

**DIGEST OF THE ACTS
OF THE
GENERAL ASSEMBLY OF VIRGINIA
AT THE
2004 SESSION**

which commenced at the Capitol in the City of Richmond on January 14, 2004, and adjourned
sine die March 16, 2004.

2004 SPECIAL SESSION

which commenced at the Capitol in the City of Richmond on March 17, 2004, and adjourned
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PREFACE

This Digest of the Acts has been prepared to give an overview of the legislation adopted during the 2004 Regular, Reconvened, and Special Sessions of the General Assembly of Virginia, prior to publication of the 2004 Acts of Assembly. At the 2004 Special Session, the General Assembly passed HB 5001 (the 2004-2006 Budget Bill), SB 5005 (Personal Property Tax Relief), SB 5007 (DUI), and HB 5018 (Omnibus Tax Bill). These four bills are awaiting action by the Governor.

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 Under each title heading is listed every section within that title that has been amended, added, or repealed, and a brief description of the effect of the General Assembly action.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 that usually do not have Code section numbers but are related to the subject matter of that title. If an act affects several sections of a title, the note appears under the first section only, but the note heading lists the other affected sections. 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 2004 General Assembly will become effective on July 1, 2004, 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.

Following the notes is a chart showing all other bills passed during the 2004 Regular, Reconvened, and Special Sessions of the General Assembly that 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. Bills passed by the General Assembly but vetoed by the Governor are omitted.

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

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TITLE 1. GENERAL PROVISIONS.

§ 1-13.4:1 added. General provision; collegial body. Defines the term collegial body to mean a governmental entity whose power or authority is within its membership. The term appears in 17 sections in multiple titles of the Code, but has never been defined. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils and Other Governmental Entities pursuant to HJR 159 (2002). SB 7; CH. 651.

§§ 1-13.13:1 and 1-13.25:1 added. General provisions; appointment process. Shifts the appointing authority from the Senate Committee on Privileges and Elections to the Senate Committee on Rules by redefining references in the Code to the Committee on Privileges and Elections. Under the proposed Rules of the Senate to be adopted in 2004, the Committee on Rules is designated the appointing authority for study committees and commissions. The bill also defines the term "nonlegislative citizen member," which is often used to describe who may serve as appointees to collegial bodies. There has been confusion that this terminology excludes all elected officials from serving on a collegial body, although the intent is only to exclude members of the General Assembly.

This bill does not affect existing appointments that have not expired. However, new appointments and appointments to fill vacancies made after the effective date of the act must be made in accordance with the act. SB 566; CH. 709 (effective 4/12/04).

TITLE 2.2. ADMINISTRATION OF GOVERNMENT.

§§ 2.2-200 and 2.2-204 amended; § 2.2-203.3 added. Establishes the Secretary of Agriculture and Forestry. The Secretary shall be responsible to the Governor for the following agencies: Department of Forestry, Department of Agriculture and Consumer Services, Virginia Agricultural Council, and Virginia Marine Products Board. The provisions of this bill will become effective no later than the beginning of the term of the Governor elected November 8, 2005; however, if funding for the position and expenses of the Secretary of Agriculture and Forestry is included in the 2004 appropriation act passed by the General Assembly, this bill will become effective beginning on the date set out in the appropriation act. This bill also directs the Governor to appoint a Deputy Secretary of Agriculture and Forestry within the Secretariat of Commerce and Trade to administer the policies affecting agricultural and forestry interests until the position of Secretary of Agriculture and Forestry is filled. HB 1212; CH. 963.

§§ 2.2-200 and 2.2-204 amended; § 2.2-203.3 added. Establishes the Secretary of Agriculture and Forestry. The Secretary shall be responsible to the Governor for the following agencies: Department of Forestry, Department of Agriculture and Consumer Services, Virginia Agricultural Council, and Virginia Marine Products Board. The provisions of this bill will become effective no later than the beginning of the term of the Governor elected November 8, 2005; however, if funding for the position and expenses of the Secretary of Agriculture and Forestry is included in the 2004 appropriation act passed by the General Assembly, this bill will become effective beginning on the date set out in the appropriation act. This bill also directs the Governor to appoint a Deputy Secretary of Agriculture and Forestry within the Secretariat of Commerce and Trade to administer the policies affecting agricultural and forestry interests until the position of Secretary of Agriculture and Forestry is filled. SB 543; CH. 940.

§§ 2.2-203.1 and 2.2-2817.1 amended. State employees; establishment of agency alternative work schedule and telecommuting policy. Requires the head of each state agency to establish a telecommuting and alternative work policy under which eligible employees of such agency may telecommute, participate in alternative work schedules, or both. The bill also requires each agency head to set target goals for the number of positions eligible for alternative work schedules by July 1, 2009. HB 1094; CH. 755/SB 468; CH. 701.

§§ 2.2-204 and 3.1-426 amended. Milk Commission. Merges the Milk Commission with the Department of Agriculture and Consumer Services, as directed by Item 127 of Chapter 1042 of the 2003 Acts of Assembly (budget bill). SB 262; CH. 57.

§§ 2.2-205, 2.2-225, 2.2-2651, 2.2-2669, 23-231.9, and 30-198 amended. Secretary of Technology; duties. Assigns to the Secretary of Technology the responsibility for developing and coordinating a comprehensive policy for research and development in the Commonwealth. The bill adds the Virginia Research and Technology Advisory Commission to the list of agencies for which he is responsible. The bill also assigns to the Secretary the tasks of monitoring and analyzing the technology investments and strategic initiatives of other states to ensure the Commonwealth remains competitive; strengthening interstate and international partnerships and relationships in the public and private sectors to bolster the Commonwealth's reputation as a global technology center; developing and implementing strategies to accelerate and expand the commercialization of intellectual property created within the Commonwealth; ensuring the Commonwealth remains competitive in cultivating and expanding growth industries, including life sciences, advanced materials and nanotechnology, biotechnology, and aerospace; and monitoring the trends in the availability and deployment of and access to broadband communications services. The bill adds the Secretary to the cabinet-level committee created to assist the Secretary of Commerce and Trade in the development of the comprehensive economic development policy for the Commonwealth; the Council on Technology Services; the Board of Trustees of the A. L. Philpott Manufacturing Extension Partnership; and the

Advisory Council on Career and Technical Education to ensure a comprehensive and integrated policy for the Commonwealth on education, commerce, workforce and technology. HB 546; CH. 989.

§ 2.2-206 amended. Urban issues. Makes several amendments to provisions that call for a report on the condition of the Commonwealth's urban areas. The report will be developed during the first year of each new gubernatorial administration and a cabinet-level committee shall be established to assist with such report. HB 1398; CH. 238.

§§ 2.2-212 and 60.2-113 amended. Governor's Employment and Training Department. Removes obsolete references to the Governor's Employment and Training Department. HB 22; CH. 14.

§§ 2.2-212, 2.2-215, and 2.2-2628 amended. Council on Indians. Moves the Council on Indians from the Health and Human Services Secretariat to the Natural Resources Secretariat. The bill also (i) changes the membership of the Council by removing the Secretary of Health and Human Services, who served as an ex officio voting member, (ii) increases the number of at-large members from the Indian population residing in the Commonwealth from two to three, and (iii) requires those at-large members to provide verification as an enrolled member of a tribe recognized by either the Commonwealth or, another state, or territory. HB 782; CH. 142.

§§ 2.2-507.1 and 17.1-513.01 amended. Charitable corporations; purposes for which assets are held. Provides that the assets of a charitable corporation shall be deemed to be held in trust for such purposes as are established in the governing documents of the charitable corporation, the gift or bequest to the corporation, or other applicable law. Existing language providing that the assets are to be held for such purposes as established by the donor's intent as expressed in the corporation's governing documents is repealed. This provision is stated not to modify the standard of conduct applicable to directors of charitable corporations under existing law. HB 625; CH. 289.

§ 2.2-511. See § 18.2-186.3; HB 872.

§ 2.2-511. See § 18.2-511; HB 1123/SB 320.

§ 2.2-514 amended. Settlements by the Commonwealth; confidentiality. Provides that no settlement of a civil action against the Commonwealth involving money damages shall be made subject to a confidentiality agreement that prohibits the Commonwealth, a state agency, officer or employee from disclosing the amount of such settlement except in cases where the confidentiality agreement is imposed by a court of competent jurisdiction or otherwise is required by law. HB 357; CH. 729.

§§ 2.2-518 and 2.2-4806 amended. Office of the Attorney General; debt collection. Authorizes the Division of Debt Collection of the Office of the Attorney General to retain as special revenue up to 30 percent of receivables collected on behalf of state agencies and to contract with private collection

agents for the collection of debts amounting to less than \$15,000. The bill also provides a procedure for the collection of accounts receivable of \$3,000 or more that are 60 days or more in arrears. HB 1037; CH. 919.

§§ 2.2-603 and 2.2-2009 amended. Security of state government databases and data communications. Requires the director of every department in the executive branch of state government to report to the Chief Information Officer (CIO) all known incidents that threaten the security of the Commonwealth's databases and data communications resulting in exposure of data protected by federal or state laws, or other incidents compromising the security of the Commonwealth's information technology systems with the potential to cause major disruption to normal agency activities, computer viruses and worms, denial of service attacks, unauthorized uses and intrusions, and such other security threats. Such reports shall be made to the CIO within 24 hours from when the department discovered or should have discovered their occurrence. The bill also requires the CIO to promptly receive these reports and to take such actions as are necessary, convenient or desirable, to ensure the security of the Commonwealth's databases and data communications. HB 1330; CH. 638 (effective 1/1/05).

§ 2.2-603 amended. Agency reports on the costs of federal mandates. Eliminates the requirement for agencies to report the cost of federal mandates to the Department of Planning and Budget on Form FM. An agency's estimate of the cost of a mandate may not have been accurate if the mandate is conditioned upon an event that has not happened or there exist overlaps in compliance. The bill also deletes a provision superseded by the creation of the Virginia Information Technology Agency in 2003 and the requirement for each agency head to designate an existing employee to act as the agency's information technology resource. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). SB 11; CH. 488.

§§ 2.2-608, 2.2-2213, 2.2-2238, 2.2-2242, 2.2-2263, 2.2-2400, 2.2-2407, 2.2-2432, 2.2-2506, 3.1-22.4, 4.1-115, 10.1-1307, 10.1-1802, 10.1-2012, 22.1-171, 23-1.01, 23-30.36, 23-227, 23-253, 23-253.7, 30-34.4:1, 30-34.15, 32.1-14, 40.1-4.1, 46.2-1503.5, 54.1-114, 54.1-4421, 62.1-44.40, and 62.1-139 amended; §§ 2.2-1126 and 2.2-1127 repealed. Distribution of reports. Replaces the automatic distribution of paper copies of annual and biennial agency reports to certain state officials with an on-demand electronic notification and retrieval system of reports available from the General Assembly's website. Members of the General Assembly would also have the option of receiving paper copies of reports upon request. Under current law, the Division of Purchases and Supply of the Department of General Services (DGS) is assigned the responsibility of providing agencies with advice on publishing their reports and maintaining a distribution list for those reports. However, the provisions relating to the duties of DGS are obsolete because agencies have assumed responsibility for the publication and distribution of their own reports. The bill also

requires the Division of Legislative Automated Systems to notify persons who are currently entitled to receive annual and biennial reports regarding the change to the new system. The bill clarifies that agency reports include reports by institutions, collegial bodies and other governmental entities. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). SB 6; CH. 650.

§ 2.2-609 amended. State publications. Reduces from 100 to 20 the maximum copies of state publications that must be submitted to The Library of Virginia. The bill also removes the requirement for the reporting entity to furnish information on publication costs to The Library and clarifies that state reports include reports by agencies, institutions, collegial bodies and other state governmental entities. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 6; CH. 28/SB 2; CH. 152.

§ 2.2-612 amended; §§ 2.2-2506 and 2.2-2507 repealed. Virginia Advisory Commission on Intergovernmental Relations. Abolishes the Virginia Advisory Commission on Intergovernmental Relations. The Commission was created in 1978 to act as a forum for identifying and discussing areas of mutual concern to local and state officials, including state and federal programs. The Commission no longer has professional staff or appropriations directly assigned or direct appropriations. The duties and responsibilities of the Commission can be assumed by existing entities or specific issue-oriented bodies created as needed. Other avenues for intergovernmental discussions currently exist, including the Virginia Municipal League, the Virginia Association of Counties, and the use of legislative and executive liaisons by local governments. This bill was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 203; CH. 34/SB 10; CH. 155.

§§ 2.2-614.1 and 15.2-106 amended. Bad check charges. Raises from \$25 to up to \$35, the fee that localities and public bodies responsible for revenue collection may charge for the uttering, publishing or passing of any check or draft for payment of taxes or any other sums due, which is subsequently returned for insufficient funds or because there is no account or the account has been closed. This fee was raised to \$35 for general creditors (not local governments) during the 2003 Session, and the bill is aimed at creating consistency in this area. HB 1207; CH. 565.

§§ 2.2-700 and 2.2-703 amended. Department for the Aging; powers and duties of the Commissioner and the Department. Establishes the Commissioner of the Department for the Aging as the Governor's principle advisor on aging issues and provides for the Commissioner to recommend

policies, legislation and other actions appropriate to meeting the needs of an aging society. The bill also requires the Department for the Aging to develop and maintain a four-year plan for aging services in the Commonwealth. SB 382; CH. 694.

§ 2.2-1120 amended. Department of General Services; Division of Purchases and Supply; direct purchase by charitable corporations. Clarifies that free clinics are eligible to purchase from cooperative procurements in which the Division of Purchases and Supply participates, so long as it is not prohibited by the terms of the procurement. HB 1441; CH. 484.

§ 2.2-1124 amended. Department of General Services; disposition of surplus computer equipment. Removes the limitation on the amount of surplus materials that may be donated in the case of computer equipment and related items to Virginia public schools. The bill also makes two technical amendments that raise the market value of surplus materials that may be donated from \$200 to \$500 and the limitation on the percentage from five to 25 percent of the revenue generated. These changes were previously enacted by Chapter 615 of the 2000 Acts of the General Assembly but were not carried over by the recodification of Title 2.1 that passed during the 2001 session. SB 161; CH. 670.

§ 2.2-1131.1 added. State Property Management Reform Act. Requires the Division of Engineering and Buildings of the Department of General Services to establish performance standards for the acquisition, lease and disposition of property and for the management and utilization of such property to maximize use. The bill also requires the Division to report the performance measures to the Governor and the General Assembly by December 1, 2004, and to thereafter prepare, no later than November 30 of each year, reports to the Governor and the General Assembly on the effectiveness of the performance standards. In addition, the bill provides that state public institutions of higher education that have delegated authority to manage aspects of their real property usage and have signed a memorandum of understanding with the Secretary of Administration related to such delegated authority shall be deemed in compliance with the standards set by the Division as long as they abide by the terms of the memorandum of understanding. The standards established in accordance with the memorandum of understanding shall be reported to the Division by October 1 of each year. HB 985; CH. 750.

§ 2.2-1131.1 added. Department of General Services; State Asset Management Review Act. Requires the Department of General Services to establish performance standards for the use of the state's real property and require an annual report to the Governor and the General Assembly. The bill provides that state public institutions of higher education that have delegated authority to manage aspects of their real property usage and have signed a memorandum of understanding with the Secretary of Administration related to such delegated authority shall be deemed in compliance with the standards set by the Division of Engineering and Buildings as long as they abide by the terms of the memorandum of understanding. Standards estab-

lished in accordance with the memorandum of understanding shall be reported to the Division by October 1 of each year. SB 289; CH. 684.

§ 2.2-1151.1 amended. Virginia Department of Transportation; right-of-way easements; damages to adjacent property. Provides that performance surety held by the Department of Transportation in association with a land use permit issued to a company to perform work within the Department's right-of-way shall be released until such time as all claims against the company associated with the work have been resolved, provided a claimant has notified the Department of a claim against such company within 30 days after completion of the work. A claimant shall have no more than one year after the notification is received by the Department to complete any action against the company associated with the work for which the claim has been made. After the expiration of the one-year period, the Department may release the performance surety. HB 1194; CH. 636.

§§ 2.2-1153 and 2.2-1156 amended. Division of Engineering and Buildings; surplus real property. Requires all state departments, agencies and institutions to submit land use plans to the Division of Engineering and Buildings by September 1 of every year. The plans must be approved by the state entity's governing board, or agency head if there is no governing board, and shall be developed based on guidelines established by the Division. A second enactment clause requires the Division to seek the input of all state entities owning real property or having control over real property in developing the land use plan guidelines. The bill also requires to the Division to (i) include in its criteria for determining whether a property under the control of state entities is surplus a provision stating the governing board or agency head must approve the designation of property under its control as surplus, and (ii) submit a report containing certain information regarding the land use plans to the Chairmen of the House Appropriations and Senate Finance Committees by October 1 of every year. HB 1124; CH. 997.

§ 2.2-1208 added. Long-term care insurance. Requires the Department of Human Resource Management to develop and implement a long-term care insurance plan for state employees and for any person who has five or more years of creditable service in any retirement plan administered by the Virginia Retirement System whether or not such person is employed by an employer participating in the Virginia Retirement System, and whether or not such person is receiving retirement benefits. HB 1179; CH. 312.

§ 2.2-1822.1 added. Department of Accounts; recovery audits of state contracts. Requires the Department of Accounts to contract with one or more private contractors to conduct systematic recovery audits of state agency contracts. The bill contains a provision that authorizes the contractor to retain a percentage of any payment error that is recovered by such contractor, not to exceed 10 percent of the amount recovered. The recovery audits shall include identifying payment errors made by state agencies to vendors and other entities resulting from (i) duplicate payments, (ii) invoice errors, (iii) failure to apply

applicable discounts, rebates, or other allowances, or (iv) any other errors resulting in inaccurate payments. HB 1447; CH. 644.

§ 2.2-1839 amended. Risk management plans. Allows attorneys who provide pro bono custody and visitation legal services to eligible indigent persons pursuant to a program approved by the Supreme Court of Virginia or the Virginia State Bar to be covered by the Commonwealth's risk management program for claims arising from their provision of legal services in such programs. The bill provides that the cost of such coverage shall be paid by the Virginia Supreme Court for approved programs of the Supreme Court and the Virginia State Bar. HB 69; CH. 121.

§ 2.2-1839 amended. Department of the Treasury; risk management plans; inclusion of guardians. Includes in the state's risk management plans any natural person serving as a guardian or limited guardian as defined in § 37.1-134.6 for any consumer of a community services board or behavioral health authority or any resident of a state facility operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The bill provides that the Department of Mental Health, Mental Retardation and Substance Abuse Services will pay the costs of coverage for such persons. HB 350; CH. 529.

§ 2.2-1839 amended; § 2.2-1839.1 added. Medical malpractice insurance. Provides that certain qualifying physicians and sole community hospitals may purchase medical malpractice insurance from the risk management plan administered by the Department of Treasury. Sole community hospitals also may purchase general liability coverage. These provisions of the bill are not effective until July 1, 2006. The bill establishes a joint subcommittee to study issues surrounding risk management plans. The subcommittee will meet in the 2004 interim. SB 601; CH. 822.

§§ 2.2-2000, 2.2-2452, 2.2-2681, and 2.2-2715 amended; § 2.2-2004.1 added. Veterans Services. Clarifies that the Commissioner of the Department of Veterans Services shall report directly to the Governor and requires the Commissioner to establish an advisory board to assist in the administration of veterans care centers established in the Commonwealth. The bill also (i) increases the membership of the Board of Veterans Services from 17 to 19 by adding the Chairmen of the Board of Trustees of the Veterans Services Foundation and the Joint Leadership Council of Veterans Service Organizations and (ii) adds the Chairman of the Board of Veterans Services as a member of the Board of Trustees of the Veterans Services Foundation and the Joint Leadership Council of Veterans Service Organizations. SB 412; CH. 697.

§§ 2.2-2006 and 2.2-4343. See § 23-77.4; HB 478.

§ 2.2-2012 amended. Virginia Information Technologies Agency; contracts for personal computers. Allows licensed teachers employed in a full-time teaching capacity in Virginia public schools or in state educational facilities to purchase personal computers for use outside the classroom on state

contract. Currently, the ability to buy such personal computers is limited to public school teachers. HB 508; CH. 278.

§ 2.2-2012 amended. Information technology and telecommunications procurement; Virginia Information Technologies Agency (VITA). Adds the requirement that VITA conduct procurements in accordance with the regulations implementing the electronic and information technology accessibility standards of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), in addition to other requirements. Such procurements may not exceed the Rehabilitation Act of 1973 regulations. HB 1360; CH. 237.

§ 2.2-2101 amended; §§ 2.2-209, 2.2-210, and 2.2-2600 through 2.2-2602 repealed. Advisory Council on the Virginia Business-Education Partnership Program. Abolishes the Advisory Council on the Virginia Business-Education Partnership Program and the Virginia Business-Education Partnership Program. The program was created in 1993 to assist local programs in obtaining federal funding to establish local business-education partnerships. The council was established at the same time to assist the Secretary of Education in implementing the program and facilitating the development of strategic partnerships between the public and private sectors to enhance public education and workforce training. State funding for the program ended in 2001 and federal funding ceased on December 31, 2003. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 9; CH. 37.

§ 2.2-2233.2 added. Biotechnology Commercialization Loan Fund; Innovative Technology Authority. Creates the Biotechnology Commercialization Loan Fund to finance technology transfer and commercialization activities related to biotechnology inventions made, solely or in cooperation with other organizations, at qualifying institutions. The maximum amount of the fund is \$3,000,000 and the maximum amount that any institution can have outstanding is \$500,000. Applications will be made to and decisions will be made by a panel consisting of the President of the Center for Innovative Technology, the Director of the Department of Planning and Budget and the Executive Director of the Virginia Economic Development Partnership, or their designees. Loans are to be repaid at a rate and time determined in the bill. The bill also provides that a record transmitted or delivered by a loan applicant or a loan recipient to a public body, in carrying out its duties under the bill, are excluded from disclosure under the Virginia Freedom of Information Act to the extent such record reveals certain proprietary information. SB 646; CH. 942.

§§ 2.2-2238, 2.2-2670, 10.1-1413.2, 22.1-199.3, 22.1-208.2:1.1, 22.1-209.1:7, 22.1-291.2, 22.1-343, 23-38.19:4, 23-38.53:12, 23-38.53:16, 23-38.53:18, 23-38.53:19, 59.1-284.16, 59.1-284.17, and 59.1-284.18 amended; §§ 22.1-199.3, 22.1-208.2:1.1, 22.1-209.1:7, 22.1-209.1:9, 22.1-209.1:10, 22.1-291.2, 23-38.19:3, 23-38.19:4, 23-38.19:5 23-38.53:8, 23-38.53:9, 23-38.53:10,

23-38.53:12 through 23-38.53:20, 36-139.8, 59.1-284.7 through 59.1-284.12, 59.1-284.16 through 59.1-284.19, and 60.2-318 through 60.2-322 repealed. Dormant special funds. Repeals certain dormant special funds, and the associated program, if no appropriation is made to the associated program by July 1, 2004. This bill repeals the Blue Ridge Economic Development Revolving Fund, the Alternative Water Supply Assistance Fund, the Workforce Development Training Fund, the Advantage Virginia Incentive Fund, Program, and Foundation, the Reading Incentive Grants Fund and Program, the Virginia Educational Excellence Incentive Reward Fund and Program, the Families in Education Incentive Grants Fund and Program, the Community-Based Intervention Program for Suspended and Expelled Students and its special fund, the Artists in the Classroom Grants Fund and Program, the Virginia Undergraduate Career and Technical Incentive Scholarship Fund and Program, the Higher Education Incentive Fund, the Information Technology Employment Performance Grant Fund and Program, and the Landfill Cleanup and Closure Fund. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). SB 3; CH. 872.

§ 2.2-2282 amended. Freedom of Information Act (FOIA); exclusions. Provides that public access to meetings of the General Assembly, except floor sessions and committee or subcommittee meetings, and conference committee meetings, shall be governed by rules established by the Joint Rules Committee. Floor sessions and committee and subcommittee meetings will continue to be open to the public. The Joint Rules Committee must hold regional public hearings at least 60 days before the adoption of the rule. The bill provides that meetings of political party caucuses of either house of the General Assembly are excluded from the meeting provisions of FOIA. HB 1405; CH. 239.

§§ 2.2-2407, 40.1-6, and 60.2-113 amended. Migrant and seasonal farmworkers; state agency changes. Transfers the Migrant and Seasonal Farmworkers Board from the Department of Labor and Industry to the Virginia Employment Commission, which has federal funding available to support staffing the Board. Currently, Labor and Industry personnel support the Board, but without dedicated funding or staff. The bill also transfers the Interagency Migrant Worker Policy Committee from Labor and Industry to the Virginia Employment Commission. SB 363; CH. 592.

§ 2.2-2448 amended. Virginia-Asian Advisory Board; purpose. Amends the purpose of the Virginia-Asian Advisory Board to include advising the Governor on issues affecting the Asian-American community. HB 1480; CH. 1005/SB 186; CH. 971.

§§ 2.2-2640 and 2.2-2641 repealed. Interagency Coordinating Council on Housing for the Disabled. Abolishes the Interagency Coordinating Council on Housing for the Disabled. The Council was created in 1986 to provide and

promote cross-secretariat interagency leadership for comprehensive planning and coordinated implementation of proposals to increase and maximize use of existing low-income housing for the disabled and to develop a state policy on housing for the disabled for submission to the Governor. The Council has been inactive for approximately 10 years. Other entities, including the Disability Commission and the Department of Housing and Community Development, are currently addressing issues faced by the disabled in obtaining housing. This bill was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 206; CH. 16/SB 8; CH. 153.

§§ 2.2-2648 and 2.2-5201 amended. Comprehensive Services for At-Risk Youth and Families. Adds the chairman of the state and local advisory team to the State Executive Council for Comprehensive Services for At-Risk Youth and Families. In addition, the bill adds a representative from the Department of Medical Assistance Services to the state and local advisory team. HB 527; CH. 836.

§ 2.2-2664 amended; § 2.2-5302 repealed. Early Intervention Agencies Committee. Abolishes the Early Intervention Agencies Committee. The committee was created in 1992 to ensure the implementation of a comprehensive system for early intervention services and to make recommendations to the Secretary of Health and Human Resources and the Secretary of Education on issues that require interagency planning, financing, and resolution. Following the committee's creation, an early intervention interagency management team comprised of staff from the affected agencies was informally established to handle the day-to-day operations and management of early intervention services and perform much of the budget approval work of the committee. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 15; CH. 38.

