	84
SB1224	969	58
SB1229	641	7
SB1230	711	11
SB1231	642	21
SB1233	360	27
SB1234	361	27
SB1235	643	62
SB1237	504	44
SB1241	644	5
SB1242	410	57
SB1243	505	73
SB1244	970	42
SB1247	816	2
SB1248	581	97
SB1250	425	39
SB1254	767	19
SB1256	898	56
SB1257	855	12

Bill	Chapter	Page No.
SB1258	817	73
SB1259	645	7
SB1260	646	7
SB1263	426	35
SB1265	712	4
SB1269	411	82
SB1273	768	80
SB1275	818	54
SB1276	819	73
SB1278	647	8
SB1280	582	51
SB1282	899	52
SB1284	442	36
SB1286	971	85
SB1287	972	47
SB1288	362	57
SB1295	443	31
SB1299	856	64
SB1300	857	64
SB1301	820	20
SB1302	713	3
SB1304	900	14
SB1305	427	43
SB1306	428	43
SB1307	429	43
SB1308	583	15
SB1309	584	15
SB1310	104	94
SB1312	396	87
SB1318	714	6
SB1322	648	7
SB1323	506	78

**BILLS PASSED
DURING 1999 SESSION OF THE GENERAL ASSEMBLY**

Bill	Chapter	Page No.
SB1326	901	18
SB1327	769	5
SB1329	293	10
SB1330	105	73
SB1334	940	79
SB1337	1039	44
SB1338	507	45
SJ460	934	99