§§ 2.2-2667 and 2.2-2668 amended. Virginia Recycling Markets Development Council. Revises the duties of the Virginia Recycling Markets Development Council to refocus the Council's primary mission on (i) assisting agencies, authorities, and localities to meet their recycling needs, if requested and (ii) identifying and evaluating existing or proposed state statutes, policies, regulations, and procedures that may attract or deter new businesses or the expansion or retention of existing businesses that can use recycled or recovered materials. The Council's annual reporting requirement is replaced with the duty to report if requested by the Governor, a resolution of the General Assembly, a standing or joint study committee of the General Assembly, the Secretary of Natural Resources or the Department of Environmental Quality. The bill also establishes term limits for the citizen members of the Council. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and

Other Governmental Entities pursuant to HJR 159 (2002). SB 12; CH. 385.

§ 2.2-2670 amended; §§ 2.2-435.1 through 2.2-435.5 and 37.1-207.1 added. Drug treatment and job training programs; performance-based budgeting. Creates the position of Special Advisor for Workforce Development, which reports directly to the Governor. The Special Advisor will have policy and program responsibilities for several federal and state workforce training programs and resources administered within several different state agencies. The Special Advisor responsibilities include (i) serving as liaison for workforce training among state and local government, the Virginia Workforce Council, local workforce investment boards, and the business community; (ii) reviewing fund allocation; (iii) helping the Virginia Workforce Council implement policies and procedures for the Virginia Workforce System; (iv) monitoring federal legislation and policy in order to maximize the effective use of program funds; and (v) reporting annually on the progress in statewide coordination of workforce training resources. The bill requires the Substance Abuse Council to identify drug treatment programs administered by state agencies and the Virginia Workforce Training Council; working with the Special Advisor for Workforce Development, to identify job-training programs administered by state agencies. The Special Advisor for Workforce Development is required to develop standard reporting formats providing a summary comparison of the per person costs for each drug treatment or job training program, a comparative rating of each program based on success in meeting program objectives, and an explanation of the extent to which an individual agency's appropriation requests incorporate the data reflected in the summary cost comparison and the comparative rating. In addition, the Special Advisor for Workforce Development is required to report annually by December 1 of each year to the Governor and the General Assembly the following information for each agency-administered job training program: (a) the amount of funding expended under such program for the prior fiscal year; (b) the number of individuals served by the program using that funding; (c) the extent to which program objectives have been accomplished as reflected by an evaluation of the high-quality outcome measures; and (d) how effectiveness may be improved. SB 304; CH. 686.

§§ 2.2-2720 through 2.2-2724 added. Center for Rural Virginia. Establishes the Center for Rural Virginia as an independent local entity without political subdivision status for the purpose of sustaining economic growth in the rural areas of the Commonwealth. The Center shall be governed by a board of directors whose duties shall include (i) establishing the Center as a 501(c)(3) tax-exempt corporation and (ii) seeking federal funds available to state rural development councils, pursuant to the Farm Security and Rural Investment Act 2002, P. L. 107 -171. HB 1213; CH. 964/SB 407; CH. 938.

§ 2.2-2818 amended. Health insurance plan for state employees. Requires that the health insurance plan offered to full-time state employees also be offered to all part-time state employees provided that such part-time employees pay the to-

tal cost of such insurance coverage. Part-time state employee is defined in the bill. HB 525; CH. 279.

§ 2.2-2818. See § 32.1-46; HB 855.

§§ 2.2-3000, 2.2-3003, and 2.2-3005 amended; § 2.2-3005.1 added. **State grievance procedure; penalty.** Makes several amendments to the state grievance procedure. The bill (i) provides that the parties to a grievance have a duty to search their records to ensure that all relevant records are provided to the opposing party, (ii) specifies that hearing officer fees be reasonable in accordance with guidelines established by the Department of Employment Dispute Resolution (DEDR), (iii) entitles a grievant to recover reasonable attorneys' fees in grievances challenging a discharge if the grievant substantially prevails on the merits and special circumstances make such an award unjust, and (iv) provides for all awards of relief by a hearing officer to be in accordance with rules established by DEDR. The bill provides that its provisions relating to the award of attorneys' fees shall not apply to any local governing body or agency thereof that is otherwise subject to the state grievance procedure. The bill also contains technical amendments. SB 201; CH. 674.

§ 2.2-3006 amended. **Department of Human Resource Management; state grievance procedure.** Provides that the review by the Director of the Department of Human Resource Management of state employee grievance hearing decisions for consistency with state policy shall be conducted upon the request of a party to the grievance. HB 959; CH. 229.

§ 2.2-3101 amended; §§ 2.2-3100.1 and 2.2-3128 through 2.2-3131 added. **State and Local Government Conflict of Interests Act; orientation programs.** Provides for periodic orientation or training sessions for state government personnel on the content of the Act and other ethics provisions and for distribution of copies of the Act to all new state and local personnel. HB 467; CH. 134/SB 226; CH. 392.

§ 2.2-3109. See § 22.1-212.5; HB 380.

§ 2.2-3310.2 added. **Vietnamese-American Heritage Flag.** Recognizes the flag of the former Republic of Vietnam, with three horizontal red stripes on a field of golden-yellow, as the Vietnamese American Heritage Flag. HB 1475; CH. 970.

§§ 2.2-3703, 2.2-3711, 2.2-3714, 2.2-3806, 22.1-279.8, 23-50.16:32, 32.1-283.1, 32.1-283.2, 44-146.18, 44-146.22, 52-8.3, 54.1-2517, 54.1-2523, and 56-575.4 amended; §§ 2.2-3705.1, 2.2-3705.2, 2.2-3705.3, 2.2-3705.4, 2.2-3705.5, 2.2-3705.6, 2.2-3705.7, and 2.2-3705.8 added; § 2.2-3705 repealed. **Freedom of Information Act; reorganization of record exemptions.** Reorganizes current § 2.2-3705, the listing of records that are not subject to the mandatory disclosure requirements of the Freedom of Information Act. The bill would repeal § 2.2-3705 and in its place, create seven new sections grouping the exemptions by general subject area. The proposed groupings would include exemptions of general application, exemptions relating to public safety, exemptions relating to administrative investigations, exemptions relating to educational records and educational institutions, exemptions

relating to health and social services, exemptions relating to proprietary records and trade secrets, and exemptions applicable to specific public bodies. Like a title revision, the reorganization of § 2.2-3705 involves only technical changes and makes no substantive changes. The bill contains other technical amendments to correct cross references to § 2.2-3705, which is being repealed by this bill. The bill is a recommendation of the Virginia Freedom of Information Advisory Council. SB 352; CH. 690.

§§ 2.2-3703, 2.2-3705, and 2.2-3711 amended. **Freedom of Information Act; applicability; sexually violent predator commitment review committee.** Provides that the records of the Commitment Review Committee involving the commitment of sexually violent predators under Article 1.1 (§ 37.1-70.1 et seq.) of Chapter 2 of Title 37.1 are exempt from disclosure under the Freedom of Information Act. The bill further provides that in no case shall records relating to the victims of sexually violent predators be disclosed. The bill also contains an open meeting exemption for the Commitment Review Committee when discussing or considering records excluded by the bill. Currently, the Commitment Review Committee is not subject to the Freedom of Information Act. The bill is a recommendation of the Virginia Freedom of Information Advisory Council. SB 354; CH. 398.

§ 2.2-3705 amended. **Freedom of Information Act (FOIA); record exemption; certain park and recreation records.** The bill adds an exemption from the mandatory disclosure requirements of FOIA for records of state or local park and recreation departments to the extent such records contain information identifying a person under the age of 18 years, where the parent or legal guardian of such person has requested in writing that such information not be disclosed. However, nothing in this subdivision shall operate to prohibit the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. §1232 g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. HB 168; CH. 832.

§ 2.2-3705 amended. **Freedom of Information Act (FOIA); record exemption; citizen emergency response teams.** Provides an exemption from the mandatory disclosure requirements of FOIA for records of the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body, to the extent that such records reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program. HB 347; CH. 426.

§ 2.2-3705. See § 32.1-127.1:03; HB 877.

§ 2.2-3705 amended. **Freedom of Information Act (FOIA); record exemption; certain records of the Department of Criminal Justice Services.** Adds a record exemption for confidential investigations of applications for licenses, certification or registration submitted by private security services businesses to the Private Security Unit of the Department

of Criminal Justice Services, and records of active investigations connected with such applications or of any such licensee, certificate holder or registrant of the Department. HB 1246; CH. 766.

§ 2.2-3705 amended. Freedom of Information Act (FOIA); record exemption; certain emergency service records. Provides an exemption from the mandatory disclosure requirements of FOIA for subscriber data, which for the purposes of the exemption, means the name, address, telephone number, and any other information identifying a subscriber of a telecommunications carrier, provided directly or indirectly by a telecommunications carrier to a public body that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system, if the data is in a form not made available by the telecommunications carrier to the public generally. The bill provides that nothing shall prevent the release of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call. HB 1364; CH. 482.

§§ 2.2-3705 and 2.2-3711 amended. Freedom of Information Act (FOIA); record and meeting exemptions for the Virginia Commission on Military Bases. Provides an exemption from the mandatory disclosure provisions of FOIA for the Commission on Military Bases created by the Governor pursuant to Executive Order No. 49 (2003) for records that contain information relating to vulnerabilities of military bases located in Virginia and strategies under consideration or developed by the Commission to limit the effect of or to prevent the realignment or closure of federal military bases located in Virginia. The bill also contains an open meeting exemption for the Commission when discussing these records. The bill provides that its provisions will expire on July 1, 2006. HB 1396; CH. 770 (effective 4/12/04).

§ 2.2-3705. See § 32.1-42; HB 1483/SB 685.

§ 2.2-3705 amended. Freedom of Information Act (FOIA); record exemption; certain client lists. Adds an exemption from the mandatory disclosure requirements of FOIA for records containing the names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families created under § 63.2-600. SB 149; CH. 666.

§ 2.2-3705. See § 32.1-127.1:03; SB 337.

§ 2.2-3705 amended. Freedom of Information Act; record exemption; economic development. Clarifies that the record exemption for proprietary information and other records related to economic development efforts applies to those enumerated state and local or regional economic development agencies to whom such information is provided or used. SB 394; CH. 593.

§ 2.2-3705 amended. Freedom of Information Act; record exemption; investigations of local auditors. Expands the current record exemption for investigative notes, correspondence and information furnished in confidence to certain state auditors to the same records of designated internal auditors of any school board or local governing body having the authority by charter, statute or ordinance to conduct confidential investigations, including committees established pursuant to § 15.2-825, of any officer, department or program of such body. SB 562; CH. 605.

§§ 2.2-3705. See § 32.1-42; SB 685.

§ 2.2-3706 amended. Freedom of Information Act; record exemption; cell phone numbers of law-enforcement personnel. Provides that records of the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided by a law-enforcement agency to its personnel for use in the performance of their official duties are exempt from the mandatory disclosure requirements of the Freedom of Information Act. HB 538; CH. 735/SB 297; CH. 685.

§§ 2.2-3707 and 30-179 amended; § 2.2-3704.1 added. Freedom of Information Act (FOIA); posting by certain state public bodies; minutes. Requires all state public bodies created in the executive branch of state government and subject to FOIA to make available certain information to the public upon request and to post such information on the Internet, including: (i) a plain English explanation of the rights of a requester under FOIA, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with FOIA; (ii) contact information for the person designated by the public body to (a) assist a requester in making a request for records or (b) respond to requests for public records; and (iii) any policy the public body has concerning the type of public records it routinely withholds from release as permitted by FOIA. The bill requires the Freedom of Information Advisory Council to assist state public bodies in the development and implementation of this information, upon request. The bill also specifies what information must be included in minutes of open meetings. HB 358; CH. 730.

§ 2.2-3707 amended; § 2.2-3707.01 added. Freedom of Information Act (FOIA); exclusions. Provides that public access to meetings of the General Assembly, except floor sessions, committee or subcommittee meetings and conference committee meetings, shall be governed by rules established by the Joint Rules Committee. Floor sessions and committee and subcommittee meetings will continue to be open to the public. The Joint Rules Committee must hold regional public hearings at least 60 days before the adoption of the rule. The bill provides that meetings of political party caucuses of either house of the General Assembly are excluded from the meeting provisions of FOIA. HB 1357; CH. 768.

§ 2.2-3808.2. See § 17.1-279; SB 241.

§ 2.2-3808.3 added. Government Data Collection and Dissemination Practices Act; unique identifying numbers limited on public records. Prohibits filing or creating public

records that contain more than the last four digits of any unique identifying number, unless such use is required by law or the record is exempt from disclosure. The bill defines unique identifying number as any alphabetic or numeric sequence, or combination thereof, that is unique and assigned to a specific natural person at that person's request and includes, but is not limited to, social security number, bank account number, credit card number, military service number and driver's license number. The bill excludes from this definition any arbitrarily assigned alphabetic or numeric sequence, or combination thereof, that is assigned to a natural person for purposes of identification, in lieu of social security numbers, and used for a single, specific government purpose. Either preparers or filers of such documents must certify that the document complies with this prohibition before the documents can be filed. The bill contains a reenactment clause. HB 543; CH. 736.

§§ 2.2-4002, 3.1-398, and 35.1-14 amended. Department of Agriculture and Consumer Services; Department of Health; adoption of the Food Code. Clarifies that the provisions of the Administrative Process Act do not apply to the adoption, amendment or repeal of any regulations by the Boards of Agriculture and Consumer Services and Health that are based on any supplement or more recent edition of the Food and Drug Administration's Food Code. The Boards of Agriculture and Consumer Services and Health are still required to publish an opportunity for public comment prior to adopting, amending or repealing these regulations. HB 784; CH. 802.

§ 2.2-4018. See § 22.1-253.13:3; HB 1294.

§ 2.2-4301 amended. Virginia Public Procurement Act; contracts for professional services. Provides that state contracts for architectural or professional engineering services, with the exception of those awarded for environmental, location, design and inspection work regarding highways and bridges by the Commonwealth Transportation Commissioner may be renewable for four additional one-year terms. Under current law such contracts are renewable for two additional one-year terms. The bill also increases for state agencies, subject to the approval of the Director of the Department of General Services, the allowable yearly limits on such contracts from \$500,000 to \$1 million and the limit on a project fee for a single project from \$100,000 to \$200,000. HB 1039; CH. 458.

§§ 2.2-4303 and 2.2-4304 amended. Virginia Public Procurement Act; online auctions and the General Services Administration. Adds online public auctions and the United States General Services Administration as procurement sources available to public bodies. The bill also provides that state public bodies may purchase telecommunications and information technology goods and nonprofessional services from any contract maintained by GSA upon the approval of the Chief Information Officer. HB 470; CH. 906/SB 95; CH. 874.

§§ 2.2-4303 and 2.2-4308 amended. Virginia Public Procurement Act; design-build construction management contracts. Raises the limit on design-build construction contracts from \$500,000 to \$1 million. The bill provides that for

contracts under \$1 million, local public bodies do not have to obtain the approval of the Design-Build Review Board. SB 525; CH. 706.

§ 2.2-4304 amended. Public Procurement Act; cooperative procurement U.S. General Services Administration. Authorizes state and local entities to enter into a cooperative procurement agreement to purchase from any contract of the United States General Services Administration or the contract of any other federal agency. Regarding such contracts, the bill specifically authorizes (i) state entities, with the approval of the Director of the Division Purchases and Supply, to purchase goods and nonprofessional services other than telecommunications and information technology, (ii) state entities, with the approval of the Chief Information Officer, to purchase telecommunications and information technology goods, and (iii) localities to purchase goods and nonprofessional services. HB 749; CH. 911/SB 302; CH. 936.

§§ 2.2-4310 and 2.2-4343 amended; § 15.2-965.1 added. Virginia Public Procurement Act; small, women- and minority-owned business participation. Authorizes the Governor and localities to implement remedial programs when there exists a rational basis for small business enhancement or an analysis that documents statistically significant disparity between the availability and utilization of women- and minority-owned businesses. The bill also provides that any analysis performed by the Governor or a locality as a basis for determining the existence of discrimination based on race or gender in the awarding of contracting opportunities shall comply with the procedural and evidentiary standards established by the United States Supreme Court in *The City of Richmond v. J. A. Croson Company*, 488 U.S. 469, (1985). HB 1145; CH. 865/ SB 598; CH. 891.

§ 2.2-5211 amended. Shelter care for juveniles; funding. Provides that where a juvenile court places a juvenile in a community or facility-based treatment program in accordance with the requirements of subsection B of § 16.1-248.1, the costs of that placement shall be funded out of the state pool of funds for community policy and management teams. HB 598; CH. 286.

§ 2.2-5211 amended. Financial and legal responsibility for special education services for certain individuals with disabilities placed across jurisdictional lines pursuant to the Comprehensive Services Act. Clarifies that, in any instance in which an individual who is 18 through 21 years of age, inclusive, who is eligible for funding from the state pool and is properly defined pursuant to state education law as a school-aged child with disabilities is placed by a local social services agency that has custody across jurisdictional lines in a group home in the Commonwealth and the individual's individualized education program (IEP), as prepared by the placing jurisdiction, indicates that a private day school placement is the appropriate educational program for such individual, the financial and legal responsibilities for the individual's special education services and IEP shall remain, in compliance with the provisions of federal law, Article 2 (§ 22.1-213 et seq.) of Chapter 13 of Title 22.1, and Board of Education regulations,

the responsibility of the placing jurisdiction until the individual reaches the age of 21, inclusive, or is no longer eligible for special education services. The financial and legal responsibilities for such special education services shall remain with the placing jurisdiction, unless the placing jurisdiction has transitioned all appropriate services with the individual. HB 1047; CH. 631.

§§ 2.2-5512 and 2.2-5513 added. Competitive Government Act. Requires the Governor to conduct biennially an enterprise-wide examination of the commercial activities that are being performed by state employees to ensure that such activities are being accomplished in a most cost-efficient and effective manner. The examination may be conducted by a commercial source through a solicitation under the Public-Private Education Facilities and Infrastructure Act or the Public Procurement Act. The bill also provides for the Secretary of Administration to submit a report on the initial examination to the Governor and the Chairs of Appropriations and Senate Finance by January 1, 2006 and thereafter every two years. In addition, the bill provides for the Secretaries of Administration, Finance and Technology to update the list of commercial activities established by the Commonwealth Competition Council and to provide guidance to state agencies in outsourcing efforts. HB 1043; CH. 994.

TITLE 2.2. MISCELLANEOUS - ADMINISTRATION OF GOVERNMENT.

Agency reporting requirements. Eliminates the following obsolete or duplicative agency reports: the Annual Report of the Council on Human Rights, the Use of Earnings of Industrial Schools and Workshop Report by the Department for the Blind and Vision Impaired, the Virginia Parks Standards by the Secretary of Natural Resources, the Chesapeake Bay Resources Report by the Department of Environmental Quality, 2001 Health Insurance Accounts Report by the Department of Human Resource Management, the Public School Teacher Compensation Report by the Director of the Department of Human Resource Management, the Intermediate Sanction Juvenile Boot Camp Annual Evaluation by the Department of Juvenile Justice, Receipts and Expenditures Report to the General Assembly by the State Forester, the Gross Amount Received from the Sale of Special Use Permits Duplicate Report by the State Forester, Unfunded Scholarship Annual Report by Institutions of Higher Learning, Issue of Bulletins and Quarterly Reports by the Virginia Department of Agriculture and Consumer Services, and the Managed Care Health Insurance Plan Certification of Quality Report by the Virginia Department of Health. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 14; CH. 58.

Capitol Square Preservation Act of 2003. Makes several changes to the Capitol Square Preservation Act of 2003 including (i) increasing the total principal amount of bonds that may be issued for the projects from \$118,570,000 to \$130,978,000 (and increasing the cost of specific projects by an equal amount); (ii) increasing the estimated cost of fixtures and furnishings for the Capitol Building from \$5,972,000 to \$13,825,000 (such amount is to be funded through private donations or other similar means of fundraising) and expanding the items to be funded thereby; (iii) authorizing the Governor to implement his plan to complete the renovations of the Old Finance Building and Washington Building projects; and (iv) requiring the Governor to prepare and present a plan to the Chairmen of the Senate Finance and Rules Committees and House Appropriations and Rules Committees on or before December 1, 2004, for the demolition of derelict buildings and development of office and parking facilities on state-owned property bounded by 8th, 9th, and Broad Streets in the City of Richmond. HB 105; CH. 897.

Department of General Services; statewide translation contracts. Requires the Department of General Services, in coordination with the Secretary of Health and Human Resources, to establish a statewide contract for telephonic language interpretation services and other interpretation and translation services to Virginia's limited English-speaking residents, if it determines that such a contract is cost-effective. HB 302; CH. 129.

Secretary of Health and Human Services; development of health-related database. Requires the Secretary of Health and Human Services to develop a reference database of statewide health-related data elements. In order to develop the reference database, each agency within the Health and Human Resources Secretariat shall submit to the Secretary (i) a list of the names and a general narrative description of its existing automated systems containing statewide health-related data; (ii) the hardware and software platforms upon which each identified system is running; and (iii) a data dictionary describing the data fields comprising the system, which data dictionary shall include a narrative description of each data field. The Secretary shall ensure that each agency within the Secretariat uses the database information to the greatest extent possible to improve the overall efficiency and cost-effectiveness of the services rendered by such agencies. SB 565; CH. 708.

Virginia-North Carolina Interstate High-Speed Rail Compact. Establishes a Virginia-North Carolina Interstate High-Speed Rail Compact to study, develop, and promote a plan for the design, construction, financing, and operation of interstate high-speed rail service through and between points in the Commonwealth of Virginia and the State of North Carolina and adjacent states; to coordinate efforts to establish high-speed rail service at the federal, state, and local governmental levels; to advocate for federal funding to support the establishment of high-speed interstate rail service within and through Virginia and North Carolina and to receive federal funds made available for rail development; and to provide funding and resources to the Virginia-North Carolina

High-Speed Rail Compact Commission from funds that are or may become available and are appropriated for that purpose. SB 126; CH. 662.

TITLE 3.1. AGRICULTURE, HORTICULTURE AND FOOD.

§ 3.1-6.1 amended; §§ 3.1-666 through 3.1-684 repealed.

Virginia Sweet Potato Board. Abolishes the Virginia Sweet Potato Board, the Virginia Sweet Potato Fund and the excise tax that supports the Board's promotion of sweet potatoes. The Sweet Potato Board was created prior to 1950 to support the sweet potato industry through grants for education, research, and marketing. The Sweet Potato Association favors the elimination of the Board because the number of sweet potato growers has declined in Virginia and the funds available are not sufficient to carry out the programs to promote the industry. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 13; CH. 212.

§ 3.1-6.1 amended; §§ 3.1-1064.1 through 3.1-1064.7 added; §§ 3.1-1057 through 3.1-1064 repealed. The Virginia Wine Board. Establishes the Virginia Wine Board within the Department of Agriculture and Consumer Services, and the Virginia Wine Promotion Fund. The Board is composed of the Commissioner of Agriculture and Consumer Services and nine gubernatorial-appointed citizens who represent grape growers and owners or operators of wineries or farm wineries. Among its powers and duties, the Board can contract for research services to improve viticultural and enological practices in Virginia, enter into contracts with private and public entities to market, advertise and promote the industry, and engage in revenue-producing activities. The Fund consists of general fund appropriations, fees from services rendered, and payments received for products, equipment or goods supplied. Contracts for advertising, marketing, or publishing that are entered into by the Board are exempted from certain provisions of the Virginia Public Procurement Act. The bill repeals the Virginia Winegrowers Advisory Board and the Winegrowers Productivity Fund and transfers any moneys remaining in the Winegrowers Productivity Fund to the new Virginia Wine Promotion Fund. HB 1230; CH. 319/SB 310; CH. 89.

§ 3.1-14.2 added. Agriculture education. Establishes a unit of agriculture education specialists within the Department of Agriculture and Consumer Services who will assist in the development and revision of agriculture curriculum for inclusion in the Standards of Learning and provide professional development training for agriculture instructional personnel. The unit will be managed by the Department of Agriculture Education at VPI-SU. If funds are not allocated for these positions, the

Department will not have to absorb the costs of these new positions. HB 40; CH. 180.

§ 3.1-22.4. See § 2.2-608; SB 6.

§§ 3.1-336.2, 3.1-336.3, 58.1-1000, 58.1-1003, 58.1-1009, 58.1-1010, 58.1-1011, and 58.1-1013 amended; §§ 58.1-1004, 58.1-1005, and 58.1-1014 repealed. Cigarettes; affixing stamps thereto. Amends several of the current statutory procedures relating to the sale of cigarettes. The bill requires persons affixing Virginia revenue stamps to cigarettes to report monthly to the Department of Taxation on the number of revenue stamps affixed by such person by quantity of brand. The bill makes it unlawful for any person to purchase, possess, or affix Virginia revenue stamps without first obtaining a permit from the Department. The bill increases the current penalties for the failure to affix Virginia revenue stamps. HB 862; CH. 1029.

§ 3.1-398. See § 2.2-4002; HB 784.

§ 3.1-398.1 amended. Inspections of food stores. Exempts retail establishments from inspection by the Department of Agriculture and Consumer Services if they: (i) do not prepare or serve food; (ii) sell only food or beverages that are sealed in packaging by the manufacturer and have been officially inspected in the manufacturing process; (iii) do not sell infant formulas; (iv) do not sell salvaged foods; and (v) certify to the Department that they meet the foregoing provisions. However, nothing in this bill prevents the Department from inspecting a retail establishment if a consumer complaint is received. HB 766; CH. 953.

§ 3.1-426. See § 2.2-204; SB 262.

§ 3.1-610.26:1 amended. Beekeeper assistance. Mandates that the Commissioner of Agriculture and Consumer Services establish a beekeeper assistance program that would assist Virginia beekeepers in maintaining healthy, productive bee colonies. SB 200; CH. 201.

§§ 3.1-618, 3.1-626, 3.1-634, 3.1-634.1, and 3.1-635 amended; §§ 3.1-646.01 through 3.1-646.09 repealed. Apple Board. Updates the Apple Board to reflect the results of the 2003 referendum, which discontinued the excise tax on apples. HB 171; CH. 214.

§§ 3.1-796.104, 3.1-796.104:1, and 3.1-796.106 amended. Animal control officer training. Transfers the registration requirements for animal control officers employed by localities from the Department of Criminal Justice Services to the State Veterinarian and removes the Department of Criminal Justice Services' approval requirement for animal control training courses. HB 144; CH. 181.

§ 3.1-796.122 amended. Animals attacking companion animals. Exempts an owner of a dog or cat who uses reasonable and necessary force against a dog that is attacking the owner's dog or cat from intentional animal cruelty. The owner's dog or cat must have been on the owner's property for this exemption to apply. HB 242; CH. 217.

§ 3.1-1075 amended. Sheep Board. Directs the Governor to appoint all 12 members of the Sheep Board. Three of the board members shall represent different segments of the industry and nine members shall be appointed from four statewide districts established within Virginia, with no more than one member appointed per county. Currently, the Governor appoints the three members representing different segments of the industry, while the other nine members are the presidents of wool pool organizations. SB 150; CH. 56.

§§ 3.1-1104 and 3.1-1105 repealed. Virginia Advisory Commission on Intergovernmental Relations. Abolishes the Virginia Advisory Commission on Intergovernmental Relations. The Commission was created in 1978 to act as a forum for identifying and discussing areas of mutual concern to local and state officials, including state and federal programs. The Commission no longer has professional staff or appropriations directly assigned or direct appropriations. The duties and responsibilities of the Commission can be assumed by existing entities or specific issue-oriented bodies created as needed. Other avenues for intergovernmental discussions currently exist, including the Virginia Municipal League, the Virginia Association of Counties, and the use of legislative and executive liaisons by local governments. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 10; CH. 29.

§ 3.1-1111. See § 58.1-3506; SB 5005.

TITLE 4.1. ALCOHOLIC BEVERAGE CONTROL ACT.

§ 4.1-115. See § 2.2-608; SB 6.

§ 4.1-120 amended. Alcoholic beverage control (ABC); operation of government stores. Provides that certain government stores, as determined by the ABC Board, in any county having the urban county executive form of government (Fairfax County), in any city adjacent to or completely surrounded by any such county, in any county contiguous to any such county, in any city adjacent to or completely surrounded by any such contiguous county, or in any city having a population in excess of 200,000, may be open on Sunday for the sale of alcoholic beverages after 1:00 p.m. HB 1314; CH. 1002.

§ 4.1-201 amended. Alcoholic beverage control; conduct not prohibited by licensed wineries and farm wineries. Allows, among other things, licensed wineries and farm wineries to receive deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth; receive deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside of the Commonwealth to be used only for the fortification of wine produced by

the licensee in accordance with Board regulations. Currently, this privilege is limited to licensed wineries located in Virginia. HB 1316; CH. 379.

§§ 4.1-209, 4.1-210, 4.1-230, 4.1-231, and 4.1-233 amended. Alcoholic beverage control; annual banquet and annual mixed beverage banquet licenses. Creates a new annual banquet license for wine and beer and an annual mixed beverage banquet license for mixed beverages. Both licenses are limited to certain organizations and their guests and to no more than 12 events per calendar year. The provisions set out the application fee and the state and local taxes for these new licenses. The bill contains technical amendments. HB 1489; CH. 487.

§ 4.1-230 amended. Alcoholic beverage control (ABC); application for licenses; shippers' licenses. Exempts applicants for a wine or beer shipper's or a wine and beer shipper's license from the requirement of having a background investigation conducted by the ABC Board. The bill also provides for such license application that the ABC Board does not need to notify local governing bodies of the pending application. HB 1394; CH. 382.

§§ 4.1-230 and 4.1-231. See Budget Bill; HB 5001.

§ 4.1-233 amended. Alcoholic beverage control; taxes on local licenses. Authorizes the imposition of a local license tax on wine shipper's, beer shipper's and wine and beer shipper's licenses of not more than \$10 per license. The bill also authorizes a local license tax on farm winery licenses of not more than \$50, and decreases the current local license tax on winery licenses from \$1,000 to \$50. HB 1448; CH. 384.

§ 4.1-305. See § 18.2-36.1; HB 1059.

§ 4.1-305 amended. Community-based probation for underage alcohol offenders. Provides that a person convicted of underage possession of alcohol may, as a condition of deferral and dismissal, be sent to community-based probation as an alternative to an alcohol safety action program. HB 1309; CH. 322.

§ 4.1-325 amended. Alcoholic beverage control; prohibited acts by mixed beverage licensees; exception. Allows a mixed beverage licensee to serve or deliver, or both, "soju" (a Korean alcoholic beverage) to a consumer in its original bottle. The bill defines "soju." HB 805; CH. 913.

TITLE 6.1. BANKING AND FINANCE.

§ 6.1-1.1 amended. Banking and finance; confidentiality of information. Authorizes the State Corporation Commission or its employees to release examination reports regarding financial institution and personal financial information to other persons as required by grand jury subpoenas. SB 163; CH. 165.

§§ 6.1-2.25 and 6.1-2.27 amended. Consumer Real Estate Settlement Protection Act; summonses and subpoenas; or-

ders have force and effect of circuit court decrees. Authorizes licensing authorities to issue summonses and subpoenas and to issue orders restraining a person from engaging in an act or practice. The bill also gives orders of the licensing authorities imposing penalties or requiring restitution the force and effect of circuit court decrees. SB 509; CH. 597.

§ 6.1-2.25. See § 17.1-223; SB 587.

§§ 6.1-32.3, 6.1-32.11, 6.1-32.19, and 6.1-32.20 amended. **Banking and finance; subsidiary trust companies and trust company holding companies.** Permits companies other than banks and bank holding companies to own nonvoting stock of trust subsidiaries. The requirement that a trust company holding company also control a securities-related company is eliminated. "Control" is defined as ownership of 25 percent or more of the voting stock of a trust company. The bill also authorizes acquisition of a Virginia trust company by any bank holding company or any company having a trust subsidiary as permitted by federal law or the law of another state. SB 542; CH. 781.

§ 6.1-62 amended. **Banks; loans and other extensions of credit to executive officers and directors.** Requires that Federal Reserve Board Regulations govern the maximum amount of loans and other extensions of credit a bank may make to any of its executive officers or directors, and the conditions and procedures for approval of such extensions of credit, regardless of whether the bank is a member of the Federal Reserve System. HB 1269; CH. 320.

§§ 6.1-330.53, 6.1-330.54, and 8.01-382 amended. **Rates of interest.** Provides that the legal and judgment rates of interest both are lowered from the current rate of eight and nine percent respectively to six percent, to reflect current market realities. Clarifies that where the relevant contract or instrument is silent and the court or jury has not set the interest rate, the same rate is applied for prejudgment and post-judgment interest. HB 1460; CH. 646.

§§ 54.1-3905, 57-60, and 59.1-200 amended; §§ 6.1-363.2 through 6.1-363.26 added; § 6.1-363.1 repealed. **Nonprofit credit counseling.** Requires credit counseling agencies to obtain a license from the State Corporation Commission in order to provide or offer to provide to consumers debt management plans. Under consumer debt management plans, an agency agrees to engage in debt settlement or debt pooling and distribution services on behalf of a consumer with the consumer's creditors, and the consumer gives money or control of his funds to the agency for distribution to the consumer's creditors. Licensees shall provide to consumers a statement that providing debt management plan services on behalf of the consumer may have a derogatory effect upon the consumer's credit report. The SCC's Bureau of Financial Institutions may investigate and examine the affairs, business, premises, and records of any person licensed or required to be licensed. The SCC may impose a fine or penalty on violators not exceeding \$1,000. Any person operating without a license shall be guilty of a Class 1 misdemeanor. Any person who suffers loss by reason of a violation may bring a civil action. The SCC may

request the Attorney General to investigate a suspected violation. Any violation constitutes a prohibited practice under the Virginia Consumer Protection Act. The measure does not apply to a person licensed to practice law in the Commonwealth. An agency that had been licensed under the current statutes regulating non-profit debt counseling agencies, which laws are repealed by this measure, is required to reapply for the new license by October 1, 2004. HB 471; CH. 790.

§§ 6.1-453, 6.1-459, and 6.1-461 amended. **Payday Loan Act; requirements; charges.** Requires payday lenders to retain their borrowers' checks. The bill prohibits application of post-maturity interest to loan fees and limits borrowers' right to make partial payments to the period prior to loan maturity. Payday lenders are required to return paid loan agreements to borrowers marked "paid" or "canceled" and to keep copies of such agreements. The measure also provides that the Payday Loan Act's provisions exclusively control the post-judgment interest and other charges and expenses payday lenders may recover from borrowers. HB 688; CH. 295.

§§ 6.1-472 and 6.1-473 added. **Asset-Backed Securities Facilitation Act.** Provides that any property, assets, or rights purported to be transferred in a securitization transaction shall be deemed to no longer be the property, assets, or rights of the transferor. A transferor in a securitization transaction, its creditors or a bankruptcy trustee, receiver, debtor, debtor in possession, or similar person shall have no rights to reacquire, reclaim, recover, repudiate, disaffirm, redeem, or recharacterize as property of the transferor any property, assets, or rights purported to be transferred by the transferor. In a bankruptcy, receivership, or other insolvency proceeding governed by the laws of the Commonwealth, the property, assets, and rights shall not be deemed to be part of the transferor's property, assets, rights, or estate. SB 536; CH. 600.

TITLE 8.01. CIVIL REMEDIES AND PROCEDURE.

§ 8.01-6 amended. **Relation back; addition of agent.** Authorizes amending a pleading to change the party against whom a claim is asserted so long as either the party or his agent had notice of the institution of the action within the limitations period. Under current law, amendments are permitted only where the party had notice of the institution of the action. Current law authorizing amendments to pleadings based on confusion in trade names contains the "agent" reference in that statute's requirements for actual notice of a claim. HB 705; CH. 141/SB 118; CH. 326.

§ 8.01-15.2 added. **Servicemembers Civil Relief Act.** Establishes civil law protections for servicemembers, consistent with federal law. Blocks entry of default judgment absent an affidavit stating whether the defendant is in military service, or that the plaintiff does not know if he is in such service. Authorizes

setting aside default judgments against servicemembers as provided by federal law. HB 1379; CH. 381.

§ 8.01-27.3 added. Civil recovery; health care provider professional services. Authorizes a health care provider, if an insured or enrollee of an accident and sickness insurance policy, health services plan or health maintenance organization fails to remit insurance payments he has received for health care rendered, to institute a civil action to recover the lesser of \$250 or three times the amount of the payment, together with the amount of the payment and any sanctions imposed pursuant to § 8.01-271.1. Action may be instituted only after the health care provider has invoiced the insured or enrollee for the services, and 30 days after the insured's or enrollee's receipt of the insurance payments. HB 565; CH. 909.

§§ 8.01-27.3, 8.01-226.8, and 8.01-226.9. See § 18.2-46.1; HB 1060.

§ 18.2-127 amended; § 8.01-44.6 added. Damage to cemetery property. Provides that a cemetery company owner or operator may bring an action to recover damages, including labor costs and reasonable attorneys' fees, for the willful or malicious destruction of cemetery property, regardless of whether the damaged property is owned by the cemetery. A restitution requirement is added to the criminal statute. SB 494; CH. 203.

§ 8.01-129 amended. Appeals from decisions of general district court. Permits issuance of a writ of execution immediately upon entry of judgment for possession in cases of judgment of default arising out of a trustee's deed following foreclosure. Under current law, writs of execution may not issue until expiration of the 10-day period for appeal, except in cases of judgment of default for nonpayment of rent. This bill extends that exception to those judgments of default arising out of a trustee's deed following foreclosure. HB 46; CH. 343.

§ 8.01-184.1 added. Imposition of sales and use tax; declaratory judgment. Grants circuit courts original jurisdiction over civil actions where a business organized under Virginia law or qualified to do business in Virginia seeks a declaratory judgment that the business is not obligated to collect and remit sales and use taxes to another state. HB 1463; CH. 647/SB 668; CH. 609.

§§ 8.01-195.10, 8.01-195.11, and 8.01-195.12 added. Wrongful incarceration for a felony conviction. Provides guidelines for the compensation of persons wrongfully incarcerated. Under the guidelines a wrongfully incarcerated person may receive an amount equal to 90 percent of the Virginia per capita personal income for each year of incarceration up to 20 years. The compensation shall be paid as an initial lump sum equal to 20 percent of the award with the remaining 80 percent of the principal to be used to purchase an annuity to provide equal monthly payments to such person for a period certain of 25 years. The bill also provides for (i) a \$15,000 transition assistance grant for a wrongfully incarcerated person upon his release from prison to be paid from the Criminal Fund, which amount shall be deducted from any award received and (ii) re-

imbursement of up to \$10,000 for tuition for career and technical training within the Virginia Community College System contingent upon successful completion of the training. The bill specifically provides that the payment and receipt of any compensation for wrongful incarceration shall be contingent upon the General Assembly appropriating funds for that purpose. HB 638; CH. 840/SB 271; CH. 818.

§ 8.01-216.3 amended. Virginia Fraud Against Taxpayers Act. Provides that the false claims provisions of the Act do not apply to claims, records or statements relating to state or local taxes. Current law exempts only income taxes. SB 343; CH. 589.

§ 8.01-226.8 added. Civil immunity; litter pick up by probationers and persons on community service. Provides civil immunity for probation officers; court personnel; county, city and town personnel; any other public officials; and private volunteers who participate in a program in which persons on community service or persons on probation are ordered as a condition of probation or community service to pick up litter along a section of public roadway or waterway. The immunity protects the specified persons from liability for injury to the persons on probation or community service, in the absence of willful misconduct. The bill provides that it shall not be interpreted to grant any immunity to any driver transporting the probationers or persons on community service, or any motorist, who, by his negligence, may injure such probationer or person on community service. HB 534; CH. 434/SB 72; CH. 387.

§ 8.01-262 amended. Venue; civil actions. Provides that Category B venue includes counties or cities in which the defendant regularly conducts substantial business activity. Under current law, Category B venue includes counties or cities in which the defendant regularly conducts affairs or business activity. HB 1127; CH. 979.

§ 8.01-293. See § 16.1-241; SB 335.

§ 8.01-293. See § 15.2-1609.3; SB 619.

§ 8.01-294 amended. Civil remedies; service of process. Clarifies that failure to make return of service of process by anyone authorized to serve process within the time specified shall not invalidate any service of process or any judgment based thereon. Current law appears to apply only to sheriffs. HB 980; CH. 627.

§ 8.01-341.1 amended. Jury service of certain legislative employees. Adds certain legislative employees to the list of persons who are exempt from jury service upon request. The provision applies only to the time period from 60 days before a regular General Assembly session to 30 days after adjournment, and seven days before and after a reconvened or special session. The bill applies to employees of the Office of the Clerk of the House of Delegates, the Office of the Clerk of the Senate, the Division of Legislative Services, and the Division of Legislative Automated Systems. SB 38; CH. 106.

§ 8.01-356 amended. Civil remedies; failure of juror to appear. Increases the monetary range established in 1977 for

fining a juror who fails to appear in court from "not less than \$25 nor more than \$100" to "not less than \$50 nor more than \$200." SB 513; CH. 116.

§ 8.01-380 amended. Civil procedure; nonsuits. Provides that if notice to take a nonsuit of right is given to the opposing party within seven days of trial the court may assess against the nonsuiting party reasonable witness fees and travel costs of expert witnesses scheduled to appear at trial, which are incurred by the opposing party solely by reason of the failure to give notice at least seven days prior to trial. Under current law, the applicable timeframe is five days. HB 624; CH. 362.

§ 8.01-382. See § 6.1-330.53; HB 1460.

§§ 8.01-407, 8.01-413, 16.1-89, and 16.1-265 amended. Attorney-issued subpoenas. Eliminates the five-days-before-trial (or the date of return) restriction on attorney-issued subpoenas and makes them subject to the same time frame as all other subpoenas. The attorney-issued subpoenas will be subject to the general provision that a judge may choose not to enforce a subpoena that is issued within five days. A sheriff is not required to serve an attorney-issued subpoena that is issued within five days. As introduced, this bill was a recommendation of the Boyd-Graves Conference. SB 495; CH. 335.

§ 8.01-413 amended. Patient health records. Provides that a patient's executor or administrator also may obtain copies of a patient's health care records where the records are requested in anticipation of litigation or in the course of litigation. Currently only a patient, his attorney, or an authorized insurer may obtain copies of the patient's health care records. HB 733; CH. 742.

§ 8.01-413. See § 32.1-127.1:03; HB 877.

§ 8.01-413. See § 32.1-127.1:03; SB 337.

§ 8.01-417 amended. Copies of subpoenaed documents to be provided to other parties. Requires any party to a civil proceeding who subpoenas documents concerning another party to provide true and full copies of the documents to the other party or his attorney, if requested, provided the requesting party pays reasonable copying or reproduction costs. The requirement does not apply where the subpoenaed documents are returnable to and maintained by the clerk of court in which the proceeding is pending. HB 49; CH. 345.

§ 8.01-499. See § 17.1-272; HB 1265/SB 620.

§ 8.01-513 amended. Service of process on corporation. Defines the term "managing employee" for the purposes of service of process in garnishment proceedings as an employee charged by the corporation with the control of operations and employee supervision at a business location of the corporation where process is to be served. HB 979; CH. 231.

§ 8.01-581.17 amended. Medical malpractice peer review entities; privileged communications. Extends the privileges of confidential communications to quality assurance or peer review committees established under (i) a national or state peer review entity, (ii) a national or state accreditation entity, (iii) a national professional association of health care providers or

Virginia chapter of a national professional association of health care providers, (iv) an MCHIP licensee and (v) a statewide or local association representing health care providers licensed in the Commonwealth. Oral communications made to such a committee regarding a specific medical incident involving patient care are privileged only to the extent that they are made more than 24 hours after the occurrence of the medical incident. SB 385; CH. 250.

§ 8.01-676.1 amended. Appeal bonds. Eliminates the current \$25 million ceiling on an appeal bond securing noncompensatory damages and establishes in its place a \$25 million ceiling on an appeal bond securing all damages awarded the appellee. Provides that where the appellee shows dissipation of assets by the appellant, the court may require the appellant and its affiliates to post a bond or irrevocable letter of credit in an amount up to the full amount of judgment. The bill contains a clause specifying that its provisions are procedural and not substantive in nature. HB 430; CH. 356/SB 172; CH. 328.

TITLE 8.2. COMMERCIAL CODE - SALES.

§§ 8.2-103, 8.2-104, 8.2-310, 8.2-323, 8.2-401, 8.2-503, 8.2-505, 8.2-506, 8.2-509, 8.2-605, and 8.2-705. See § 8.7-102; SB 119.

TITLE 8.4. COMMERCIAL CODE - BANK DEPOSITS AND COLLECTIONS.

§§ 8.4-104 and 8.4-208. See § 8.7-102; SB 119.

TITLE 8.7. COMMERCIAL CODE - WAREHOUSE RECEIPTS, BILLS OF LADING AND OTHER DOCUMENTS OF TITLE.

§§ 8.1A-201, 8.2-103, 8.2-104, 8.2-310, 8.2-323, 8.2-401, 8.2-503, 8.2-505, 8.2-506, 8.2-509, 8.2-605, 8.2-705, 8.4-104, 8.4-208, 8.7-102, 8.7-103, 8.7-104, 8.7-202, 8.7-203, 8.7-204, 8.7-205, 8.7-206, 8.7-208, 8.7-209, 8.7-210, 8.7-301, 8.7-302, 8.7-303, 8.7-305, 8.7-307, 8.7-309, 8.7-401, 8.7-402, 8.7-403, 8.7-404, 8.7-501, 8.7-502, 8.7-503, 8.7-504, 8.7-505, 8.7-506, 8.7-507, 8.7-509, 8.7-601, 8.7-602, and 8.7-603 amended; §§ 8.7-105.1 and 8.7-106 added; § 8.7-105 repealed. Uniform Commercial Code; Article 7-Documents of Title. Updates provisions of Article 7 of the Uniform Commercial Code to acknowledge the development of electronic documents of title. Specific measures authorize the reissuance of electronic documents of title in a tangible medium, address when a person has control of an electronic document of title, and address the in-

teraction of Title 7 with the Electronic Signatures in Global and National Commerce Act and the Uniform Electronic Transactions Act. SB 119; CH. 200.

TITLE 9.1. COMMONWEALTH PUBLIC SAFETY.

§§ 9.1-101 and 9.1-400 amended. Public Safety; motor vehicle carriers. Removes obsolete provisions in the Code that reference certain agents, inspectors or investigators that were appointed by the State Corporation Commission (SCC) to enforce motor vehicle carrier laws. The authority for the appointment by the SCC of such individuals was repealed in 1995 when the enforcement of motor vehicle carrier laws was transferred to the Department of Motor Vehicles. HB 23; CH. 30.

§§ 9.1-102, 9.1-143, 16.1-77, 19.2-149, 38.2-1800, 38.2-1824, 38.2-2411, 38.2-2412, and 58.1-3724 amended; §§ 9.1-185 through 9.1-199.4, 38.2-2412.1, and 38.2-2412.2 added; §§ 19.2-152.1 through 19.2-152.1:7 and 38.2-1865.6 through 38.2-1865.13 repealed. Bail bondsmen. Provides for licensure and regulation of property and surety bail bondsmen by the Department of Criminal Justice Services. Surety bail bondsmen will continue to be licensed as property and casualty insurance agents by the State Corporation Commission also. A bail bondsman is added to the membership of the Private Security Services Advisory Board. The bill is the result of a study by the Virginia State Crime Commission and is scheduled to become effective July 1, 2005. HB 1057; CH. 460 (effective - see bill).

§ 9.1-102. See § 16.1-253.2; HB 1233/SB 236.

§ 9.1-102 amended; §§ 9.1-185 through 9.1-199 added. Bail enforcement agents. Provides for the licensure and regulation of bail enforcement agents by the Board and Department of Criminal Justice Services. The regulatory scheme is effective October 1, 2005, but a provision that a felon may not engage in bail recovery is effective July 1, 2004. The bill is a recommendation of the Virginia State Crime Commission. SB 334; CH. 397 (effective - see bill).

§ 9.1-102. See § 19.2-81.3; SB 550.

§ 9.1-116.1. See § 16.1-69.48:1; HB 1234.

§§ 9.1-138 and 9.1-139 amended. Certified detector canine handlers. Includes certified detector canine handlers in the field of private security services professionals. The bill includes definitions of detector canines, etc. The bill also adds a definition of "legal permanent resident" for the purposes of certification as a private security employee. HB 1193; CH. 470.

§§ 9.1-161 and 9.1-162 amended. Public safety; crime prevention specialists. Requires the chief law-enforcement officer of the locality or campus police wherein the candidate

for certification serves to approve the certification prior to the person serving as a crime prevention specialist. HB 1116; CH. 466.

§ 9.1-178 amended. Community criminal justice boards. Authorizes an officer of the court appointed by a local governing body to serve on a community criminal justice board to designate a member of his staff approved by the governing body to represent him at meetings of the board. SB 308; CH. 395.

§§ 9.1-902 and 18.2-374.3 amended. Sex Offender and Crimes Against Minors Registry Act. Adds to the list of those required to register under the Act, any person who has solicited or has attempted to solicit, by use of a communications system, certain acts that constitute violations of the taking indecent liberties with children statute. HB 759; CH. 444/SB 575; CH. 414.

§ 9.1-903 amended. Sex offender registration procedures. Clarifies the manner in which a registered sex offender must register if he changes his address. If his new residence is within the Commonwealth, the person must register in person with the local law-enforcement agency where his new residence is located within 10 days following his change in residence. If the new residence is located outside of the Commonwealth the person must register in person with the local law-enforcement agency where he previously registered within 10 days prior to his change of residence. The bill also clarifies that persons required to register who have been in a state civil commitment program for sexually violent predators must do so within 10 days of release from the program. HB 291; CH. 834.

§ 9.1-1000 added. Retired law-enforcement officers; photo identification cards. Requires that if requested of the employer upon retirement, a law-enforcement officer be issued a photo identification card indicating that he is a retired law-enforcement officer. The bill also requires that such identification cards be provided upon request to law-enforcement officers who retired before July 1, 2004. SB 648; CH. 419.

TITLE 10.1. CONSERVATION.

§ 10.1-104.1 amended; § 10.1-546.1 added. Soil and water conservation districts. Specifies the roles of soil and water conservation districts. Districts are to assist the Department of Conservation and Recreation in (i) providing technical assistance to promote conservation management practices, (ii) delivering educational initiatives on water quality issues, and (iii) promoting incentives to encourage voluntary actions to minimize nonpoint source pollution. The districts will also be responsible for locally administering the Department's Agricultural Best Management Practices Cost-Share Assistance Program. HB 1271; CH. 474.

§ 10.1-560 amended. Erosion and Sediment Control Law. Specifies that only surface or deep mining activities that are

authorized under a permit issued by the Department of Mines, Minerals and Energy shall be excluded from the definition of "land-disturbing activity" under the Erosion and Sediment Control Law. HB 1283; CH. 476.

§§ 10.1-561 and 62.1-44.15 amended. Certificate of competence. Requires personnel of (i) the Department of Conservation and Recreation who inspect for compliance with the Erosion and Sediment Control Law and (ii) the Department of Environmental Quality who inspect for compliance with stormwater management permits, to hold valid certificates of competence of the Erosion and Sediment Control Law, as required of local program personnel. HB 445; CH. 431.

§§ 10.1-603.2 through 10.1-603.9, 10.1-603.11, 10.1-603.15, and 62.1-44.5 amended; §§ 10.1-603.2:1, 10.1-603.2:2, 10.1-603.4:1, 10.1-603.12:1 through 10.1-603.12:7, and 10.1-603.13:1 added; § 10.1-603.10 repealed. Stormwater management. Consolidates Virginia's stormwater management programs within the Department of Conservation and Recreation, and transfers oversight responsibilities to the Virginia Soil and Water Conservation Board from the Board of Conservation and Recreation. HB 1177; CH. 372 (effective - see bill).

§ 10.1-1010 amended. Conservation easements. Reduces the minimum number of years required for a holder of a conservation easement to have a principal office in the Commonwealth from five to four years. The provisions of this bill expires on July 1, 2005. HB 883; CH. 364.

§§ 10.1-1181.2 and 10.1-1181.3 amended. Silvicultural activity. Allows the State Forester to collect civil penalties for failure to notify the State Forester of the commercial harvesting of timber. Currently, the State Forester may assess a penalty of \$250 for an initial violation and not more than \$1,000 for any subsequent violation within a two-year period. Such civil penalties must be recovered in a civil action brought by the Attorney General and are to be paid into the Virginia Forest Water Quality Fund. HB 947; CH. 228.

§ 10.1-1300 amended; § 10.1-1316.1 added. Ozone nonattainment fees. Authorizes the Department of Environmental Quality to collect penalty fees from stationary sources of air emissions if severe nonattainment areas in which these facilities are located do not attain air quality standards by deadlines established by the federal Clean Air Act. The bill establishes the formula for calculating the fee amounts owed as a penalty. The fees would be used for air quality monitoring and evaluation, and for measures to improve air quality in severe nonattainment areas. SB 454; CH. 408.

§§ 10.1-1307, 10.1-1802, and 10.1-2012. See § 2.2-608; SB 6.

§ 10.1-1322.3 amended. Air emissions trading. Prohibits the Commonwealth from selling, by auction or other manner, the set asides allocated to new sources of air emissions. The bill does not apply to or affect the auction of Virginia's allocation of nitrogen oxide pollution credits set aside for new sources of electric power generation and other facilities for the years 2004 and 2005. SB 386; CH. 334.

§ 10.1-1413.2. See § 2.2-2238; SB 3.

§ 10.1-1426 amended. Temporary storage of hazardous waste. Allows localities and state agencies to temporarily store household hazardous waste and hazardous waste from small quantity generators if it is done in accordance with (i) a permit to store, treat, or dispose of hazardous waste, or (ii) a permit to transport hazardous waste. HB 713; CH. 442.

§§ 10.1-2009 and 10.1-2011 amended. Virginia Museum of Natural History; powers and duties; salary of director; gifts and endowments. Authorizes the Board of Trustees for the Virginia Museum of Natural History to supplement, with prior annual written approval of the Governor, the salary of the director of the Museum from nonstate funds. The Governor may be guided, in approving a supplement, by criteria that provide a reasonable limit on the total additional income of the director. The criteria may include, but need not be limited to, a consideration of the salaries paid to similar officials at comparable museums of other states. The Board must report approved supplements to the Department of Human Resource Management for retention in its records. In addition, the Museum, which is within the Secretariat of Natural Resources, is deemed an institution of higher education for the purposes of § 23-3.1, relating to local governing bodies' conveyance of property and appropriation of funds to state-supported institutions of higher education, and § 23-9.2, relating to the Commonwealth's policy vis-a-vis unrestricted gifts and endowments received by the public institutions of higher education from private sources. HB 1338; CH. 870.

§ 10.1-2124 amended. Watershed Coordination Program. Enables the Department of Conservation and Recreation to create the Watershed Coordination Program to engage stakeholders within each of the Commonwealth's 14 major river basins to develop comprehensive strategic plans to mitigate and prevent nonpoint source water pollution. The Program will continue the work of watershed roundtables, support citizen stewardship activities, and be coordinated with the agencies of the Secretariat of Natural Resources, the Department of Forestry, and the Department of Agriculture and Consumer Services. The Program will be funded with private funds; however, DCR may assist with the initial costs associated with the development of the Program. This bill allows DCR to assist in fund-raising efforts to supplement the Fund and provide assistance to the fund-raising efforts of the watershed roundtables. SB 523; CH. 413.

TITLE 10.1. MISCELLANEOUS - CONSERVATION.

Air, waste, and water permit fees. Assesses a combination of permit application fees, annual fees, and permit maintenance fees that will generate approximately \$6 million for the funding of air, water and waste permit programs at the Department of Environmental Quality (DEQ). The Air Pollution Control

Board is authorized to collect a permit application fee not to exceed \$30,000 for new major stationary sources. The amount charged is to be credited towards the amount of annual fees paid by the permit holder during the first two years of the facility's operation. In addition to the permit fee charged for solid waste facilities, the bill establishes annual fees for various non-hazardous solid waste management facilities including noncaptive industrial landfills (\$8,000), construction and demolition debris landfills (\$4,000), sanitary landfills (amount based on tonnage), incinerators (amount based on tonnage), and other types of facilities. The bill also establishes the maximum amounts that the State Water Control Board can charge for processing various types of water permits and the maximum amounts it can assess as a permit maintenance fee on each permit type.

In addition, the bill requires DEQ to evaluate and implement measures to improve the long-term effectiveness and efficiency of its programs. To assist the agency in attaining such goals, a consulting firm will be hired to conduct a management efficiency study of the Virginia Pollutant Discharge Elimination System permit program and the air permit program. The firm will be assisted by a peer review panel. DEQ also is charged with conducting a review of its solid waste permitting programs in order to ensure that these programs are operating at maximum efficiency. HB 1350; CH. 324 (effective - see bill)/SB 365; CH. 249 (effective - see bill).

Oconeechee State Park. Amends Chapter 809 of the 2002 Acts of Assembly to provide a two-year extension for the authority granted to the Department of Conservation and Recreation to amend a lease with the Secretary of the Army for the purpose of providing additional recreational facilities, not to be operated by the Department, at Oconeechee State Park in Mecklenburg County. SB 614; CH. 825.

Property conveyance. Authorizes the Department of Conservation and Recreation to accept from the Norfolk Southern Corporation approximately 35.66 miles of abandoned railroad right-of-way running through the Counties of Appomattox, Cumberland, Nottoway and Prince Edward. HB 643; CH. 290.

TITLE 11. CONTRACTS.

§ 11-9.1 amended. Power of attorney; revocation. Authorizes a court to revoke, suspend, or otherwise limit the authority of an attorney-in-fact, held with respect to a person who has become incapacitated, at the request of, and based upon information provided by, the guardian, conservator, or committee for that incapacitated person, or by other interested parties. HB 1337; CH. 380.

§ 11-33.2 amended. Improper use of payment device numbers. Changes the deadline for old devices to comply with the prohibition on printing certain information on receipts from July 1, 2007, to July 1, 2005. In addition, the bill changes the prohibition of displaying certain information on payment de-

vice receipts from no more than the last five digits to no more than the last four digits. The bill also extends the prohibition to handwritten, imprinted and copied payment device numbers, except for the one original. The bill allows compliance by returning noncomplying copies to or destroying them in front of the payment device user. References to credit cards and debit cards were removed because the Congress preempted the law's application to credit card and debit card receipts with the reauthorization of the Fair Credit Reporting Act. See 15 U.S.C. 1681c(g) and 1681t(b)(5)(A). HB 537; CH. 793.

§ 11-33.3 added. Contract formation; federal Fair Credit Billing Act. Provides that a transaction shall be presumed to have occurred at the mailing address most recently provided by the holder of a credit card to the card issuer. The place where such a credit card transaction occurred is relevant in a determination of whether a credit card purchaser is able to assert certain claims and defenses pursuant to the federal Fair Credit Billing Act. HB 1189; CH. 373.

§ 11-34.3 amended. Energy Performance-Based Contract Procedures. Amends the required contract provisions for energy performance-based contracts by increasing the payback period from 12 to 20 years. HB 1176; CH. 197.

TITLE 13.1. CORPORATIONS.

§§ 13.1-616, 13.1-759, 13.1-766.1, 13.1-769.1, 13.1-816, 13.1-921, 13.1-931.1, 13.1-1005, 13.1-1052, 13.1-1060, 13.1-1064, 13.1-1072, 13.1-1204, 13.1-1242, 13.1-1254, 50-73.17, 50-73.48:3, 50-73.54, 50-73.57:2, 50-73.69, 50-73.93, and 50-73.138 amended; §§ 13.1-766.2, 13.1-928.2, 13.1-1060.1, 13.1-1250.1, and 50-73.57:3 added. Business entities; conversions; mergers; registration. Requires different business entities involved in conversions or mergers to make certain filings with the State Corporation Commission. The bill expands what must be included in the application for registration, reentry, or reinstatement that must be filed with the Commission in order for a foreign business entity to transact business in Virginia. The bill also includes technical amendments. HB 342; CH. 274.

§§ 13.1-750 and 13.1-912 amended. Corporations; articles of termination of corporate existence. Specifies the classes of persons entitled to receive payments when a corporation divests itself of all of its assets. The bill also makes technical amendments relating to articles of termination of corporate existence of stock and nonstock corporations. SB 131; CH. 162.

§§ 13.1-754, 13.1-916, 13.1-1008, 13.1-1009, 13.1-1019, 13.1-1022, 13.1-1023.1, 13.1-1024, 13.1-1048, 13.1-1050.1, 13.1-1059, 13.1-1064, 13.1-1070, 13.1-1239, 13.1-1254, 50-73.69, 50-73.83, 50-73.132, 50-73.134, and 50-73.137:1 amended; §§ 13.1-1041.1, 13.1-1049.1, 50-73.46:1, 50-73.52:1, and 50-73.137:2 added; §§ 13.1-1041 and 50-73.46 repealed. Business entities. Clarifies that liabilities incurred by a corporation, limited partnership, limited liability

company, business trust, or limited liability partnership, or its member, officer, director or other agent, after an administration termination of existence and before the entity's reinstatement shall be determined as if the termination of the entity's existence had not occurred. The changes also (i) authorize limited liability company operating agreements to provide for contractual appraisal rights, arbitration and exclusive jurisdiction, and multiple classes of members and managers; (ii) clarify the ability of limited liability companies to indemnify members, managers, and other agents; (iii) permit limited liability companies to engage in any business, purpose, or activity, regardless of whether the activity constitutes a business; and (iv) conform charging order provisions of the limited liability company, limited partnership, and partnership statutes. Also makes other technical changes to the limited liability company, partnership, and limited partnership acts. SB 538; CH. 601.

§ 13.1-857 amended. Nonstock corporations; terms of directors. Provides that where the articles of incorporation of a nonstock corporation are silent, the term of a director elected by the board of directors to fill a vacancy expires at the next meeting at which directors are elected. Current law contains no provision allowing the articles of incorporation to govern this matter. HB 884; CH. 303.

§§ 13.1-1011 and 13.1-1015 amended. Limited Liability Company Act; registered agents. Permits a member or manager of a limited liability company that is a member or manager of a new or existing limited liability company to be the registered agent for the limited liability company. This provision is consistent with similar provisions applicable to limited partnerships, registered limited liability partnerships, and business trusts. HB 1183; CH. 314.

§§ 13.1-1065, 13.1-1255, 50-73.70, and 50-73.83 amended. State Corporation Commission refunds. Authorizes the State Corporation Commission, relative to the Virginia Limited Liability Company Act, the Virginia Business Trust Act, the Virginia Revised Uniform Limited Partnership Act, and the Virginia Uniform Partnership Act, to refund any overpayment of fees, or fees collected for a document that is not accepted for filing, within one year from the date of the payment of the fee. The Commission is currently authorized to make such refunds under the Virginia Stock and Nonstock Corporation Acts. HB 1187; CH. 316.

TITLE 15.2. COUNTIES, CITIES AND TOWNS.

§ 15.2-106. See § 2.2-614.1; HB 1207.

§ 15.2-109 added. Regulations on political campaign signs. Supersedes local ordinances and regulations that would prohibit the display of political campaign signs on private property with the permission of the owner of the property and in compli-

ance with zoning and right-of-way restrictions applicable to temporary nonpolitical signs. SB 76; CH. 388.

§§ 15.2-710, 15.2-720.1, and 15.2-726 amended. County manager plan of government; budget, constitutional officers and easements. Amends the county manager plan of government (currently applying only to Arlington County) to (i) clarify the county manager's budget reporting duties, (ii) extend certain housing benefits to employees of constitutional officers, and (iii) grant the county manager authority to acquire certain temporary construction easements on behalf of the board. HB 434; CH. 22/SB 461; CH. 510.

§ 15.2-852 amended. Urban county executive form of government; disclosures in land use proceedings. Amends provisions requiring certain disclosures in land use proceedings in any county with the urban county executive form of government (Fairfax County) by lowering the current \$200 gift threshold to any gift or donation having a value of more than \$100, singularly or in the aggregate during a 12-month period. The provisions do not take effect until January 1, 2005, and do not apply to applications for a special exception, variance, or zoning amendment filed prior to that date. HB 988; CH. 552 (effective 1/1/05)/SB 228; CH. 498 (effective 1/1/05).

§ 15.2-858 amended. Urban county executive form of government; sanitary districts. Allows a county with the urban county executive form of government (Fairfax County) to create and amend sanitary districts by using a notice that uses a descriptive summary, rather than a full text notice, and to use a geographic description in place of the metes and bounds descriptions. Also, all proceedings held in the creation, amendment, or dissolution of any district created pursuant to former and existing general law are ratified, validated, and confirmed, and any and all such districts are declared to have been validly created, amended, or dissolved notwithstanding any defects or irregularities in the publication of any notice or the description of any boundaries. HB 1158; CH. 561.

§ 15.2-903 amended. Automobile graveyards and junkyards. Adds York County to the current list of counties that may adopt an ordinance requiring the screening of automobile graveyards and junkyards. The bill also specifies the counties that were previously set forth by population bracket. SB 115; CH. 493.

§§ 15.2-904 and 15.2-905 amended. Inoperable motor vehicles. Defines "shielded or screened from view" as not visible by someone standing at ground level from outside of the property on which the subject vehicle is located. The bill also provides that an owner may keep a vehicle he is actively restoring (if it is screened from view) and one additional vehicle being used for such restoration on the property. SB 204; CH. 934.

§ 15.2-904 amended. Inoperable motor vehicles. Gives localities greater flexibility in defining "inoperable motor vehicles." SB 529; CH. 513.

§ 15.2-905 amended. Inoperable motor vehicles. Amends existing provisions that apply to various localities as described

by form of government or by population bracket, by specifying such localities by name and by adding the Cities of Hampton and Newport News. Otherwise, the substance of the section, which allows localities by ordinance to prohibit any person from keeping an inoperable vehicle on certain property, except within a fully enclosed building or structure or otherwise shielded or screened from view, is unchanged. SB 437; CH. 508.

§§ 15.2-906, 15.2-1115, 58.1-3965, and 58.1-3970.1 amended. Nuisance abatement. Makes various changes to facilitate the ability of localities to abate nuisances and dispose of tax delinquent properties, including (i) expansion of instances in which an unpaid charge may constitute a lien on property, (ii) decreasing the time period that a locality shall wait prior to taking action to sell certain tax delinquent properties, (iii) expanding the ability of localities to declare a property as abandoned, and (iv) expanding the instances in which a locality may petition for the conveyance of a deed in lieu of a sale at public auction for certain parcels. HB 1456; CH. 968.

§§ 15.2-912.2, 15.2-912.3, 15.2-915.2, 15.2-915.3, 15.2-926, 15.2-926.2, 15.2-1209.1, and 15.2-1812.2. See § 18.2-46.1; HB 1060.

§§ 15.2-915 and 18.2-308.2:2 amended. Control of firearms; applicability to authorities and local governmental agencies. Removes the grandfather clause that allows localities to enforce ordinances governing firearms that were passed before January 1, 1987, and affirmatively declares that any local ordinances adopted prior to January 1, 1987, are invalid. The bill also removes language relating to the purchase of handguns that would allow a more stringent local ordinance relating to purchase or transfer of firearms adopted prior to January 1, 1987, to supersede state law relating to purchase or transfer. This change is necessary because the bill would invalidate any such local ordinance. HB 530; CH. 837.

§ 15.2-915 amended. Local government; control of firearms and ammunition. Prohibits a local government from adopting an ordinance governing the storage of firearms or ammunition. Currently, a local government is prohibited from adopting an ordinance governing the purchase, possession, transfer, ownership, carrying, or transporting of firearms or ammunition. HB 1150; CH. 923.

§§ 15.2-915.2 and 15.2-1209. See § 18.2-299; HB 1303.

§ 15.2-923 amended. Local water-saving ordinances. Permits localities to restrict the nonessential use of ground water during declared water shortages or water emergencies. This authority currently applies only to the City of Virginia Beach (described by population.) SB 400; CH. 402.

§ 15.2-953 amended. Donations by localities. Allows localities to make donations to any nonprofit organization providing recreational or daycare services to persons 65 years of age or older. HB 300; CH. 272.

§ 15.2-958.2 added. Home-ownership assistance. Allows that a locality may by ordinance provide for the use of funds,

other than state funds, for grants to assist employees of the locality to purchase residences in such locality. The residences shall be the primary residence of any employee receiving such grants or loans and individual grants shall not exceed \$5,000 per employee. HB 827; CH. 541.

§ 15.2-965.1. See § 2.2-4310; HB 1145/ SB 598.

§ 15.2-975 added. Cash proffers; issuance of bonds. Provides that localities that are authorized to accept voluntary cash proffers may also issue bonds under the provisions of the Public Finance Act to finance certain improvements to the extent that the costs of such improvements have been pledged by landowners as voluntary cash proffers. HB 1255; CH. 927.

§ 15.2-1115 amended. Abatement of nuisances; liens. Provides that charges imposed by municipalities related to abatement of nuisances shall constitute a lien against the property ranking on a parity with liens for unpaid local taxes. A locality may waive such liens in order to facilitate the sale of the property under certain circumstances. HB 438; CH. 533.

§ 15.2-1213.1 added. Referendum in Page County on election of the county chairman from the county at large. Provides that the circuit court of the County shall order a referendum on the question of whether there should be a chairman of the county board of supervisors elected at large. If a majority of the qualified voters voting in such referendum vote in favor of the election of a county chairman of the board of supervisors from the county at large, beginning at the next general election for the board of supervisors, the county chairman shall be elected for a term of four years. HB 141; CH. 18/ SB 574; CH. 890.

§ 15.2-1414.5 amended. City council salaries. Allows city council members to be paid in accordance with the payroll cycle of city employees. HB 1258; CH. 570 .

§ 15.2-1416 amended. Meetings of governing bodies. Provides that any city or town that holds an organizational meeting in compliance with its charter or code shall be deemed to be in compliance with general law provisions. The provisions of this act shall apply to the actions of all city and town councils beginning July 1, 1997. HB 931; CH. 549.

§ 15.2-1503.1 amended. Criminal background checks. Allows localities to decide whether the locality or the individual pays the cost of fingerprinting for criminal record checks. SB 90; CH. 160.

§ 15.2-1508.3 amended. State and local health departments; reimbursement. Adds Chesterfield County to those localities that may supplement salaries and reimburse travel expenses of employees of state and local health departments. SB 45; CH. 157.

§ 15.2-1518 amended. Liability insurance for localities. Adds operational medical directors, fire department operational medical directors, police department operational medical directors, operational medical directors, and certain physicians course directors to those persons that a locality may include in

its liability insurance or self-insurance program. HB 1485; CH. 648.

§ 15.2-1604 amended. Constitutional officers; employment. Allows a constitutional officer to hire an employee without readvertising if the initial advertisement ran within 120 days. The current time limit is 60 days. HB 934; CH. 453.

§§ 8.01-293 and 15.2-1609.3 amended. Sheriffs' fees. Requires that only sheriffs or deputies serve show cause orders, and increases the fee (from 60 cents to \$1) for taking a bond. SB 619; CH. 210.

§ 15.2-1706 amended. Law-enforcement officer certification. Provides that the requirement for the successful completion of the law-enforcement certification examination may be waived by the Department of Criminal Justice Services based upon previous law-enforcement experience and training. HB 1299; CH. 477.

§ 15.2-1716 amended. Reimbursement of certain traffic incident expenses. Raises from \$100 to \$250 the flat fee that localities may seek from a person convicted of violating certain traffic-related offenses in order to reimburse the locality for providing an appropriate emergency response to any accident or incident related to such violation. The bill provides that costs for firefighting, rescue and emergency medical services may be ordered as restitution. HB 303; CH. 273.

§ 15.2-1718 amended. Missing child reports. Requires that local law-enforcement agencies enter descriptive information about a missing child into the Virginia Criminal Information Network and National Crime Information Center systems, forward the report to the Missing Children Information Clearinghouse maintained by the State Police, notify other local law-enforcement agencies, and initiate an investigation within two hours of receiving a report of a missing child. Currently, the law requires that this be done "immediately," but does not define what this means. The amendment clarifies that "immediately" means in no case more than two hours within receipt of the report. HB 717; CH. 443.

§§ 15.2-1718 and 52-32 amended. State police. Increases from 18 to 21 years the age of a person for whom a missing child report is filed when that person's whereabouts is unknown and the person has been reported missing to a law-enforcement agency. The bill also requires the police or sheriff's office, upon receiving a missing child report, to enter the information into the Virginia Criminal Information Network, in addition to other data systems. SB 317; CH. 248.

§ 15.2-1727 amended. Reciprocal agreements. Allows private institutions of higher learning to enter into certain reciprocal agreements to the same extent as state-supported institutions of higher learning. HB 1392; CH. 769.

§ 15.2-2108.11 amended. Provision of cable television services by certain localities. Provides that the Auditor of Public Accounts, in connection with the audit of a locality's cable television services, shall not disclose the portions of a compre-

hensive business plan that reveal marketing strategies of a municipal cable television service. SB 280; CH. 586.

§ 15.2-2109.2 added. Mutual aid agreements for power and natural gas. Provides that localities and investor-owned public utilities, electric cooperatives, and interstate natural gas companies may enter into mutual aid agreements in order to prepare for, prevent, and restore power and natural gas outages and failures. SB 369; CH. 693.

§§ 15.2-2110 and 15.2-2118 amended. Water and sewage systems. Adds Franklin County to those counties with authority to require connection to their water and sewage systems by owners of property that may be served by such systems and to the list of localities that may by ordinance provide that taxes or charges imposed for water or sewers or use thereof within or outside the locality shall be a lien on the real estate served by such waterline or sewer. HB 737; CH. 24.

§ 15.2-2110 amended. Water and sewage connections. Allows Wythe County, in assuming the obligations of a public service authority, to assume such obligations under the same terms and conditions as applicable to the public service authority. SB 190; CH. 816.

§§ 15.2-2110 and 15.2-2118 amended. Local water and sewage systems. Adds Franklin County to existing provisions that allow certain counties to require connection to their water and sewage systems, or in the case of persons having an adequate domestic supply or source of potable water and a system for the disposal of sewage, allow the county to impose a nonuser fee. Also, Franklin County is granted authority to treat certain unpaid taxes or charges imposed for water or sewers as a lien on the real estate served by such waterline or sewer. The bill also replaces a population bracket with Amelia County. SB 600; CH. 712.

§ 15.2-2114 amended. Regulation of stormwater; billing. Allows a locality to combine the billings for stormwater charges with billings for water or sewer charges, real property tax assessments, or other billings, and to establish by ordinance the order in which payments will be applied to the different charges. The bill also prohibits localities from combining its billings with other localities, political subdivisions, or waste and water authorities without the consent of that locality or political subdivision. SB 426; CH. 507.

§ 15.2-2144 amended. Inspection of water supplies. Changes the requirement that localities test the public water supply for the presence of methyl tertiary-butyl ether (MTBE) by requiring the test to be done annually rather than quarterly. MTBE is a synthetic compound used as an oxygenate in reformulated gasoline to help reduce air pollution, and has been found to enter the water supply by leaking from faulty underground storage tanks. The State Board of Health may establish an alternate testing schedule for certain waterworks where annual testing is not otherwise required. HB 601; CH. 438.

§§ 15.2-2204, 15.2-2223, and 15.2-2283 amended. Zoning adjacent to military bases, military installations, and military airports. Requires localities to give written notice to the

commander of any military base, military installation, or military airport that is within 3,000 feet of a proposed comprehensive plan or zoning change. Also, such installations are added to the list of items that a locality may include in its comprehensive plan and protection against encroachment against such installations is added as a purpose of zoning ordinances. HB 714; CH. 799.

§ 15.2-2204 amended. Notice of zoning amendment. Provides that when a proposed amendment of the zoning ordinance involves a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved. HB 819; CH. 539.

§ 15.2-2223 amended. Comprehensive plan. Requires that the plan include a transportation element that designates a system of transportation infrastructure needs and recommendations as appropriate, including, but not limited to, roadways, bicycle and pedestrian accommodations, railways, bridges, waterways, airports, ports, and public transportation facilities. The bill also requires the Virginia Department of Transportation to provide technical assistance upon request. SB 353; CH. 691.

§ 15.2-2241 amended. Provisions of a subdivision ordinance. Clarifies provisions related to conveyance of easements to franchised cable television operators and public service corporations. HB 715; CH. 952 .

§ 15.2-2300 amended. Ready access to proffer cash payments and expenditures reports. Requires the local Conditional Zoning Index to provide ready access to all proffered cash payments and expenditures disclosure reports prepared by the local governing body for the Commission on Local Government. The bill also requires the local zoning administrator to update the Conditional Zoning Index annually and no later than November 30 of each year. HB 417; CH. 531.

§ 15.2-2304 amended. Affordable housing. Adds the City of Alexandria to the list of localities with authority to provide for an affordable housing dwelling unit program under § 15.2-2304. HB 874; CH. 543.

§ 15.2-2307 amended. Removal of nonconforming abandoned signs. Provides that any locality may, by ordinance, require certain abandoned nonconforming signs to be removed by the owner of the property on which the signs are located, if notified by the locality to do so. If, following such two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property. HB 679; CH. 538.

§ 15.2-2403 amended. Service districts; road construction. Adds "road construction" to the powers of service districts. The

bill also requires the involvement of the local governing body in establishing certain transportation services to be operated or maintain by the Virginia Department of Transportation. HB 1373; CH. 810.

§ 15.2-2418. See § 36-155; SB 4.

§ 15.2-2903 amended. Duties of the Commission on Local Government. Transfers responsibility for oversight of certain Commission actions to the Secretary of Commerce and Trade. HB 1190; CH. 234.

§ 15.2-3201 amended. Moratorium on city annexation and county immunity notices and proceedings. Extends the moratorium on annexation proceedings. Under the current law, the moratorium ends following the end of any biennium in which actual appropriations to local governments for law-enforcement expenditures are less than the amount statutorily required. SB 206; CH. 879.

§ 15.2-4903 amended. Bedford Joint Economic Development Authority. Allows the Bedford Joint Industrial Development Authority to be named the Bedford Joint Economic Development Authority, or such other name as the governing bodies of the City of Bedford and Bedford County shall choose. HB 52; CH. 782.

§ 15.2-4903 amended. Industrial development authorities. Allows any locality to refer to its industrial development authority as an economic development authority. HB 683; CH. 292/SB 152; CH. 933.

§ 15.2-5114 amended. Water and sewer authorities; conduits for fiber optic cable. Permits water and sewer authorities to install, own and lease pipe or conduit for the purpose of carrying fiber optic cable provided that certain conditions are met. HB 919; CH. 545.

§ 15.2-5158 amended. Community development authorities. Provides that the revenue bonds issued by a development authority shall not be deemed to constitute a debt, liability, or obligation of any other political subdivision and shall not impact upon the debt capacity of any other political subdivision. HB 1211; CH. 637.

§ 15.2-5504 amended. Tourism Development Authority. Authorizes the Tourism Development Authority to form corporations, limited partnerships or limited liability companies for the purposes of fostering or promoting tourism, job creation, economic development, or the sale of goods manufactured and produced in Virginia. The Authority was established in 1993 for the LENOWISCO and Cumberland Plateau Planning District Commissions to promote, expand and develop tourism industries in that coal-producing region. HB 911; CH. 806.

§§ 15.2-6006 and 15.2-6011 amended. Virginia Coalfield Economic Development Authority. Expands the powers of the Authority to engage in economic development marketing and business attraction activities and to pay from the Authority's funds any and all expenses incurred in connection with such economic development marketing and business attraction activities. HB 744; CH. 36/ SB 480; CH. 177.

§§ 15.2-6400 and 15.2-6406 amended. Regional Industrial Facility Authority. Grants localities in which a facility owned by an authority is located greater flexibility to direct that tax revenue collected with respect to the facility shall be remitted to the authority. Also, the scope of the act is expanded to include those areas within planning districts 1 and 2. The act currently applies to planning districts 3, 4, 5, 10, 11, 12, 13, 14 and 19. HB 1393; CH. 640/SB 546; CH. 603.

§ 15.2-6406 amended. Regional Industrial Facility Authority. Grants localities in which a facility owned by an authority is located greater flexibility to direct that tax revenue collected with respect to the facility shall be remitted to the authority. HB 240; CH. 42.

§§ 15.2-6701 and 15.2-6703 amended. Buchanan County Tourist Train Development Authority. Increases the membership of the authority's board from eight to 22 members and permits the authority to borrow money and to accept contributions, grants, and other financial assistance from any private person, foundation or financial institution. HB 533; CH. 35/SB 69; CH. 158.

TITLE 15.2. MISCELLANEOUS - COUNTIES, CITIES AND TOWNS.

Certain restrictions on real property. Provides that any municipal or recreational purpose restriction placed on certain real property, located wholly or in part in Virginia Beach, acquired by the Commonwealth shall be satisfied if the property is used for tourism purposes that benefit the locality's tourism industry. SB 661; CH. 1020.

Exterior lighting regulation; James City County. Allows James City County to regulate the maximum upward exterior illumination levels of buildings and property zoned or used for commercial or business purposes. Such ordinance shall only apply to lighting installed after the effective date of the ordinance and shall not affect or be applied to agricultural or silvicultural operations, certain outdoor advertising signs, temporary Virginia Department of Transportation construction or maintenance, utility companies, facilities owned by the Department of Corrections, lighting regulated by the Uniform Statewide Building Code or to premise security lighting for certain multi-family residential or commercial office buildings. Any lighting installed prior to the effective date of the ordinance shall not be treated as nonconforming. The provisions of the bill expire if not acted upon by July 1, 2006. HB 963; CH. 550 (effective - see bill).

Hampton Roads Sanitation District. Adds King and Queen County and makes numerous other changes to the enabling act of the Hampton Roads Sanitation District. SB 654; CH. 120.

Permits to sell or purchase pistols or revolvers in counties. Repeals provision that authorized counties to require a permit for the sale and purchase of revolvers and requires that any

records created pursuant to that provision that are in the custody of a county be destroyed no later than July 31, 2004. HB 484; CH. 62/SB 227; CH. 393.

CHARTERS, AUTHORITIES.

Alexandria, City. Makes several changes including (i) authority to provide grants not to exceed \$5,000 to employees to purchase or rent residences within the City, (ii) grandfathering of city ordinances that may not have complied with general law, so long as the action was in compliance with the then applicable local law, (iii) clarifying that certain local procedures preempt provisions of general law, and (iv) clarifying certain notice provisions. SB 472; CH. 511.

Chesterfield, County. Provides that the County shall have the power to create or modify certain assessment districts for local improvements. For any such assessment district created after January 1, 2003, the Board may provide for the payment of an assessment of costs for improvements, or of any installment due pursuant to § 15.2-2413 of the Code of Virginia, to be suspended when any owner who owned property on the day the ordinance creating the assessment district was adopted and who occupies a residential building located on the property is 65 years of age or older. HB 559; CH. 617.

Christiansburg, Town. Provides that neither the mayor nor any member of the town council during his tenure of office as such shall be eligible to any remunerative office, position, or employment with the Town. HB 241; CH. 59.

Clifton, Town. Provides that the vice mayor shall preside in the absence of the mayor. HB 994; CH. 554.

Colonial Heights, City. Shifts city elections for the council and school board from May to November. Those currently in office shall have their terms extended by six months. HB 56; CH. 518.

Fairfax, City. Provides that the mayor and council members may be compensated in accordance with general law. HB 249; CH. 19/SB 97; CH. 161.

Falls Church, City. Makes changes affecting the internal operations and administration of city government in order to give the City greater flexibility to deal with personnel and other matters. HB 1248; CH. 569/SB 203; CH. 497.

Franklin, City. Increases the salaries of school board members from \$1,000 to \$4,000 and the school board chairman from \$1,500 to \$5,000. HB 57; CH. 32/SB 211; CH. 168.

Glasgow, Town. Provides for staggered council terms and deletes obsolete provisions. HB 1206; CH. 564.

Lexington, City. Provides that vacancies in the office of mayor or in council shall be filled by election if the vacancy occurs during the first 18 months of the term. SB 522; CH. 599.

Norfolk, City. Amends the charter by (i) granting authority to create voluntary design overlay districts, (ii) clarifying the meeting times of council, and (iii) making changes to the status of certain employees reporting to the city manager. HB 823; CH. 52.

Purcellville, Town. Provides that if a council vacancy occurs prior to the midpoint of the term, there shall be an election at the next regular council election to fill the remaining two years of the term. Also, the council is given authority to appoint an architectural review board, which shall be responsible for the review and implementation of architectural design standards for all commercial and overlay districts. HB 550; CH. 45.

Radford, City. Updates the City's boundary description, provides that all readings of ordinances shall require an affirmative vote of the majority of the members present and voting to pass, and makes numerous technical and clarifying changes. HB 1088; CH. 632.

Richmond, City. Provides for the direct election of the mayor, beginning in November 2004. The person receiving the most votes in each of at least five of the nine city council districts shall be elected. Should no one be elected, a runoff election shall be held between the two persons receiving the highest total of votes citywide. The person receiving the most votes in each of at least five of the nine city council districts shall be elected. An elected term shall run four years. Anyone eligible to serve on city council may serve as mayor except no one may be elected mayor for three consecutive full terms. The mayor shall be the chief executive officer of the City and shall be responsible for the proper administration of city government. The mayor shall be recognized as the head of government for all ceremonial purposes, military law and the service of civil process. The office of mayor shall be a full-time position with salary and expenses set by the council. The position of city manager is replaced by the position of chief administrative officer, appointed by the mayor subject to the advice and consent of a majority of the members of city council. The chief administrative officer shall serve at the pleasure of the mayor. Additional amendments clarify the responsibilities of the mayor and the chief administrative officer. HB 176; CH. 898 (effective - see bill)/SB 124; CH. 877 (effective - see bill).

Richmond, City. Extends council terms from two to four years, subject to approval by voter referendum, restores language repealed by charter amendments of 1998 related to nomination of council candidates, removes the requirement of a public hearing for council appointees who are removed from office, clarifies language regarding appointment and removal of certain appointees, creates a new group of appropriations that are exempt from lapsing at the close of a fiscal year, allows the director of finance to appoint a designee to certify that funds are available for formal bids and provides that the storm-water utility program may be administered by either the Department of Public Works or the Department of Public Utilities. SB 561; CH. 514.

Williamsburg, City. Provides that the City may create underground utility districts upon a petition signed by at least

three-fourths of the land owners within a proposed district. Also, school board member salaries are clarified and the clerk of council is given additional authority to administer oaths. HB 968; CH. 551/SB 396; CH. 505.

Winchester, City. Increases the term of school board members from three to four years. HB 53; CH. 31.

Luray-Page County Airport Authority. Provides for the establishment of the Luray-Page County Airport Authority upon resolutions adopted by the participating county and town. The powers of the authority, vested in a five-member board of directors, are typical of other airport authorities. HB 58; CH. 39.

Rudee Inlet Authority. Repeals the 1960 act that created the Rudee Inlet Authority. The authority has reportedly long been dormant and its duties have been taken over by various city offices of Virginia Beach. This is a recommendation of the Virginia Code Commission. HB 24; CH. 15.

TITLE 16.1. COURTS NOT OF RECORD.

§ 16.1-69.6:1. See Budget Bill; HB 5001.

§§ 16.1-69.9, 16.1-69.9:1, and 16.1-69.9:4. See § 19.2-35; HB 916.

§ 16.1-69.9:3. See § 17.1-511; SB 328.

§ 16.1-69.33 amended. **Committee on District Courts.** Makes the Chief Justice a member and chairman of the Committee. Increases from one to two the number of general district court judges and juvenile and domestic relations court judges included on the Committee. SB 327; CH. 330.

§ 16.1-69.40:1. See § 46.2-878.2; HB 253.

§ 16.1-69.48:1 amended. **Fixed fee for misdemeanors, etc.** Provides when a defendant in a criminal or traffic case in district court has multiple charges arising from the same incident and has been assessed a fixed fee for one of the charges and is later convicted of another charge that arises from that same incident that has a higher fixed fee, he is to be assessed the difference between the fixed fee earlier assessed and the higher fixed fee. HB 1141; CH. 371.

§§ 16.1-69.48:1 and 20-15 amended; § 9.1-116.1 added. **Virginia Domestic Violence Victim Fund.** Creates the Virginia Domestic Violence Victim Fund. The Fund is to be administered by the Department of Criminal Justice Services, and the resources used to support the prosecution of domestic violence cases and victim services. The Fund shall be supported by dedication of a portion of increased court fees. The bill provides that \$10 of the \$20 tax on marriage licenses goes to the Department of Social Services for providing services to victims of domestic violence. The Department of Criminal Justice Services, in cooperation with the Statewide Facilitator for Victims of Domestic Violence within the Office of the Attorney General, is required to make all reasonable efforts to

secure federal funds or other grant monies for domestic violence prosecution and services. HB 1234; CH. 375.

§§ 16.1-69.48:1 and 16.1-69.48:3. See § 17.1-275; HB 1430.

§§ 16.1-69.48:5 and 16.1-296 amended; § 16.1-296.2 added. **Filing fees in custody and visitation cases.** Creates a special rate for fees in custody and visitation proceedings barring any add-on fees in these cases and applies the special rate for appeal of these cases. The bill also corrects an omission in last year's legislation clarifying that a petition may be reissued without additional costs or fees if service could not be had. This is a recommendation of the Committee on District Courts. HB 344; CH. 727/SB 103; CH. 659.

§§ 16.1-69.48:5, 16.1-107, and 16.1-112 amended. **Fees for services of district courts.** Requires the district court clerks, in the case of an appeal filed pursuant to § 6.1-296, to collect fees for service of process of the notice of appeal in the circuit court before sending an appeal to the circuit court. The clerk is given the option to notify the appellee's attorney by regular mail that the appeal has been docketed. HB 982; CH. 366.

§ 16.1-77 amended. **Civil jurisdiction in actions of unlawful entry or detainer in general district court.** Provides that counter-claims and cross-claims filed in actions for unlawful entry or detainer where the occupant is using the premises primarily for business, commercial or agricultural purposes shall not be subject to the maximum jurisdictional limit of \$15,000 applicable in general district court. The counter-claim or cross-claim must arise out of the same use of the property for business, commercial or agricultural purposes. Under current law, the plaintiff in such actions may sue for more than \$15,000 in general district court, but counter-claims and cross-claims are limited to \$15,000 or less. HB 47; CH. 344.

§ 16.1-77. See § 9.1-102; HB 1057.

§§ 16.1-88.03 and 55-246.1 amended. **Pleadings and other papers signed by nonattorneys.** Provides that a corporate officer (with the approval of the board of directors) or a manager, general partner or trustee, may in writing authorize an employee, a person licensed under the provisions of § 54.1-2106.1 (real estate brokers and salespersons), a property manager, or a managing agent to (i) sign a warrant in debt, motion for judgment, warrant in detinue, distress warrant, summons for unlawful detainer, counterclaim, crossclaim, suggestion for summons in garnishment, garnishment summons, writ of possession, writ of fieri facias, interpleader and civil appeal notice filed in general district court, and (ii) appear in court to obtain a judgment for possession or for rent and damages. Under current law, the only nonlawyers who may sign such pleadings are a corporate officer (with the approval of the board of directors), a manager of a limited liability company, a general partner of any form of partnership or a trustee of any business trust, and the only nonlawyers who may appear in court on those pleadings are persons licensed under the provisions of § 54.1-2106.1 (real estate brokers and salespersons) and resident managers. HB 976; CH. 365/SB 630; CH. 338.

§§ 16.1-89 and 16.1-265. See § 8.01-407; SB 495.

§ 16.1-94 amended. **Orders of judgment in courts not of record.** Clarifies that judges in courts not of record may enter as a judgment order a discrete written installment or settlement order that has been endorsed by counsel. Under current law, a judge may enter a discrete written order in such cases as he deems appropriate or may enter the judgment on a pleading, note or bond. There is a provision that the bill is declaratory of existing law. HB 44; CH. 341.

§§ 16.1-228 and 63.2-100 amended. **Child abuse and neglect; definition.** Amends the definition of child abuse and neglect to include a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248. HB 1041; CH. 753.

§§ 16.1-228 and 63.2-100 amended. **Protection of infants.** Provides that in civil proceedings involving child abuse, neglect or abandonment based solely on the parent having left the child at a hospital or rescue squad, it is an affirmative defense that the parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within 14 days of the child's birth. The bill provides that for purposes of terminating parental rights and placing a child for adoption the court may find that the child has been neglected upon the ground of abandonment. This is similar to the affirmative defense that the General Assembly made available in 2003 for parents in criminal abuse and neglect cases. SB 114; CH. 245.

§§ 8.01-293, 16.1-241, 16.1-264, and 17.1-272 amended. **Service of process on teacher or other school personnel; restrictions; fees.** Restricts service of a summons on school property to only a sheriff or his deputy in any custody or visitation case where the summons is issued for a teacher or other school personnel who is not a party to the proceeding. The bill applies the \$12 service fee for service of a summons in any custody or visitation case. SB 335; CH. 588.

§§ 16.1-241.2, 16.1-263, and 16.1-290.1. See § 22.1-263; HB 1326.

§§ 16.1-247 and 16.1-249 amended. **Custody and confinement for juvenile offenses.** Allows juvenile intake officers and magistrates to order confinement of a person 18 years of age or older in a jail rather than a juvenile detention home for an offense that occurred prior to the person obtaining the age of 18. Currently this authority is limited to judges. HB 653; CH. 439/SB 577; CH. 415.

§ 16.1-248.1 amended. **Criteria for detention or shelter care.** Allows a juvenile probation officer to continually search for less restrictive alternatives to secure detention when a juvenile is detained in a local detention facility. HB 1209; CH. 374.

§§ 16.1-250, 16.1-266, and 16.1-267 amended; § 16.1-250.1

repealed. Juvenile detention; appointment of attorney. Requires the appointment of an attorney for a child prior to an initial detention hearing unless an attorney has been retained and appears on behalf of the child; and provides for payment for such court-appointed attorney. The bill requires that the child's attorney be notified of the detention hearing and any rehearing and specifies that the attorney be given the opportunity to be heard at the detention hearing. Current law allows a rehearing upon parental request when the child is not released and the parent was not notified and does not appear. This bill adds requirements that in order for there to be a rehearing the parent must make a written request and state that he is willing and available to supervise the child upon release from detention and will return the child to court for all scheduled proceedings. Further amendments provide that, if it is determined that the child is not indigent, the parents must pay the costs of the attorney. A child who is alleged to have committed an offense that could lead to commitment to a juvenile correctional center may waive his right to an attorney only after he consults with an attorney. HB 600; CH. 437 (effective 7/1/05).

§§ 9.1-102, 16.1-253.2, 16.1-279.1, 19.2-81.4, and 63.2-1502 amended. Domestic violence; sexual assault. Requires the Department of Criminal Justice Services to establish training standards and a model policy for law-enforcement personnel in handling sexual assault and stalking cases and to establish training standards and model policy and protocols for local and regional sexual assault response teams. Provides that temporary child support may be one of the conditions imposed on a respondent in a family abuse protective order. The bill requires the state police and local law-enforcement agencies to have policies that provide guidance to officers on domestic violence incidents involving law-enforcement officers and repeat offenders. The Department of Social Services is required to establish minimum training requirements on family abuse and domestic violence for child protective services workers and supervisors. The Office of the Executive Secretary of the Supreme Court is required to determine appropriate standards for the approval of education and treatment programs for persons accused of assault and battery against a family or household member and arrange for such programs to be approved by an appropriate entity.

The bill also provides that a respondent to a protective order who commits an assault and battery resulting in serious bodily injury to a person protected by the protective order is guilty of a Class 6 felony. A respondent who violates the protective order by furtively entering the home of any protected party while the party is present or entering and remaining in the home of the protected party until the protected party arrives is guilty of a Class 6 felony. HB 1233; CH. 980/SB 236; CH. 972

§ 16.1-260 amended. Intake of juveniles. Permits a juvenile intake officer to proceed informally against a juvenile more than once where the juvenile is alleged to have committed an offense that would be a Class 1 misdemeanor or lesser offense if committed by an adult, or is alleged to have committed a status offense. Under current law, intake officers may proceed informally only once where the juvenile is alleged to have

committed such an offense. This bill would allow the intake officer to seek alternatives to court action when the offense the juvenile is alleged to have committed is not a violent juvenile felony, and is intended to help relieve the burden on juvenile court dockets. HB 1062; CH. 309.

§ 16.1-260 amended. Notification of school superintendent of criminal street gang activity committed by juvenile. Requires an intake officer to notify the school division superintendent of the filing of a petition against a juvenile in cases involving criminal street gang activity. HB 1080; CH. 558.

§ 16.1-260 amended. Use of summons in juvenile court; littering. Adds littering to the list of offenses for which a summons may be used to bring a proceeding in juvenile court instead of instituting a petition. SB 26; CH. 105.

§ 16.1-260 amended. Juvenile courts; distribution of protective order information. Requires juvenile court intake officers to provide to a person seeking a protective order a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders for family and household members. The Virginia State Crime Commission, in conjunction with the Office of the Executive Secretary of the Supreme Court and the Department of Juvenile Justice, is required to develop the written explanation and the Executive Secretary must make the explanation available to law enforcement and to each court service unit for distribution. SB 551; CH. 255.

§ 16.1-260 amended. Juvenile intake; notification to school superintendent. Adds prohibited street gang participation to those enumerated crimes triggering a requirement that the intake officer provide notice to a school superintendent that a petition has been filed alleging a juvenile committed an act that would be a crime if committed by an adult. SB 593; CH. 416.

§ 16.1-260. See § 19.2-83.1; SB 633.

§§ 16.1-266 and 16.1-343. See § 37.1-67.3; HB 878.

§ 16.1-266. See § 19.2-159; HB 1056/SB 330.

§ 16.1-266 and 16.1-343. See § 32.1-127.1:03; SB 337.

§ 16.1-267 amended. Guardian ad litem. Eliminates the statutory \$100 cap on the amount of guardian ad litem compensation (in a circuit court) that may be recovered from parents who are financially able to pay. The bill permits the circuit court to assess as costs against the parents the maximum amount the court awards the attorney. The bill retains the statutory cap on compensation that may be assessed against parents in the juvenile court. The subject matter of this bill is addressed in Item 34, Paragraph G of the 2002 Appropriation Act. HB 45; CH. 342.

§§ 16.1-269.6 and 16.1-296 amended. Appeals of juvenile court decisions. Requires the circuit court, when practicable, to review the appeal of a juvenile court's transfer decision within 45 days after transfer from the juvenile court. The bill also requires the circuit court, when practicable, to hold a hear-

ing on the merits of any appeal of a juvenile court finding of delinquency or disposition within 45 days of its filing, if the juvenile is in a secure facility pending appeal. A juvenile who has been held continuously in secure detention pending appeal is to be released if there is no hearing on the merits of his case within 45 days; however, the court may extend the time limit for good cause shown as documented in the case record. HB 1146; CH. 468.

§ 16.1-275 amended. Temporary custody of juveniles. Eliminates language authorizing the placement of a juvenile who is alleged to be a child in need of services in the temporary custody of the Department of Juvenile Justice. Provides that temporary custody by the Department of Juvenile Justice is ordered for only those juveniles found to be delinquent for an offense that renders the juvenile eligible for commitment pursuant to: (i) subdivision A 14 of §16.1-278.8 (the juvenile is aged 11 or older and the offense would be a felony if committed by an adult; a Class 1 misdemeanor if committed by an adult and the juvenile has previously been found to be delinquent based on an offense which would be a felony if committed by an adult; or would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been adjudicated delinquent on three occasions for offenses which would be Class 1 misdemeanors if committed by an adult) or (ii) § 16.1-285.1 (the juvenile is aged 14 or older and, among other things, has been found guilty of an offense which would be a felony if committed by an adult). HB 1274; CH. 321.

§ 16.1-278.8. See § 18.2-46.1; HB 1060.

§ 16.1-278.8 amended. Delinquent juveniles; disposition. Requires, for juveniles 11 years of age or older who can be committed to the Department of Juvenile Justice for an offense that would be a Class 1 misdemeanor if committed by an adult, that the juvenile must have previously been adjudicated delinquent on three separate occasions. HB 1355; CH. 325.

§ 16.1-278.15. See § 20-103; HB 447.

§ 16.1-278.16 amended. Capias for nonsupport. Eliminates the requirement that the court act "upon petition" to issue a civil show cause summons or a capias where it finds that (i) a respondent has failed to comply with an order concerning custody, visitation, support or maintenance and (ii) personal or substitute service has been obtained. HB 320; CH. 219.

§ 16.1-278.18. See § 20-74; SB 497.

§ 16.1-299 amended. Juvenile fingerprints and photographs. Mandates the taking of fingerprints and photographs of any juvenile who is taken into custody and charged with a delinquent act if the charge is one that has to be reported to the Central Criminal Records Exchange for an adult arrest (all felonies and most Class 1 and 2 misdemeanors except DUI, trespass and disorderly conduct). Under current law this procedure is mandatory only for juveniles 14 years of age or older who are charged with certain crimes classified as violent juvenile felonies. If the juvenile is found not guilty, the fingerprints and photographs are destroyed unless the charge was for a violent juvenile felony, in which case they are maintained in the

Central Criminal Records Exchange and the juvenile court. HB 1096; CH. 464.

§ 16.1-305 amended. Confidentiality of court records; juveniles. Authorizes the attorney for the Commonwealth to obtain from a juvenile court papers filed in connection with a juvenile adjudication of guilt for an offense that would be a felony if committed by an adult for use as evidence in a pending criminal prosecution for a violation of § 18.2-308.2 (possession or transportation of firearms, stun weapons, tasers or concealed weapons by a convicted felon). The bill also allows a bondsman to know the status of his bond on a juvenile, without access to any other part of the juvenile's record. HB 787; CH. 446.

§ 16.1-330.1 amended. Serious or Habitual Offender Comprehensive Action Program (SHOCAP). Provides that a juvenile who has been convicted of one criminal street gang felony qualifies for SHOCAP. Under current law a juvenile must have been convicted of three felonies or misdemeanors to qualify, unless the felonies are murder, attempted murder, armed robbery or malicious wounding. SHOCAP is a program that provides control, supervision and treatment for serious or habitual juvenile offenders. SB 617; CH. 418.

§§ 16.1-340 and 16.1-341 amended. Involuntary commitment of minors. Provides that the juvenile and domestic relations court serving the jurisdiction in which the minor is located is responsible for scheduling the involuntary commitment hearing. For emergency admissions, the same shall be scheduled where the juvenile is located or resides. HB 580; CH. 283.

TITLE 17.1. COURTS OF RECORD.

§ 17.1-213 amended. Courts of record; disposition of papers. Allows the clerk of the circuit court to use an electronic format for the archival of records, papers, and documents of cases, as long as the clerk converts them in accordance with state electronic records guidelines. HB 509; CH. 433.

§§ 6.1-2.25 and 17.1-223 amended. Circuit court clerks; filing of documents. Allows an instrument conveying not more than four residential dwelling units to contain the name of the title insurance underwriter and the policy number or a statement that there is no title insurance or that the policy number is not available or is unknown. The bill also requires the appropriate agency (Virginia State Bar; the Real Estate Board, etc.) to notify registrants of this new provision. SB 587; CH. 336.

§ 17.1-227 amended. Recordation of instruments; social security numbers. Provides that where the circuit court clerks have the power to decline to accept any instrument submitted for recordation that includes a grantor's, grantee's or trustee's social security number, the attorney or party who submits the instrument has responsibility for ensuring that the number is

removed from the instrument before it is submitted for recordation. HB 332; CH. 352.

§§ 8.01-499 and 17.1-272 amended. Sheriff's fees. Increases the sheriff's fee for services related to repossessions, sheriff's sales, levies, evictions, and levying an execution from \$12 to \$25. Increases the process and service fee for out-of-state service of process from \$50 to \$75. Increases the sheriff's commission to 10 percent from five percent. HB 1265; CH. 198/SB 620; CH. 211.

§ 17.1-272. See § 16.1-241; SB 335.

§§ 16.1-69.48:1, 16.1-69.48:3, 17.1-275, 17.1-275.8, and 18.2-251.02 amended; § 18.2-254.1 added. Drug treatment courts. Establishes the Drug Treatment Court Act. Allows the establishment of drug treatment courts as specialized court dockets within the existing structure of Virginia's court system, offering judicial monitoring of intensive treatment and supervision of addicts in drug and drug-related cases. A state drug treatment court advisory committee is established and localities with drug treatment courts are required to establish advisory committees. The Supreme Court of Virginia is given administrative oversight for the implementation of the Act. The bill provides that no drug treatment court may be established subsequent to March 1, 2004, unless there is specific statutory authorization. HB 1430; CH. 1004.

§ 17.1-276 amended. Remote access fee. Allows clerks the additional option to assess the remote access fee by flat rate. Current law allows either for fees on each inquiry or fees for actual connect time. HB 977; CH. 230.

§ 17.1-278 amended. Additional fees in certain courts; use by the Virginia State Bar. Increases by \$1 court fees in law and chancery cases in circuit court and in each civil action in general district court. The additional dollar is paid into a special fund (Legal Aid Services Fund) within the Virginia State Bar. The increase will expire on July 1, 2006. The bill becomes effective only if the 2004 Appropriation Act includes an appropriation of general funds for a total of 49 additional positions (to those existing on June 30, 2004) allocated amongst the general district courts, juvenile and domestic relations district courts, and combined district courts. HB 1172; CH. 925.

§§ 2.2-3808.2 and 17.1-279 amended. Technology Trust Fund Fee. Increases the fee from \$3 to \$5 and allows the use of the Trust Fund for developing and updating land records automation plans for individual clerks' offices; modernizing land records in individual clerks' offices and providing secure remote access to land records statewide; obtaining and updating office automation and information technology equipment; preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, service contracts and system upgrades; and improving public access to court records. The bill allows the clerk to use the Trust Fund for technology improvements in the law and chancery and criminal divisions after implementation of automation of land records with statewide secure remote access. The bill repeals the sunset provision of July 1, 2008, and declares that the intent

of the General Assembly is that secure remote access be provided by all clerks by July 1, 2006. SB 241; CH. 676.

§§ 17.1-302 and 17.1-401 amended. Senior justices and judges. Clarifies that a justice of the Supreme Court or judge of the Court of Appeals may retire and later be designated a senior justice or judge. The current language could be read that such designation would have to be achieved prior to retirement. HB 70; CH. 346.

§§ 17.1-303, 17.1-400, 17.1-501, 17.1-509, and 17.1-512. See § 19.2-35; HB 916.

§ 17.1-503. See § 32.1-42; HB 1483/SB 685.

§ 17.1-507. See Budget Bill; HB 5001.

§§ 16.1-69.9:3 and 17.1-511 amended. Judges; notice of retirement. Provides that notice of retirement is irrevocable once the vacancy has been certified by the Committee on District Courts in cases of judges of courts not of record or by the Supreme Court in cases of judges of courts of record. SB 328; CH. 331.

§ 17.1-513.01. See § 2.2-507.1; HB 625.

§ 17.1-705.1 added. Civil immunity for investigation of commissioners of accounts. Provides that members of the Judicial Council's Standing Committee on Commissioners of Accounts who participate in the investigation of a complaint against a commissioner of accounts or a deputy or assistant have civil immunity for acts related to such participation if done in good faith and without malicious intent. HB 321; CH. 976.

§ 17.1-805. See § 18.2-124; HB 1055.

§ 17.1-805 amended. Sentencing guidelines. Adds to the definition of violent felony offenses the following violations: solicitation to commit murder (§ 18.2-29), conspiracy to commit acts of terrorism (§ 18.2-46.5), possession, etc., of terrorism or hoax device (§ 18.2-46.6), and bioterrorism (§ 18.2-46.7). HB 1148; CH. 866.

§§ 17.1-900 and 17.1-918 amended. Judicial Inquiry and Review Commission; jurisdiction. Clarifies the jurisdiction of the Commission to include judge designates, retired judges, judges pro tempore, and justices appointed pursuant to § 37.1-88 (special justices who adjudicate mental health commitments). HB 771; CH. 363.

§ 17.1-918 amended. Judicial Inquiry and Review Commission; confidentiality. Eliminates confidentiality with respect to any evidence of alleged misconduct concerning a judge who is up for election or reelection when such evidence is transmitted to the House and Senate Committees for Courts of Justice or to any member of the General Assembly. SB 336; CH. 332.

TITLE 17.1. MISCELLANEOUS - COURTS OF RECORD.

York County Circuit Court. Changes the name of the York County Circuit Court to the York County-Poquoson Circuit Court. HB 605; CH. 618.

TITLE 18.2. CRIMES AND OFFENSES GENERALLY.

§ 18.2-32.2 added. Feticide. Provides that any person who unlawfully, willfully, deliberately, maliciously and with premeditation kills the fetus of another is guilty of a Class 2 felony. The bill also provides that any person who unlawfully, willfully, deliberately and maliciously kills the fetus of another is guilty of a felony punishable by confinement in a state correctional facility for not less than five nor more than 40 years. HB 1; CH. 1026/SB 319; CH. 1023.

§§ 4.1-305, 18.2-36.1, 18.2-51.1, 18.2-53.1, 18.2-57, 18.2-121, 18.2-154, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-248.5, 18.2-255, 18.2-255.2, 18.2-270, 18.2-308.1, 18.2-308.2, 18.2-308.2:2, 18.2-308.4, 19.2-120, 30-19.1:4, 46.2-301, 46.2-341.28, 46.2-357, 46.2-391, 53.1-116, and 53.1-203 amended; § 18.2-12.1 added. Mandatory minimum punishment. Sets out a definition of mandatory minimum punishment to mean that the court shall impose the entire term of confinement, the full amount of the fine and the complete requirement of community service. Currently the term is used inconsistently throughout the Code. This is a recommendation of the Title 18.2 Study Subcommittee of the Crime Commission. HB 1059; CH. 461.

§ 18.2-46 amended. Venue of mob crimes. Provides that venue for all actions and prosecutions of any mob crime shall be in the county or city wherein such crime occurred, or of the county or city from which the victim may have been taken. Currently, such venue lies only in the circuit court of such city or county. HB 119; CH. 144.

§§ 18.2-46.1, 18.2-46.3, 18.2-460, and 19.2-215.1 amended; §§ 18.2-46.3:1 and 18.2-46.3:2 added. Recruitment of juveniles for criminal street gang; penalty. Includes within the definition of "criminal street gang" the current definition of "pattern of criminal gang activity." The bill creates a Class 1 misdemeanor for a person of any age to recruit a person into a criminal street gang. Current law punishes an adult recruiting a minor as a Class 6 felony. The bill creates a Class 6 felony for forcing a person to become a gang member through the use or threat of force against that person or another person. The bill makes a third or subsequent conviction within 10 years of prohibited criminal street gang participation and recruitment a Class 3 felony (five to 20 years). The bill allows for the forfei-

ture of any property, real or personal, used in connection with street gang activity. The bill also amends the obstruction of justice statute to include gang-related crimes. The bill adds gang activity to the list of crimes that a multijurisdictional grand jury can investigate. HB 569; CH. 435/SB 321; CH. 396.

§§ 15.2-926, 16.1-278.8, 18.2-46.1, 18.2-258, 18.2-308 and 29.1-338 amended; §§ 8.01-27.3, 8.01-226.8, 8.01-226.9, 15.2-912.2, 15.2-912.3, 15.2-915.2 and 15.2-915.3, 15.2-926.2, 15.2-1209.1 and 15.2-1812.2, 48-16 and 48-17, added; §§ 18.2-105, 18.2-138.1, 18.2-287, 18.2-287.1, 18.2-340.32, 18.2-389, 18.2-432, and 18.2-433 repealed. Selected provisions of Title 18.2. Moves certain statutes out of Title 18.2 and into other titles of the Code. Bad check and civil liability provisions are moved to Title 8.01, authorizations for local ordinances are moved to Title 15.2 and nuisance provisions are moved to Title 48. This bill is a recommendation of the Title 18.2 Study Subcommittee of the Virginia State Crime Commission. HB 1060; CH. 462.

§ 18.2-46.1 amended. Predicate crimes by criminal street gangs; penalty. Expands the list of predicate criminal acts that define a pattern of criminal activity and a criminal street gang to include certain drug sale, distribution, transportation, possession and manufacturing crimes and recruitment of a juvenile into a street gang. HB 1149; CH. 867.

§ 18.2-46.3:1 added. Criminal street gang crimes. Makes a third or subsequent conviction of sections prohibiting criminal street gang participation and recruitment within 10 years a Class 3 felony (five to 20 years in prison). HB 760; CH. 847.

§§ 18.2-46.9, 18.2-110, 18.2-152.16, 18.2-190.7, 18.2-246.4, 18.2-246.13, 18.2-246.14, 18.2-249, 18.2-253, 18.2-253.1, 18.2-253.2, 18.2-265.4, 18.2-283.1, 18.2-287.4, 18.2-308, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:4, 18.2-308.2, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.4, 18.2-308.5, 18.2-308.7, 18.2-310, 18.2-336, 18.2-374.1:1, and 18.2-374.2. See § 19.2-386.1; HB 1058.

§ 18.2-51.1 amended. Malicious injury; law-enforcement officers. Adds game wardens to the definition of law-enforcement officer so that the enhanced penalty will apply if they are the victims of malicious or unlawful wounding. Malicious wounding is a Class 3 felony (five-20 years) and malicious wounding of a law-enforcement officer is five-30 years with a mandatory minimum term of imprisonment of two years. In the case of unlawful wounding the penalty is a Class 6 felony (one-five years) with a mandatory minimum term of imprisonment of one year if the victim is a law-enforcement officer. HB 640; CH. 841.

§ 18.2-52.1 amended. Malicious bodily injury; caustic substance. Provides that maliciously and intentionally causing bodily injury to another by means of an infectious biological substance or radiological agent is a felony punishable by confinement in a state correctional facility for five to 30 years. HB 184; CH. 833.

§ 18.2-55.1 added. Hazing. Extends criminal liability to those who haze gang members. Currently, the law is limited to student victims. HB 801; CH. 850.

§ 18.2-57 amended. Assault and battery; volunteer fire-fighters. Adds volunteer firefighters and lifesaving or rescue squad members who are members of a bona fide volunteer fire department or volunteer rescue or emergency medical squad to the list of protected classes which, if assaulted, the perpetrator is guilty of a Class 6 felony and will receive a mandatory minimum six-month term of incarceration. The designation will apply regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such persons as employees. SB 677; CH. 420.

§ 18.2-57.2 amended. Assault and battery against a family or household member; penalty. Revises the time period from 10 to 20 years in which three convictions for assault and battery against a family or household member must occur in order that the third one be a felony. HB 656; CH. 738.

§ 18.2-57.2 amended. Third offense assault and battery against a family or household member. Provides that upon a conviction for assault and battery against a family or household member, when the person has been previously convicted of two offenses of (i) assault and battery against a family or household member in violation of § 18.2-57.2, (ii) malicious wounding in violation of § 18.2-51, (iii) aggravated malicious wounding in violation of § 18.2-51.2, (iv) malicious bodily injury by means of a substance in violation of § 18.2-52, or (v) an offense under the law of any other jurisdiction which has the same elements as any of the above offenses, in any combination, all of which occurred within a period of 10 years, and each of which occurred on a different date, the person is guilty of a Class 6 felony. Currently, the Class 6 felony applies only if the prior convictions were for assault and battery against a family or household member. HB 863; CH. 448.

§ 18.2-57.3 amended. Persons charged with first offense of assault and battery against a family or household member. Allows a court to order participation in a local community-based probation program established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if such program is available, when a person charged with first offense of assault and battery against a family or household member is placed on probation under deferred proceedings. HB 1307; CH. 377.

§ 18.2-57.4 added. Reporting of assault and battery of a spouse or partner by military personnel. Requires a court to report a finding of guilt of assault and battery of a household member by an active duty member of the United States Armed Forces to family advocacy representatives of the United States Armed Forces. SB 276; CH. 681.

§ 18.2-67.3 amended. Aggravated sexual battery. Provides that aggravated sexual battery committed through the use of the complaining witness's mental incapacity is, in and of itself, without any additional factors considered, a felony offense. Under current law, one of the following additional factors would be necessary: (i) the complaining witness is at least 13

but less than 15 years of age, (ii) the accused causes serious bodily or mental injury to the complaining witness, or (iii) the accused uses or threatens to use a dangerous weapon. HB 660; CH. 843.

§ 18.2-67.4:1 amended. Infected sexual battery; penalty. Provides that any person who, knowing he is infected with HIV, syphilis or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anallismus or anal intercourse with another person without having previously disclosed the existence of his infection to the other person is guilty of a Class 1 misdemeanor. The current law provision that it is a Class 6 felony to engage in such activity with the intent to transmit the infection to another person remains unchanged. HB 871; CH. 449.

§ 18.2-67.10 amended. Definition of sexual abuse. Adds to the definition of sexual abuse used in criminal cases: "the complaining witness is under the age of 13, the accused causes or assists the complaining witness to touch the accused's, the witness's own, or another person's intimate parts or material directly covering such intimate parts." HB 718; CH. 741.

§ 18.2-90 amended. Buildings that can be burglarized. Revises the statutory definition of burglary by replacing the list of buildings that can be burglarized with the term "any building permanently affixed to realty." HB 645; CH. 842.

§§ 17.1-805, 18.2-124, 18.2-374.3, 19.2-299 amended; §§ 18.2-111.1, 18.2-114, 18.2-123, 18.2-161, 18.2-202, 18.2-203, 18.2-211, 18.2-351, 18.2-352, 18.2-353, 18.2-358, and 18.2-367 repealed. Repeal of various statutes. Repeals, by recommendation of the Title 18.2 Study Subcommittee of the Virginia State Crime Commission, 12 statutes in Title 18.2 that have been little used and whose offenses are covered by other statutes. In determining whether to recommend a statute for repeal the Subcommittee looked at various factors, including the date enacted, the number of convictions under the statute, whether the statute was the subject of any appellate court cases and whether the elements of the offenses were covered by other statutes. The statutes repealed include: conversion of certain military property, sale of goods of another and failure to pay over proceeds, dogs not permitted in Capitol Square, trespassers forbidden to jump on or off railroad cars or trains, false statements by purchaser of real property as to use for personal residence, false statement or willful overvaluation of property for purposes of influencing lending institution, unlawful use of words "Official Tourist Information," commitment of persons convicted of certain offenses, detaining male or female in bawdy place against his or her will and conspiring to cause spouse to commit adultery. HB 1055; CH. 459.

§ 18.2-127. See § 8.01-44.6; SB 494.

§§ 2.2-511, 18.2-186.3, 18.2-186.5, and 63.2-1809 amended. Identity theft; fictitious name; identity theft passport; Attorney General to conduct criminal prosecutions; day care records; penalties. Authorizes the Attorney General, with the concurrence of the attorney for the Commonwealth, to assist in the prosecution of the crimes of identity theft (§ 18.2-186.3) and the use of a person's identity with the intent to intimidate,

coerce, or harass (§ 18.2-186.4). The bill allows for a conviction under the identity theft statutes when the defendant uses a false or fictitious name. The bill requires the Division of Motor Vehicles, upon notification from the Attorney General that an Identity Theft Passport has been issued to a driver, to note the same on the driver's abstract. The bill directs child day programs that reproduce or retain documents of a child's proof of identity that are required upon the child's enrollment into the program to destroy them upon the conclusion of the requisite period of retention. The procedures for the disposal, physical destruction or other disposition of the proof of identity containing social security numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or indecipherable by any means. HB 872; CH. 450.

§ 18.2-187.2 added. Audiovisual recording of motion pictures unlawful; penalty. Prohibits recording of a motion picture while it is being shown at a movie theater and punishes such behavior as a Class 1 misdemeanor. A movie theater owner or lessee or his agent or employee who has probable cause to believe that a person has made such a recording may detain such person for a period not to exceed one hour pending arrival of a law-enforcement officer and shall not be civilly liable for such a detention. HB 1129; CH. 759.

§ 18.2-247 amended. Counterfeit drugs; the Drug Control Act; penalty. Renders it unlawful in the same manner and degree as for imitation controlled substances to knowingly manufacture, sell, possess, distribute, dispense or facilitate the distribution or dispensing of any drug known to be counterfeit. "Counterfeit drug" is defined as "a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug." SB 325; CH. 688.

§§ 18.2-251.02 and 18.2-254.1. See § 17.1-275; HB 1430.

§ 18.2-254 amended. Escape from a drug treatment facility. Provides that a charge of escape from a drug treatment facility may be prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to commitment. HB 324; CH. 130.

§ 18.2-258.2 added. Assisting individuals in unlawfully procuring prescription drugs; penalty. Provides that any person who, for compensation, knowingly assists another in unlawfully procuring prescription drugs from a pharmacy or other source he knows is not licensed, registered or permitted by the licensing authority of the Commonwealth, any other state or territory of the United States, or the United States, is guilty of a Class 1 misdemeanor and, upon a second or subsequent conviction, a Class 6 felony. HB 632; CH. 620.

§§ 18.2-267, 18.2-268.2 through 18.2-268.5, 18.2-268.8,

18.2-268.9, 18.2-268.10, and 18.2-272 amended. DUI; previous offender and breath test refusal. Provides that it is a Class 1 misdemeanor for a person who has been convicted of DUI, and who has been issued, and is subject to the provisions of a restricted permit, to drive with a blood alcohol concentration of 0.02 percent or more. The bill also punishes refusal to submit to a blood alcohol test as a Class 2 misdemeanor if the offender has a prior offense of DUI or refusal within 10 years, and as a Class 1 misdemeanor if the offender has two prior such offenses. Both offenses also carry a three-year license suspension. SB 329; CH. 1013.

§ 18.2-268.3 amended. Punishment for refusal to give blood or breath test for DUI. Makes clear that the act of refusal to give a blood or breath test upon arrest for DUI is a punishable offense. SB 5007; CH. __, 2004 Special Session.

§§ 18.2-268.3 and 18.2-268.4 amended. DUI; previous offender and breath test refusal. Punishes refusal to submit to a blood alcohol test as a Class 2 misdemeanor if the offender has a prior offense of DUI or refusal within 10 years, and as a Class 1 misdemeanor if the offender has two prior such offenses. Both offenses also carry a three-year license suspension. HB 127; CH. 985.

§ 18.2-268.3 amended. Refusal of DUI breath or blood tests; procedures. Removes the requirement that the magistrate reaffirm to a DUI arrestee his liability for refusal to submit to a preliminary blood or breath test after the arresting officer has already informed the arrestee. The bill also requires that the arresting officer shall inform the DUI arrestee from a form provided by the Office of the Executive Secretary of the Supreme Court and that the arresting officer shall acknowledge on such form that he has read the form to the arrestee. SB 202; CH. 1022.

§§ 18.2-268.5, 19.2-310.3, and 46.2-341.26:5 amended. Persons authorized to take blood samples. Provides that registered nurses, licensed practical nurses and phlebotomists are authorized to take blood samples in DUI cases and for DNA samples. HB 654; CH. 440.

§§ 18.2-268.5 and 46.2-341.26:5 amended. Procedure for taking blood samples. Adds pvp iodine and povidone iodine as substances that may be used to cleanse the part of the body from which a sample of blood is taken for testing for DUI. HB 786; CH. 150.

§ 18.2-270 amended. Mandatory minimum fine for a first offense DUI. Provides that there is a mandatory minimum fine of \$250 for all first offense DUIs, not just for those offenders with an elevated blood alcohol content. HB 217; CH. 946.

§ 18.2-270 amended. Penalties for driving while intoxicated. Reduces the blood alcohol content from 0.20 to 0.15 for purposes of mandatory confinement of five days, (10 days for second offense in 10 years), and reduces the blood alcohol content from 0.25 to 0.20 for purposes of mandatory confinement of 10 days, (20 days for second offense in 10 years). HB 667; CH. 950.

§ 18.2-270 amended. Penalty for driving while intoxicated; subsequent offense. Increases from 30 days to six months the minimum mandatory sentence for a third offense DUI committed within five years. HB 1107; CH. 957.

§ 18.2-270 amended. Forfeiture of vehicle for third DUI offense. Provides that the Commonwealth may seize and order forfeited the motor vehicle solely owned by a person convicted of a felony DUI. Seizure does not occur until conviction and the exhaustion of all appeals. An immediate family member of the owner of the motor vehicle who was not the driver at the time of the violation may petition the court for the release of the motor vehicle. If he proves by a preponderance of the evidence that his immediate family has only one motor vehicle and will suffer a substantial hardship if that vehicle is seized and forfeited, the court may release the vehicle. In the event the vehicle is sold to a bona fide purchaser subsequent to the arrest but prior to seizure in order to avoid seizure and forfeiture, the Commonwealth will have a right of action against the seller for the proceeds of the sale. HB 1130; CH. 958.

§ 18.2-270 amended. Penalty for driving while intoxicated; subsequent offense. Creates a mandatory minimum term of 20 days for a second offense within five years, formerly five days; for a second offense within five to 10 years, 10 days in jail, formerly no mandatory minimum; for a third offense within 10 years, 90 days, formerly 10 days; and for a third offense within five years, 180 days, formerly 30 days. HB 1147; CH. 962.

§ 18.2-270. See § 19.2-294.1; SB 384.

§ 18.2-270.01 added. Multiple DUI offenders; Trauma Center Fund. Establishes in the state treasury a special nonreverting fund to be known as the Trauma Center Fund. The Fund shall consist of any moneys paid into it by those who are convicted of two or more DUI-related offenses within 10 years and any moneys appropriated by the General Assembly. Any person so convicted must pay \$50 to the Trauma Center Fund for the purpose of defraying the costs of providing emergency medical care to victims of automobile accidents attributable to alcohol or drug use. The Department of Health is to award and administer grants from the Fund to appropriate trauma centers based on written criteria that it develops. HB 1143; CH. 999.

§ 18.2-270.1 amended. Mandatory ignition interlock. Provides that, in addition to any penalty provided by law for a DUI conviction the court shall, for any offense where an offender's blood alcohol content equals or exceeds 0.15 percent, as a condition of a restricted license or as a condition of license restoration, require an ignition interlock. HB 1138; CH. 961.

§ 18.2-271.1 amended. Restricted permit to operate a motor vehicle. Authorizes a court to issue a restricted permit to operate a motor vehicle to a person in order for that person to travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation. HB 43; CH. 720.

§ 18.2-272. See § 46.2-301; HB 557.

§ 18.2-287.01 added. Guns in airports. Provides that it is a Class 1 misdemeanor for any person to possess or transport into any air carrier airport terminal in the Commonwealth any (i) gun or other weapon designed or intended to propel a missile or projectile of any kind, (ii) frame, receiver, muffler, silencer, missile, projectile or ammunition designed for use with a dangerous weapon, or (iii) any other dangerous weapon, including explosives, tasers, stun weapons and those weapons specified in subsection A of § 18.2-308. This prohibition does not apply to law-enforcement officers or a passenger of an airline who transports a lawful firearm, weapon or ammunition into or out of an air carrier airport terminal to present the firearm, weapon or ammunition to a U.S. Customs agent in advance of an international flight, to check the firearm, weapon or ammunition with his luggage, or to retrieve the firearm, weapon or ammunition from the baggage claim area. The bill provides that any other statute, rule, regulation or ordinance concerning the possession or transportation of weapons in airports in the Commonwealth is invalid. SB 660; CH. 894.

§§ 15.2-1209, 18.2-299, and 22.1-277.07 amended; § 15.2-915.2 added. Pneumatic guns. Allows a locality to regulate or restrict the use of pneumatic guns by ordinance, including requiring that minors under the age of 16 have adult supervision when using pneumatic guns. No such ordinance shall prohibit the use of pneumatic guns at shooting ranges or other property where firearms may be discharged. Commercial or private areas may be established for the use of pneumatic paintball guns, but such areas must provide protective equipment for the face and ears of participants, and signs must be posted warning against entry into the area by unprotected persons. The bill defines a "pneumatic gun" as an implement, designed as a gun, that expels a BB or pellet by action of pneumatic pressure. The bill clarifies definitions of other types of firearms to distinguish between firearms and pneumatic guns. The bill states that if a school operates a Junior Reserve Officers Training Corps (JROTC) program, the school cannot prohibit the JROTC from conducting marksmanship training when such training is a normal element of the program, and that the school administration shall cooperate with the JROTC staff in implementing such training. HB 1303; CH. 930.

§ 18.2-308 amended. Crimes; carrying concealed weapon. Adds machete to the list of those weapons that are illegal to carry on the person, hidden from observation. HB 167; CH. 423.

§ 18.2-308 amended. Concealed weapons permit. Provides that an out-of-state concealed weapons permit authorizes the holder of the permit to carry a handgun in the Commonwealth if the permit holder is at least 21 years of age. The bill allows recognition of the other state's permit even if the other state has a lower age requirement and permits weapons other than handguns. Virginia's age requirement (21 years) would apply and the only weapon authorized while the permit holder is in Virginia is a handgun. The bill allows the Superintendent of State Police, in consultation with the Attorney General, to enter into reciprocity agreements with any state qualifying for recognition under these requirements. In addition, the bill establishes

a procedure for nonresidents of the Commonwealth who are at least 21 years old to apply to the Virginia Department of State Police for a five-year permit to carry a concealed handgun, which includes proof of demonstrated competence with a handgun. The bill also requires residents of the Commonwealth to submit proof of demonstrated competence when applying for a concealed handgun permit. Previously, it was left to the court's decision as to whether or not to require proof of competency. HB 215; CH. 900.

§ 18.2-308 amended. Concealed weapons permit. Provides that an out-of-state concealed weapons permit authorizes the holder of the permit to carry a handgun in the Commonwealth if the permit holder is at least 21 years of age. The bill allows recognition of the other state's permit even if the other state has a lower age requirement and permits weapons other than handguns. Virginia's age requirement (21 years) would apply and the only weapon authorized while the permit holder is in Virginia is a handgun. HB 238; CH. 901.

§ 18.2-308 amended. Concealed handgun permit applications; social security numbers. Allows a clerk of court to withhold from public disclosure the social security number in a concealed handgun permit application in response to a request to inspect or copy such permit application. However, the social security number shall not be withheld from a law-enforcement officer acting in the performance of his official duties. HB 382; CH. 355.

§ 18.2-308 amended. Concealed handgun permit; issuance of permit. Provides that a copy of a concealed handgun permit application will become a de facto permit if the court does not grant or deny the permit within 45 days of receipt of the completed application. The bill requires the clerk of the court to record the date that the completed application is received, and certify on the application if no action is taken by the court within the required 45-day time period. The clerk must send a copy of the certified application to the applicant, and the copy will serve as a de facto permit until the court grants a five-year concealed handgun permit or finds the applicant to be disqualified. If the five-year permit is denied, the applicant must surrender the de facto permit to the court. The clerk must also forward a copy of the certified application to the State Police and local law-enforcement agencies, so that the permit's existence and status will be known to law-enforcement agencies. HB 402; CH. 903.

§ 18.2-308 amended. Concealed handgun application. States that there is no requirement as to the length of time an applicant for a concealed handgun permit must have been a resident or domiciliary of the county or city where he applies. HB 444; CH. 905.

§ 18.2-308 amended. Concealed handgun permits. Exempts retired officers of the law-enforcement division of the Virginia Marine Resources Commission from concealed weapons requirements. The bill also exempts certain retired law-enforcement officers who have reached the age of 55, other than officers terminated for cause, from the requirements. The bill provides that an order denying the issuance of a con-

cealed handgun permit must state the basis for the denial and advise the applicant as to his right to and requirements for perfecting an appeal of the order. A law-enforcement officer with the U.S. Marshals Service would not have to pay a fee for a concealed handgun permit. For purposes of reciprocity, the official government-issued law-enforcement identification card issued to an active-duty law-enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun permit shall serve as the officer's concealed handgun permit. Finally, the bill sets forth a definition of a "law-enforcement officer" to be used throughout § 18.2-308 that includes individuals defined as a law-enforcement officer in § 9.1-101, including full-time law-enforcement officers employed by a law-enforcement agency of the United States or a political subdivision who perform similar duties to those set forth in § 9.1-101; campus police officers; law-enforcement agents of the United States Armed Forces; and federal agents authorized to carry weapons. HB 1205; CH. 926.

§ 18.2-308 amended. Concealed handgun permit. Modifies provision that exempts a retired law-enforcement officer from having to have a permit to carry a concealed handgun to provide that a retired officer who has reached 55 years of age qualifies for this provision. Under current law a retired law-enforcement officer qualifies only if he has 15 years of service or retired with a service-related disability. The bill also waives the concealed handgun permit fee (maximum \$50) for law-enforcement officers retired from the U.S. Marshals Service. SB 99; CH. 876.

§ 18.2-308 amended. Concealed weapons; concealed handgun permits. Provides that the possession of a handgun while engaged in lawful hunting shall not be construed as hunting with a handgun if the person hunting carries a concealed handgun permit. The bill also exempts from the requirements game wardens, Virginia Marine Police officers retired from the Law Enforcement Division of the Virginia Marine Resources Commission, and other law-enforcement officials who have reached the age of 55, other than officers terminated for cause. Furthermore, a retired law-enforcement officer from the Department of Game and Inland Fisheries or the U.S. Marshals Service is exempt from paying a fee for a concealed handgun permit.

When applying for a concealed handgun permit, there is no requirement as to the length of time an applicant must have been a resident or domiciliary of the county or city where he applies. An applicant is required to provide his social security number on an application, but the bill provides an exemption that allows the social security numbers to be withheld from public disclosure. However, the social security number may not be withheld from a law-enforcement official acting in the performance of his official duties. If an application for a concealed handgun permit is denied, the denial order must state the basis for the denial and state the applicant's right for perfecting an appeal of the decision. The bill clarifies that misdemeanors set forth in Title 46.2 shall not be considered disqualifications for a concealed handgun permit. If a court does not issue or deny an application for a concealed handgun permit within the required 45-day period, the bill establishes a procedure by which

the application itself will become a de facto concealed handgun permit, valid for 90 days.

The bill would recognize a concealed weapons permit or license issued by another state to a person 21 years of age or older as a valid concealed handgun permit in the Commonwealth. The law currently recognizes only certain out-of-state concealed handgun permits. For purposes of reciprocity, the official government-issued identification cards issued to active-duty law-enforcement officers in the Commonwealth who are exempt from obtaining concealed handgun permits shall serve a concealed handgun permit.

Finally, the bill sets forth a definition of "law-enforcement officer" to be used throughout § 18.2-308. SB 326; CH. 1012.

§ 18.2-308 amended. Concealed handgun reciprocity; law-enforcement officers. Provides that for the purposes of participation in concealed handgun reciprocity agreements with other jurisdictions, the official government identification card issued to an active duty law-enforcement officer in the Commonwealth is deemed to be a concealed handgun permit. SB 341; CH. 885.

§ 18.2-308.1 amended. Crimes; possession of weapon on school property. Allows an off-duty law-enforcement officer to carry his handgun on school grounds. Currently, only a law-enforcement officer while engaged in his official duties may carry his weapon onto school grounds. HB 286; CH. 128.

§ 18.2-308.2 amended. Possession or transportation of explosives by convicted felons; penalties. Provides that it is a Class 6 felony for a convicted felon to possess or transport explosive material, e.g., dynamite, black powder, pellet powder, smokeless gun powder, detonators, blasting caps and detonating cord, etc. HB 414; CH. 429.

§ 18.2-308.2:01 amended. Possession or transportation of firearms by certain persons. Provides that a person who is not a citizen and is not lawfully present in the United States shall be subject to punishment as a Class 6 felon for possession of any firearm. Currently, the law prohibits the possession of an assault weapon by any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence. HB 79; CH. 347.

§ 18.2-308.2:2 amended. Requirements for firearm sales. Provides that for the purpose of firearm purchase, the permanent duty post of a member of the armed services is considered his residence. Where a purchaser presents a copy of his permanent orders assigning him to a duty post in Virginia along with photo-identification issued by the Department of Defense, no other documentation or residency shall be required by the seller. The bill also allows any type of communication authorized by the State Police, and not just a telephone call, to ascertain a prospective purchaser's criminal record. The bill removes the requirement that firearm safety information be posted and handed out where firearms are sold. HB 375; CH. 354.

§ 18.2-308.2:2 amended. One gun a month. Allows the holder of a valid Virginia concealed-carry permit to purchase more than one handgun a month. The bill also allows a person to purchase more than one handgun a month if purchased through a private sale. Private sale is defined as a sale by a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection of curios or relics, or who sells all or part of his personal collection of curios or relics. HB 404; CH. 904.

§ 18.2-308.2:2. See § 15.2-915; HB 530.

§ 18.2-308.2:2 amended. Purchase of firearms. Provides that the law governing purchase of firearms in Virginia by Virginians shall not apply to restrict purchase, trade or transfer of firearms by a resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another state and that when a resident of Virginia makes a purchase, trade or transfer of firearms in another state, the laws and regulations of that state and of the United States governing the purchase, trade or transfer of firearms shall apply. The bill specifies that a National Criminal Background Check System check must be performed prior to the purchase, trade or transfer. HB 1144; CH. 922.

§ 18.2-340.20 amended. Department of Charitable Gaming; permits. Prohibits the Department of Charitable gaming from denying, suspending, or revoking the permit of any organization solely because of its failure to meet the required minimum percentage of its gross receipts required to be used for charitable purposes, as prescribed by regulations adopted pursuant to subdivision 1 of § 18.2-340.19, provided that (i) the organization is otherwise in compliance with the laws and regulations governing charitable gaming in the Commonwealth; (ii) there are no pending criminal charges or prior convictions against an officer of the organization or game manager involving a felony related to fraud, theft, or financial crimes, or involving a misdemeanor related to moral turpitude; and (iii) the Department determines that an organization has used sufficient proceeds for the lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized. The bill also provides that this "waiver" shall expire on December 31, 2005, or when replacement regulations adopted pursuant to subdivision 1 of § 18.2-340.19 by the Charitable Gaming Board, become effective, whichever occurs first. HB 152; CH. 213.

§ 18.2-340.33 amended. Charitable gaming; prohibited practices; exceptions. Provides that the statutory limits for the award of any bingo prize money shall not apply to any bingo game, commonly referred to as "Lucky Seven Games" described in the bill, and sets prize limits for these games. HB 437; CH. 275.

§§ 18.2-341, 18.2-342, 18.2-343, and 40.1-28.5 repealed. Sunday closing laws. Repeals Virginia's "Blue laws." SB 659; CH. 608.

§ 18.2-359 amended. Venue for criminal sexual assault prosecutions. Provides that venue for trial of any person trans-

porting or attempting to transport through or across the Commonwealth, any person for the purposes of committing or attempting to commit criminal sexual assault is in any county or city in which any part of such transportation occurred. The bill also provides that when the county or city where the offense is alleged to have occurred cannot be determined, the trial of any person charged with committing or attempting to commit criminal sexual assault against a person under 18 years of age may be in the county or city in which the crime is alleged to have occurred or in the county or city where the person under 18 years of age (the victim) resided at the time of the offense. HB 1293; CH. 869.

§ 18.2-369 amended. Abuse and neglect of incapacitated adult. Raises from a Class 6 felony to a Class 4 felony the penalty for abusing or neglecting an incapacitated adult where the abuse or neglect results in serious bodily injury or disease. HB 1093; CH. 863.

§ 18.2-374.3 amended. Computer crimes committed by adults. Clarifies language to ensure that 18-year-olds are covered by the statute criminalizing use of a communications system to solicit sexual activity with children. HB 1125; CH. 864.

§ 18.2-374.3. See § 9.1-902; HB 759/SB 575.

§ 18.2-386.1 amended. Unlawful filming, videotaping or photographing of child; penalty. Provides that videotaping, photographing or filming a nude or undergarment-clad non-consenting person under the age of 18, under circumstances where the person would have a reasonable expectation of privacy, is punishable as a Class 6 felony. Currently, the offense is a Class 1 misdemeanor without regard to the age of the non-consenting person. HB 663; CH. 844.

§ 18.2-433.1 amended. Definition of a law-enforcement officer. Corrects a subsection reference that was overlooked in the recodification of Title 9 into Title 9.1 in 2003. HB 67; CH. 263.

§ 18.2-465.1 amended. Penalizing employee for service on jury panel. Provides that a person who is summoned to serve on jury duty is not required to work on the day of his jury service. HB 734; CH. 800 (effective 7/1/05).

§ 18.2-511 added. Sale of military grave markers prohibited; civil penalty. Provides that any person who sells or offers for sale any military grave marker of one or more deceased persons who served in the military service of the Commonwealth, the United States, or any of the states thereof, shall be assessed a \$100 civil penalty payable to the Literary Fund. The provisions do not apply to the sale if the grave marker was (i) conveyed with real property to which it remains affixed, (ii) sold or offered for sale following manufacture or fabrication and prior to initial installation or dedication, or (iii) lawfully acquired. HB 812; CH. 299 (effective 1/1/05).

§§ 2.2-511, 19.2-10.1, and 58.1-1017 amended; §§ 18.2-511 through 18.2-516 added. Racketeer Influenced and Corrupt Organization (RICO) Act. Creates a RICO act for

Virginia under which various violations of the criminal law become racketeering. The Attorney General is authorized to conduct criminal prosecutions of RICO with the concurrence of the local attorney for the Commonwealth. Racketeering activity is defined as committing, attempting or conspiring to commit, or soliciting, coercing or intimidating another person to commit two or more offenses involving: gang crimes, terrorism, obstruction of justice, waste management, murder, voluntary manslaughter, kidnapping, certain woundings, robbery, arson, burglary, grand larceny, embezzlement, forgery, obtaining money by false pretenses, false statements to obtain property or credit, credit card offenses, money laundering, drug offenses, certain firearm offenses, illegal gambling, prostitution, abuse and neglect of incapacitated adults, producing child pornography, unlawful paramilitary activity, perjury, bribery, government fraud, Medicaid applications or possession of unstamped cigarettes. Using or investing an aggregate of \$10,000 or more of racketeering proceeds to acquire real property or to establish a criminal enterprise is a felony punishable by five-40 years of confinement and a fine of not more than \$1 million for a first offense and a Class 2 felony and a fine of not more than \$2 million for a second or subsequent offense. Money transmission of proceeds from a racketeering activity is a Class 6 felony. The sale, purchase, transport, receipt or possession of 3,000 or more packages of unstamped cigarettes for the purposes of evading taxes is a Class 6 felony. Subpoena duces tecum provisions are amended to include money transmitters and commercial businesses providing credit histories and reports. The bill contains venue and forfeiture provisions. HB 1123; CH. 996/SB 320; CH. 883.

TITLE 19.2. CRIMINAL PROCEDURE.

§ 19.2-10.1. See § 18.2-511; HB 1123/SB 320.

§ 19.2-12 amended. Criminal procedure; conservators of the peace. Adds special agents of the Department of Homeland Security to the list of those who are conservators of the peace. SB 298; CH. 1009 (effective 4/21/04).

§ 19.2-13 amended. Conservators of the peace. Provides that all conservator of the peace appointments are void on September 15, 2004, unless the conservator has obtained a valid registration issued by the Department of Criminal Justice Services. In addition, each conservator must provide a temporary registration letter issued by the Department of Criminal Justice Services prior to seeking appointment by the circuit court. A circuit court appointment letter must be filed with the Department of Criminal Justice Services in order to receive a special conservator of the peace photo registration card. SB 390; CH. 401.

§§ 16.1-69.9, 16.1-69.9:1, 16.1-69.9:4, 17.1-303, 17.1-400, 17.1-501, 17.1-509, 17.1-512, and 19.2-35 amended. Criminal history records search; justices; judges and substitute judges; magistrates. Requires criminal history records checks

of all persons elected by the General Assembly as justices of the Supreme Court, judges of the Court of Appeals, and judges of the circuit and district courts, and of all persons appointed by the circuit courts as magistrates or substitute judges. The bill also prohibits the appointment of substitute judges and magistrates with certain criminal backgrounds in the same manner as the prohibitions for appointment of special conservators of the peace. HB 916; CH. 452.

§§ 19.2-35, 19.2-36, and 19.2-38 amended. Appointment of magistrates. Provides that the authority of the chief circuit court judge to appoint magistrates and chief magistrates is to be exercised in consultation with the chief general district and juvenile court judges and that all appointments of magistrates are for four-year terms even if the appointment is to fill a vacancy. HB 1139; CH. 370.

§ 19.2-37 amended. Criminal procedure; magistrates. Eliminates the prohibition of appointing a person as a magistrate if such person's spouse is a law-enforcement officer or an employee of the clerk of a district court. SB 669; CH. 830.

§ 19.2-42 repealed. Duties of the attorney for the Commonwealth; magistrates. Repeals the provision requiring attorneys for the Commonwealth to provide legal advice and training to magistrates due to the potential conflict raised by the prosecutor advising a judicial officer. Magistrates receive training from the Supreme Court's Executive Secretary's Office, as provided by law. SB 162; CH. 327.

§ 19.2-62 amended. Crimes; wiretaps. Corrects an oversight in the wording of the current provision making it a crime to intentionally use, or endeavor to use, the contents of any electronic communication, knowing or having reason to know that the information was obtained through the interception of an electronic communication. HB 650; CH. 149.

§ 19.2-66 amended. Attorney General; wiretap orders. Expands the list of crimes for which the Attorney General may seek a wiretap order to include crimes by mobs and crimes by gangs. Criminal sexual assault is included only for felony offenses that are not Class 6. HB 118; CH. 122.

§ 19.2-81 amended. Arrest for drunk driving. Allows a law-enforcement officer to arrest without a warrant a person who was involved in a motor vehicle accident within three hours of the occurrence of the accident at any location if the officer has probable cause to suspect that the person was driving or operating the motor vehicle while intoxicated. Under current law, the arrest must take place at the scene of the accident or at a hospital or medical facility to which the person has been transported. HB 664; CH. 949.

§§ 9.1-102, 19.2-81.3, and 19.2-81.4 amended. Family abuse. Changes the term primary physical aggressor to predominant physical aggressor in section that requires arrest in most family abuse cases when the law-enforcement officer has probable cause to believe that family assault or violation of a protective order occurred. The officer is required to arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the primary

(now predominant) physical aggressor (unless there are special circumstances that would dictate a course of action other than an arrest). The bill sets standards for determining who is the predominant physical aggressor. This bill is a recommendation of the Family Violence Subcommittee of the Virginia State Crime Commission. SB 550; CH. 1016.

§ 19.2-81.4. See § 16.1-253.2; HB 1233/SB 236.

§§ 19.2-82 and 19.2-120 amended; § 19.2-81.6 added. Arrest and detention; illegal aliens. Provides that all law-enforcement officers have the authority to enforce immigration laws and that a law-enforcement officer may, in the course of acting upon reasonable suspicion that an individual has committed or is committing a crime, arrest the individual without a warrant upon receiving confirmation from the Bureau of Immigration and Customs Enforcement that the individual is an illegal alien, and has previously been convicted of a felony in the United States and deported or left the United States after such conviction. A magistrate may issue a warrant and the person may be detained for not more than 72 hours or until taken into federal custody, whichever occurs first. The bill creates a presumption that an individual shall not be admitted to bail if he is detained pursuant to this provision. HB 570; CH. 360/SB 493; CH. 412.

§§ 16.1-260, 19.2-83.1, and 22.1-279.3:1 amended. Report of arrest of adult school students to school superintendent for certain offenses. Requires that a public school student who is 18 or over and arrested for certain offenses be reported to the division superintendent. The offenses are the same as those for which a juvenile student would be reported (e.g., firearms; homicide, felonious assault, sexual assault; drug offenses; arson; burglary; robbery). The bill extends this list to include criminal street gang related activity. SB 633; CH. 517.

§ 19.2-120 amended. Presumption against bail; repeat DUI offenders. Provides a rebuttable presumption against bail for a person charged with a DUI-related offense if the person has been convicted of three such offenses within the past five years on different dates and has been at liberty between each conviction. HB 889; CH. 954/1132; CH. 959.

§ 19.2-120. See § 18.2-36.1; HB 1059.

§§ 19.2-120 and 19.2-299 amended. Criminal procedure; admission to bail. Creates a rebuttable presumption against bail for any person who is held in custody when such person is charged with participating in a criminal street gang or the soliciting of a juvenile to participate in a criminal street gang. The bill adds the participation in and the recruitment for a criminal street gang to the list of felonies for which there must be a presentence report unless waived by the court and the defendant and the attorney for the Commonwealth. The bill specifies information regarding gang membership that may be included in the presentence report. HB 1012; CH. 308/SB 492; CH. 819.

§§ 19.2-120 and 19.2-390 amended. Admission to bail: DUI. Creates a rebuttable presumption that bail shall be denied to a person arrested for DUI if he has three previous convictions within the past five years for any combination of the following:

DUI, DUI manslaughter or DUI maiming. The bill also includes DUI as a reportable offense to the Central Criminal Records Exchange (CCRE) by law-enforcement officers upon arrest. Currently, it is specifically excluded. SB 442; CH. 406.

§§ 19.2-149 and 19.2-152.1 through 19.2-152.1:7. See § 9.1-102; HB 1057.

§ 19.2-152.1 amended. **Property bail bondsmen.** Provides that a property bail bondsman needs to obtain a certificate from only one circuit court judge in order to operate statewide, rather than from a circuit court judge in each jurisdiction in which he intends to write bonds. This bill is a recommendation of the Judicial Council. HB 71; CH. 264.

§§ 19.2-152.2, 53.1-95.8, and 53.1-109 amended. **Pretrial programs.** Clarifies that pretrial service programs are for adults and juveniles transferred for trial as adults. The bill also repeals cross-references that are no longer necessary. HB 1308; CH. 378.

§§ 16.1-266, 19.2-159, 19.2-163.7, 19.2-163.8 and 53.1-124 amended; §§ 19.2-163.01 through 19.2-163.04, and 19.2-163.4:1 added; §§ 19.2-163.1, 19.2-163.2, and 19.2-163.6 repealed. **Indigent Defense Commission.** Establishes the Indigent Defense Commission, which will establish criteria for court-appointed lawyers as well as assume the duties of the existing Public Defender Commission, which is abolished by this bill. All of the existing public defender offices are retained and no new ones are added. HB 1056; CH. 921 (effective 7/1/05)/ SB 330; CH. 884 (effective 7/1/05).

§ 19.2-163.2. See Budget Bill; HB 5001.

§ 19.2-163.7 amended. **Appointed counsel in capital cases.** Provides that at least two attorneys shall be appointed in a capital case (2002 legislation requires that as of July 1, 2004, an attorney from a capital defense unit of the Public Defender Commission be appointed). The bill allows the capital defense unit attorney to make a motion to the circuit court to withdraw as counsel if prior to the indictment the Commonwealth declares in writing that it will not seek the death penalty. The court is to allow the capital attorney to withdraw and to appoint a regular court-appointed attorney. SB 177; CH. 329.

§ 19.2-194 amended. **Summoning of grand jurors.** Allows the judge or judges of the circuit court who sit in a county or city to prepare the list of grand jurors. Current law seems to require that all the judges of a circuit participate in the selection and the signing of the court orders, etc. HB 942; CH. 306.

§ 19.2-215.1. See § 18.2-46.1; HB 569/ SB 321.

§ 19.2-264.5 amended. **Capital murder sentencing order.** Provides that when a court sets aside a sentence of death and imposes a sentence of imprisonment for life, it shall include in the sentencing order an explanation for the reduction in sentence. HB 755; CH. 298.

§ 19.2-265.1 amended. **Exclusion of witnesses in criminal trials.** Provides that any victim who is to be called as a witness in a criminal trial shall be exempt from the rule authorizing the

exclusion of all witnesses unless, in accordance with the provisions of § 19.2-265.01 (presence of victim would cause impairment of conduct of a fair trial), his exclusion is specifically required. HB 1095; CH. 311.

§ 19.2-265.4 amended. **Discovery in misdemeanor cases in circuit court.** Provides that in any criminal prosecution for a misdemeanor by trial de novo in circuit court, the attorney for the Commonwealth shall have a duty to adequately and fully provide discovery as provided under Rule 7C:5 (district court criminal discovery rule) of the Rules of the Supreme Court. Currently, by law or rule, no discovery is available on appeal of misdemeanor convictions to circuit court. HB 120; CH. 348.

§§ 18.2-270, 19.2-294.1, 46.2-391, and 46.2-391.2 amended. **Enhanced punishment for third DUI, etc.** Increases the mandatory minimum sentence for a second DUI within five years from five to 20 days, establishes a mandatory minimum for a second within 10 years to 10 days, a third within 10 years from 60 to 90 days and a third within five years from 30 to 180 days. The blood alcohol level required for additional mandatory minimum penalties is lowered by .05 percent. The bill also extends the seven-day administrative operator's license suspension for a DUI arrest to 60 days for a second alleged offense, and until trial for a third alleged offense. In addition, the sentence of a person convicted of DUI while driving on a revoked license who has previously been convicted of DUI is to run concurrently with any other sentence. SB 384; CH. 937.

§ 19.2-295.3 amended. **Admission of victim impact testimony.** Clarifies that victim impact testimony is to be heard by the trier of fact whether the defendant is found guilty after trial or upon a guilty plea. HB 1083; CH. 310.

§ 19.2-299. See § 18.2-124; HB 1055.

§ 19.2-310.2:1 amended. **Attempted violent felonies.** Provides that persons arrested for attempted violent felonies and burglary must have a DNA sample taken. Currently, attempts are not included. HB 776; CH. 445.

§ 19.2-310.3. See § 18.2-268.5; HB 654.

§§ 19.2-327.10 through 19.2-327.14 added. **Issuance of writ of actual innocence for nonbiological evidence.** Establishes a one-opportunity procedure for a convicted felon to petition the Court of Appeals for a writ of actual innocence based on nonbiological previously unknown or unavailable evidence. The Court of Appeals may summarily dismiss the petition but if it determines that a resolution of the case requires further development of the facts, it may order the circuit court to conduct a hearing to certify findings of fact on certain issues. After considering the petition and the Commonwealth's response, the previous records of the case and the record of any hearing, the Court may dismiss the case or grant relief. A petitioner whose writ is not summarily dismissed by the Court of Appeals is entitled to court-appointed counsel in the same manner as an indigent defendant in a criminal case. The bill establishes a process similar to the one that already exists in the Code for

previously unknown or untested biological evidence. SB 333; CH. 1024.

§§ 18.2-246.13, 18.2-246.14, 18.2-283.1, 18.2-287.4, 18.2-308, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:4, 18.2-308.2, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.4, 18.2-308.5, 18.2-308.7, 18.2-374.1:1, 19.2-386.1 through 19.2-386.5, and 59.1-148.4 amended; §§ 19.2-386.15 through 19.2-386.31 added; §§ 18.2-46.9, 18.2-110, 18.2-152.16, 18.2-190.7, 18.2-246.4, 18.2-249, 18.2-253, 18.2-253.1, 18.2-253.2, 18.2-265.4, 18.2-310, 18.2-336, and 18.2-374.2 repealed.

Transfer of forfeiture statutes to the criminal procedure code. Moves forfeiture provisions from Title 18.2 (criminal law) to Title 19.2 (criminal procedure) without substantive change. HB 1058; CH. 995.

§ 19.2-390 amended. Reports to be made by local law-enforcement officers to the Central Criminal Records Exchange (CCRE). Includes DUI as a reportable offense to CCRE by law-enforcement officers upon arrest. Currently, DUI is specifically excluded. HB 594; CH. 284.

TITLE 19.2. MISCELLANEOUS - CRIMINAL PROCEDURE.

Final judgments in circuit court; when modifiable and appealable. Repeals the provision enacted during the 2003 General Assembly Session that final judgments in circuit court criminal cases remain under the control of the circuit court for 90 days rather than the current 21 days. The filing deadlines for appeals and the transfer of the trial record to the Court of Appeals are proportionately increased to maintain consistency with current practice. The provision was scheduled to become effective on July 1, 2004, so it has never been in effect. SB 609; CH. 337.

TITLE 20. DOMESTIC RELATIONS.

§ 20-15. See § 16.1-69.48:1; HB 1234.

§ 20-25 amended. Persons who may perform marriage rites. Allows circuit court judges to appoint persons who are residents of the circuit in which the judge sits to perform marriages anywhere in the Commonwealth. Legislation enacted in 2003 limited the area to the jurisdiction in which the person resides. Prior to the 2003 legislation, a judge could appoint a person who resided in the jurisdiction for which the court was held to perform a marriage anywhere in the Commonwealth. HB 20; CH. 612 (effective 4/12/04).

§ 20-25 amended. Persons who may perform marriage rites. Allows circuit court judges to appoint persons who are residents of the circuit in which the judge sits to perform mar-

riages anywhere in the Commonwealth. 2003 legislation limited the area to the jurisdiction in which the person resides. Prior to the 2003 legislation, a judge could appoint a person who resided in the jurisdiction for which the court was held to perform a marriage anywhere in the Commonwealth. SB 274; CH. 680.

§ 20-45.3 added. Affirmation of Marriage Act for the Commonwealth of Virginia. States that a civil union, partnership contract or other arrangement between persons of the same sex purporting to bestow the privileges or obligations of marriage is prohibited and that such an arrangement entered into in another state or jurisdiction is void in Virginia and any contractual rights created thereby are void and unenforceable. HB 751; CH. 983.

§§ 16.1-278.18, 20-74, 20-108, 20-108.1, 20-112, and 63.2-1916 amended. **Child support petition.** Clarifies that the retroactive modification of a child support order is not dependent on the court in which the petition was originally filed. Child support orders may be modified retroactively only to the date that the petition for modification was filed. When the modification petition is originally filed in juvenile and domestic relations district court and removed to circuit court, some circuit court judges have ruled that the circuit court can order child support retroactive to the date of filing in circuit court and others have ruled that retroactivity goes back to the date of filing in juvenile court. This bill provides that the child support may be modified back to the date that the modification petition was filed in any court. SB 497; CH. 204.

§§ 16.1-278.15 and 20-103 amended. **Mandatory parenting classes in cases involving custody, visitation or support.** Eliminates the requirement that parties attend a four-hour seminar on the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities in uncontested custody, visitation and support cases and provides that the court may require the parties to attend such seminars or programs in uncontested cases only if the court finds good cause. HB 447; CH. 732.

§ 20-107.3 amended. Divorce; property distribution. Adds the use, expenditure or dissipation of marital property for a nonmarital separate purpose in anticipation of divorce or after the last separation, to the factors that the court is directed to consider in determining the division or transfer of marital property, the amount of any monetary award, the apportionment of marital debts, and the method of payment. HB 1111; CH. 757/SB 51; CH. 654.

§ 20-108.2 amended. Child support. Revises the child support guideline by (i) providing that "gross income" shall not include income received by the payor parent from a second job that was taken in order to pay off child support arrearages and that cessation of the income is not the basis for a material change in circumstances; (ii) replacing the provision for "extraordinary medical and dental expenses" with a requirement that the parents pay in proportion to their incomes any reasonable and necessary unreimbursed medical or dental expenses in excess of \$250 per year per child; (iii) making computation and

payment of medical and dental expenses in sole and split custody arrangements identical to that for shared custody arrangements (under which expenses are allocated in accordance with the parties' income shares and paid in addition to the basic child support obligation); (iv) directing the court to consider actual tax savings a party derives from the child-care cost deductions or credits; and (v) changing the guideline review from being completed every three years to being completed every four years. HB 511; CH. 907/SB 208; CH. 1008.

§ 20-124.3 amended. Custody and visitation; best interests of the child. Provides that in considering the best interests of the child with respect to custody and visitation, the court may disregard the propensity of each parent to actively support the child's contact and relationship with the other if the court finds a history of family abuse. HB 441; CH. 221.

TITLE 22.1. EDUCATION.

§§ 22.1-3, 22.1-5, and 22.1-270 amended. Admission of certain persons to the public schools. Ensures that students whose parents are deployed outside the United States will continue to be admitted to public schools in the Commonwealth without tuition. This bill provides for admission to the public schools of any person living with an individual who is defined as a parent, not solely for school purposes, pursuant to a special power of attorney executed by a custodial parent as provided in federal law while the custodial parent is deployed outside the United States as a member of the Virginia National Guard or as a member of the United States Armed Forces. The bill also assures that the student will not be charged tuition because of being placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent and that the student will, when practicable, have the option to continue to attend the school in which he was enrolled while residing with his custodial parent. This bill addresses the residency issues created when a custodial parent, who is a resident of Virginia and a member of the Virginia National Guard or the United States Armed Forces, receives orders to report for active duty and deployment abroad and the child must, out of necessity, live with the noncustodial parent or another individual in a different school division. A technical amendment to § 22.1-270 aligns a cross reference to the amendments in the bill. HB 1443; CH. 967.

§§ 22.1-3, 22.1-3.1, 22.1-4.1, 22.1-270, and 22.1-271.2 amended. Public school enrollment of homeless children. Revises provisions addressing the public school enrollment of homeless children to reflect the definitions and requirements set forth in the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001---law that is included within the federal No Child Left Behind Act. School divisions are to coordinate the provision of services to such homeless students with relevant local social services agencies and other agencies and programs providing services to such students, and

with other school divisions as may be necessary to resolve interdivisional issues. The measure also provides that superintendents cannot exclude from school attendance those homeless children who do not provide the requisite health or immunization information required of other students and deletes the outdated mumps immunization exemption. However, the student must be immediately referred to the local school division liaison who is required to assist the student in obtaining the necessary physical examinations or proof of completion of immunizations. Technical amendments delete references to "guardian," as § 22.1-1 includes guardians, legal custodians, and other persons having "control or charge of a child" within the definition of "parent" throughout Title 22.1. SB 270; CH. 500.

§§ 22.1-19.1, 22.1-209.1:2, 22.1-225, 22.1-253.13:1 through 22.1-253.13:8, 22.1-254.2, 22.1-279.3:1, 22.1-279.6, and 22.1-292.1 amended; §§ 22.1-200.01 and 22.1-202.1 added.

Standards of Quality. Reorganizes the Standards of Quality and makes substantive amendments that would (i) increase from one half-time to one full-time principal in elementary schools with fewer than 300 students; (ii) provide one full-time assistant principal for each 400 students in each school, regardless of grade level; (iii) require five elementary resource positions per 1,000 students in kindergarten through grade five for art, music, and physical education; (iv) lower the pupil-teacher ratio from 25:1 to 21:1 in middle and high schools, to ensure the provision of scheduled teacher planning time; (v) reduce the required speech pathologist caseload from 68 to 60 students; (vi) require one full-time reading specialist for each 1,000 students in average daily membership; (vii) require two technology support positions per 1,000 students in kindergarten through grade 12 divisionwide; and (viii) modify the current funding mechanism for remediation.

A second enactment clause provides that any provision that is not required on June 30, 2004, and does require state funding will not take effect unless the state's share of the funding for the provision is included in the general appropriation act for the period July 1, 2004, through June 30, 2006, passed during the 2004 Session of the General Assembly and signed into law by the Governor.

The Board of Education proposed and approved these changes on June 25, 2003. Because the Virginia Constitution grants the General Assembly "ultimate authority" over educational policy and provides that the Standards are to be "prescribed from time to time by the Board of Education" but are subject to revision "only by the General Assembly," legislation is necessary to enact the Board's proposals.

The bill includes a second enactment clause providing that any new Standard of Quality incorporated into the bill shall not become effective unless an appropriation for the standard is included in the 2004-2006 Appropriation Act. HB 1014; CH. 955/SB 479; CH. 939.

§ 22.1-25 amended. School division consolidation. Directs the Board of Education, consistent with its authority pursuant to Article VIII, § 5 of the Constitution of Virginia to delineate

school divisions of such geographic size and school-age population as will best promote the realization of the standards of quality, to promulgate regulations that provide for a process whereby school divisions may submit proposals for the consolidation of school divisions. Such regulations shall provide for, among other things, a public notice and hearing process to be conducted by the applicant school divisions.

School division proposals must include, among other things, (i) evidence of the cost savings to be realized by such consolidation; (ii) a plan for the transfer of title to school board property to the resulting school board; (iii) procedures and a schedule for the proposed consolidation, including completion of current division superintendent and school board member terms; (iv) a plan for proportional school board representation of the localities comprising the new school division, including details regarding the appointment or election processes currently ensuring such representation and other information as may be necessary to evidence compliance with federal and state laws governing voting rights; and (v) evidence of local support for the proposed consolidation.

For five years following completion of such consolidation, the computation of the state and local share for an educational program meeting the standards of quality for school divisions resulting from consolidations shall be the lower composite index of local ability-to-pay of the applicant school divisions, as provided in the appropriation act. HB 978; CH. 917.

§ 22.1-26 amended. Joint schools. Authorizes school boards to create joint or regional schools offering a specialized curriculum leading to a high school diploma and a postsecondary credential, such as industry certification, career certificate, or degree. The school boards may, by agreement, establish alternative school day and year schedules for the delivery of instruction, subject to any necessary Board of Education waivers. Such school boards may contract with an accredited institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education, as the case may be, to deliver such instruction. SB 553; CH. 256.

§ 22.1-32 amended. Salaries of certain school boards. Increases the salary of the Manassas Park School Board from \$1,800 to \$3,000. The Manassas Park School Board's salary has not been increased for 13 years. HB 1336; CH. 199/SB 644; CH. 179.

§§ 22.1-70.3 and 22.1-79. See § 51.1-155; HB 1171.

§ 22.1-98 amended. School closings; waiver of makeup days. Permits the Board of Education to waive the requirement that school divisions provide additional teaching days to compensate for school closings resulting from a declared state of emergency. If the Board grants such a waiver, there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. However, the local appropriations for educational purposes necessary to fund 180 teaching days shall not be proportionally reduced by any local governing body due any reduction in the length of the term of

any school or school division permitted by such waiver. HB 575; CH. 839.

§ 22.1-98 amended. School closings; makeup days. Clarifies the circumstances in which state basic aid funding will be reduced because of school closings due to severe weather conditions or other emergency situations. The bill defines "severe weather conditions or other emergency situations" as "those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including, but not limited to, natural and man-made disasters, energy shortages or power failures." The bill states that the length of every school's term in every school division must be 180 teaching days or 990 teaching hours and, if the length of the term is reduced, the amount paid by the Commonwealth will be proportionally reduced. However, a schedule of makeup days that will avoid reduction in funding is set out, i.e., for five or fewer missed days, makeup days according to Board regulations cannot exceed the days missed; for five missed days, but no more than 15 missed days, five makeup days plus one day for every two days in excess of the initial five, but no more than nine makeup days; for more than 15 days, at least 10 makeup days. School divisions are authorized to make up the missed teaching days by providing the students with instructional hours equivalent to the missed days. In addition, the Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from a declared state of emergency. If the Board grants the waiver, no proportionate reduction in state funds will be made. The Board's regulations for this law may authorize the Superintendent of Public Instruction to approve reductions in school terms without reductions in funding. The Board is authorized, in a second enactment clause, to promulgate emergency regulations. HB 1256; CH. 868 (effective - see bill).

§ 22.1-98 amended. School closings; makeup days. Clarifies the circumstances in which state basic aid funding will be reduced because of school closings due to severe weather conditions or other emergency situations. The bill defines "severe weather conditions or other emergency situations" as "those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including, but not limited to, natural and man-made disasters, energy shortages or power failures." The bill states that the length of every school's term in every school division must be 180 teaching days or 990 teaching hours and, if the length of the term is reduced, the amount paid by the Commonwealth will be proportionally reduced. However, a schedule of makeup days that will avoid reduction in funding is set out, i.e., for five or fewer missed days, makeup days according to Board regulations cannot exceed the days missed; for five missed days, but no more than 15 missed days, five makeup days plus one day for every two days in excess of the initial five, but no more than nine makeup days; for more than 15 days, at least 10 makeup days. School divisions are authorized to make up the missed teaching days by providing the students with instructional hours equivalent to the missed days.

In addition, the Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from a declared state of emergency. If the Board grants the waiver, no proportionate reduction in state funds will be made. The Board's regulations for this law may authorize the Superintendent of Public Instruction to approve reductions in school terms without reductions in funding. The Board is authorized, in a second enactment clause, to promulgate emergency regulations. Technical amendments are included to improve readability. SB 452; CH. 887 (effective 4/15/04).

§ 22.1-98.2 added. Smaller school divisions; adjusted state share. Creates a mechanism whereby any school board of a school division in which fewer than 350 students (Highland County) were included in average daily membership (ADM) for the preceding school year, upon entering into certain cost-savings agreements with a contiguous school division for the sharing of educational, administrative, or support services, shall receive the state share for basic aid computed on the basis of the composite index of local ability-to-pay of the contiguous school division, calculated annually, for a period of 15 years. Board of Education eligibility criteria will address the cost-savings and service-sharing agreements and will provide for the adjustment of the state share for basic aid, consistent with the appropriation act.

The local school board receiving the adjusted state share cannot use the additional funds received to supplant local funds appropriated for education. In addition, the adjusted state share cannot be used to reduce local operating expenditures for public education from the prior fiscal year. However, no school division shall be required to maintain a per pupil expenditure for operations that exceeds the per pupil expenditure in the prior fiscal year. If any such contractual agreements between the relevant school divisions terminate prior to the end of the applicable period, the state's obligation to provide the adjusted share shall cease.

The agreement and adjusted state payment shall be in lieu of any existing funds a locality receives from a Small School Division Assistance grant. Pursuant to §§ 22.1-26 and 22.1-27, school boards are already empowered to operate joint schools and to make agreements with adjacent school boards "for furnishing public school facilities and for school services." SB 518; CH. 820 (effective 7/1/05).

§ 22.1-171. See § 2.2-608; SB 6.

§ 22.1-199.1. See § 51.1-617; HB 576

§§ 22.1-199.3, 22.1-208.2:1.1, 22.1-209.1:7, 22.1-209.1:9, 22.1-209.1:10, 22.1-291.2, and 22.1-343. See § 2.2-2238; SB 3.

§ 22.1-199.4 added. At-Risk Student Academic Achievement Program. Creates the At-Risk Student Academic Achievement Program and Fund, to provide noncompetitive grants to public school divisions to implement research-based programs or programs identified as best practices that are designed to (i) improve the academic achievement of at-risk

public school students on the Standards of Learning assessments; (ii) decrease the rate of dropout among at-risk public school students; and (iii) increase the number of such students obtaining the advanced studies diploma. The amount of grants and required local matching funds shall be determined as provided in the appropriation act. Funds received through this Program shall be used to supplement, not supplant, any local funds currently provided for at-risk programs within the school division. HB 1013; CH. 456.

§ 22.1-200.01 added. Alternatives to student dissection of animals. Requires school divisions to provide students with alternatives to animal dissection in relevant public school courses or curriculum and directs the Board of Education to develop guidelines for such alternatives addressing (i) the use of detailed models of animal anatomy and computer simulations as alternatives to dissection; (ii) notification of students and parents of the option to decline to participate in animal dissection; and (iii) such other issues as the Board deems appropriate.

Statutes addressing alternatives to animal dissection have been enacted in several states, including California, Florida, Illinois, Louisiana, Maine, New York, Pennsylvania, and Rhode Island. HB 1018; CH. 918.

§ 22.1-207.1 amended. Family life education. Adds steps to take to avoid sexual assault and the availability of counseling and legal resources, and, in the event of such sexual assault, the importance of immediate medical attention and advice, as well as legal requirements to those items that the Board of Education is to include in its curriculum guidelines for family life education. Pursuant to the Standards of Accreditation (8 VAC 20-131-170), local school boards are authorized to implement the Standards of Learning for the Family Life Education program promulgated by the Board of Education or a Family Life Education program consistent with the Board's guidelines, which shall have the goals of "reducing the incidence of pregnancy and sexually-transmitted diseases and substance abuse among teenagers." HB 1015; CH. 1030.

§ 22.1-212.1:2 added. Green schools program; education programs to promote waste reduction and resource efficiency. Authorizes the Board of Education to assist local school boards in the development and implementation of programs of instruction that comply with the provisions of Standard 1 of the Standards of Quality, specifically relating to citizenship and environmental issues and geography necessary for responsible participation in American society and the international community, by cooperating with the environmental groups, other relevant state agencies, such as, but not limited to, the Department of Environmental Quality and the Department of Health, and other stakeholders in the development of a green schools program for Virginia. Any such green schools program will focus on waste reduction through recycling and other mechanisms and educating students to help schools contain costs and to reduce waste production through resource efficiency. In the development and implementation of any such program, the Board must examine other states' green schools programs and must receive input from parents, teachers, school

administrators, school boards, business and industry leaders, and local governments. The Board must also strive to identify businesses and other organizations that may provide support in the form of resources or funding for appropriate awards for any green schools program that may be implemented in the Commonwealth. This provision must not be construed to require the Board or any school board in the Commonwealth to implement a green school program or to imply or otherwise indicate that state or local funding is required to develop or implement any green school program. SB 315; CH. 882.

§§ 2.2-3109, 22.1-212.5, 22.1-212.6, 22.1-212.8, 22.1-212.9, 22.1-212.11, and 22.1-212.12 amended. Charter School Excellence and Accountability Act. Amends the charter schools statute to (i) allow charter schools to contract with private institutions of higher education for school facilities, services, and other undertakings, including construction; (ii) add evidence of the support of school division residents for a charter school to those items that may be included in proposed charter agreement materials; (iii) allow charter applicants to submit the proposed charter agreement to the Board of Education for review and comment, and to require inclusion of the Board's findings in the charter application to the local school board; (iv) delete the authority of school boards to limit the number of charter schools within the division and the statutory cap on the maximum number of charter schools (two schools or not more than 10 percent of the total number of schools in the division, whichever is greater); (v) delete the requirement that half the charter schools in the division be designed to benefit at-risk pupils, and instead direct school boards to give priority to applications designed to benefit these students, particularly those at-risk students currently served by schools that have not achieved full accreditation; (vi) direct the Board to report annually to the General Assembly the number of public charter school applications granted and denied, and the reasons for any such denials; and (vii) increase the maximum charter term from three to five years. The Board of Education must set objective criteria for the review and comment on the applications; the Board's comments cannot relate to whether the local school board should approve the application. The bill also amends the State and Local Government Conflicts of Interests Act to allow the governing body, administrators, and other personnel within a public charter school to have an ownership or financial interest in renovating, lending, granting, or leasing public charter school facilities, if such interest has been disclosed in the public charter school application. The provisions of this bill will sunset on July 1, 2009. HB 380; CH. 530.

§ 22.1-253.13:1 amended. Career and technical education. Directs local school boards to include, within the currently required career and technical education program, curricula that promote knowledge of entrepreneurship and small business ownership. Current programs are to address "all types of employment opportunities," such as apprenticeships, the military, and career education schools. The bill also requires that notice of dual enrollment opportunities between high schools and community colleges be provided to students and parents. HB 769; CH. 848.

§ 22.1-253.13:1 amended. Expeditionary and efficient reporting of standards of learning test results to schools and school divisions. Requires the Board of Education, in consultation with the chairpersons of the eight regional superintendents' study groups, to provide for timely review of the Standards of Learning test scores by school divisions for coding and other errors and prompt reporting to the local school divisions by the Department of Education of the test scores that will be used to determine each school's status pursuant to the provisions of the federal No Child Left Behind Act of 2001 (P.L. 107-110). SB 416; CH. 404.

§ 22.1-253.13:3 amended. Standards of Quality; School Performance Report Card. Directs the Board of Education, in its requirements related to the School Performance Report Card, to require the reporting of the Standards of Learning assessment scores and averages for each year. The Board shall make such reports available to the public within three months of the receipt of the scores, which shall be disaggregated for each school by gender, and by race or ethnicity. These reports shall (i) be posted on the portion of the Department of Education's website relating to the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

Currently, the School Performance Report Card is required by the Board's Standards of Accreditation for Public Schools (8VAC20-131-270). The report card is to include information for the most recent three-year period that sets forth, among other things, (a) SOL test scores and scores on the literacy and numeracy tests required for the Modified Standard Diploma for the school, school division, and state; (b) percentages of students tested, as well as the percentage of students not tested, to include a breakout of students with disabilities and limited English proficient students; (c) student attendance and dropout rates; (d) school safety data; (e) teacher qualifications; and (f) percentages of students in alternative programs that do not lead to a Standard, Advanced Studies, or Modified Standard Diploma and in academic year Governor's Schools HB 1254; CH. 472.

§§ 2.2-4018, 22.1-253.13:3, 22.1-253.13:6, and 22.1-253.13:8 amended. Enforcement of school corrective action plans. Modifies the current school corrective action plan process within the Standards of Quality (SOQ) to (i) authorize the Board of Education to require an academic review, consistent with criteria to be established by the Board, of any school division upon obtaining evidence through the school academic review process that school failure is related to division level failures to implement the SOQ; (ii) require the reviewed school division to submit for approval by the Board a corrective action plan setting forth specific actions and a schedule designed to ensure that schools within its school division achieve full accreditation status; (iii) add such corrective action plans to relevant school division's six-year improvement plan; (iv) allow the Board to pursue circuit court enforcement of the development or implementation of such plans by noncompliant school divisions; and (v) delete the current mandamus process.

The Administrative Process Act is amended to provide an exemption for the determination of accreditation or academic review status of a public school or public school division or Board approval of a school division corrective action plan.

Finally, a second enactment clause directs the Board to promulgate regulations to implement the act to be effective within 280 days of its enactment. HB 1294; CH. 965 (effective - see bill).

§ 22.1-253.13:4 amended. Notification of parents of certain students. Directs local school boards to notify the parent of the educational rights of students who fail to graduate or who have failed to achieve the number of verified units of credit required for graduation as provided in the standards of accreditation. In addition, school boards are to notify the parent of students who (i) have been identified as having limited English proficiency of the opportunity for a free public education; or (ii) have been identified as disabled and receive special education of their right to a free public education to age 21, inclusive. In addition, local school boards are to notify parents of rising high school juniors and seniors of the number of verified units of credit required for graduation and the number of verified units the individual student requires.

Pursuant to §§ 22.1-1 and 22.1-5, public schools are free to "persons of school age" (at least age five on or before September 30 of the school year and under 20 years of age on or before August 1). In addition, subsection D of § 22.1-5 sets forth for students for whom English is a second language the opportunity for a free public education through the age of 21. Finally, persons who have been identified as disabled who receive special education are entitled to a "free and appropriate education" through 21 years of age pursuant to the federal Individuals with Disabilities Education Act (IDEA) and § 22.1-213. SB 438; CH. 509.

§§ 22.1-254 and 22.1-254.2 amended. Compulsory school attendance. Provides that active pursuit of a general education development (GED) certificate by persons 16 through 18 years of age who are housed in adult correctional facilities but who are not enrolled in an individual student alternative education plan will satisfy the requirements of the compulsory school attendance law. This bill brings the law into conformance with the current practice, which is to provide GED programs for incarcerated persons between 16 and 18 years of age. SB 404; CH. 251.

§§ 16.1-241.2, 16.1-263, 22.1-263, and 22.1-279.3 amended; § 16.1-290.1 added. Compulsory school attendance enforcement; parental responsibility; use of contempt power, summons; penalty. Strengthens the mechanisms for enforcement of the compulsory school attendance law. The bill removes the restriction on the court's use of contempt power in enforcing compulsory school attendance and parental responsibility provisions. The court's authority to order the child or the parent, or both, into programs, such as extended day programs and summer school or other educational programs and treatment, such as counseling, is clarified and reinforced. The court is given the authority to summon and force a parent to appear

in court with the child. The parental responsibility and involvement statute is amended to include compliance with compulsory school attendance. The parent may be charged with a Class 3 misdemeanor for violating the provisions of the parental responsibility law. HB 1326; CH. 573.

§ 22.1-277.07. See § 18.2-299; HB 1303.

§ 22.1-277.07:1 added. School board policies prohibiting firearms. Authorizes school divisions to establish disciplinary policies prohibiting the possession of firearms on school property, school buses, and at school-sponsored activities by students, and authorizes school divisions to take disciplinary actions against students who violate such policies. The measure indicates that the act is declaratory of existing law.

The measure would allow school boards to establish policies to discipline students who carry weapons on school property, including an unloaded firearm in a closed container.

An October 2003 opinion of the Attorney General indicated that a school board "has authority to discipline, in the context of the complete analysis of this opinion, a student whose action is in conformance with the language of Chapter 619 of the 2003 Acts of Assembly (the "2003 amendment"), which amends and reenacts § 18.2-308.1(B), pertaining to the possession of an unloaded firearm in a locked vehicle trunk." While noting that the "interaction between §§ 18.2-308.1(B) and 22.1-277.07(A) is not a model of clarity," the Attorney General stated that "[a]s long as the regulations of the school authorities are not inconsistent with the 2003 amendment, school authorities are authorized to promulgate reasonable regulations that may result in the discipline of a student whose action is in conformance with the language of the 2003 amendment pertaining to the possession of an unloaded firearm."

The 2003 amendment to subsection B of § 18.2-308.1 permits a student to possess a firearm that is unloaded and in a closed container, which "includes a locked vehicle trunk," on school property or at a school-sponsored activity. HB 1117; CH. 560.

§ 22.1-279.3:1 amended. Reporting of certain acts by school authorities to law enforcement. Expands the enumerated activities that school principals must report to local law enforcement by providing that reportable offenses involving "firearms" on school property address any weapon prohibited on school property or at a school-sponsored activity pursuant to § 18.2-308.1, as well as (i) any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material; (ii) the frame or receiver of any such weapon; (iii) any firearm muffler or firearm silencer; or (iv) any destructive device. "Firearm" shall not include any weapon in which ammunition may be discharged by pneumatic pressure. By linking the definition of "firearm" to the definition in § 22.1-277.07 (Gun-Free Schools), the measure captures possession of knives and other weapons. HB 869; CH. 542.

§ 22.1-279.3:1. See § 19.2-83.1; SB 633.

§ 22.1-279.6 amended. Model student conduct policies. Directs the Board of Education, in developing model student conduct policies, to include standards for school board policies on self-defense.

School boards must adopt student conduct policies that are at least consistent with the Board's model, and may adopt more stringent policies. HB 513; CH. 908.

§§ 22.1-279.6 and 22.1-279.9 amended. Hazing; Board of Education's guidelines and model policies for and school boards' regulations on codes of student conduct. Requires the Board of Education to include hazing in its guidelines and model policies for codes of student conduct and school boards to prohibit hazing in their codes of student conduct. In addition, school boards must cite, in their standards for student conduct, the provisions of the criminal law prohibiting hazing, which renders convictions of violations a Class 1 misdemeanor, i.e., confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. In the past year, several high-profile and disturbing cases of hazing among high school athletic teams or cheerleaders have occurred in other states with devastating results to high school teachers, coaches, and administrators and the students and communities. HB 1331; CH. 574.

§ 22.1-279.8. See § 2.2-3703; SB 352.

§ 22.1-289.2 added. Supplemental compensation; teachers called to active duty. Provides that public school employees whose active duty service with the regular armed forces of the United States or the National Guard or other reserve component has required their absence from their full-time employment in a school division will receive supplemental pay as determined by and from the relevant local school division if the military compensation of such employee is less than the regular salary paid to such employee by the school division. Classified state employees receive a similar benefit pursuant to Executive Order 44, issued March 26, 2003. HB 318; CH. 528.

§ 22.1-291.3 added. Notice of duty to report child abuse or neglect. Requires each public school board and each administrator of every private or parochial school to post in each of their schools a notice, pursuant to § 63.2-1509, that (i) any teacher or other person employed in a public or private school who has reason to suspect that a child is an abused or neglected child, including any child who may be abandoned, is required to report such suspected cases of child abuse or neglect to local or state social services agencies or the person in charge of the relevant school or his designee; and (ii) all persons required to report cases of such suspected child abuse or neglect are immune from civil or criminal liability or administrative penalty or sanction on account of such reports unless such person acted in bad faith or with malicious purpose. The notice must also include the Virginia Department of Social Services' toll-free child abuse and neglect hotline. A second enactment clause requires that the notice will be prepared and distributed to each public school board by the office of the Attorney General. Further, the Attorney General will also furnish, upon request, the

notice to any private school. HB 1038; CH. 752/SB 576; CH. 710.

§ 22.1-298 amended. Licensure of principals. Directs the Board of Education to require passage of the School Leader's Licensure Assessment (SLLA) as a condition of initial licensure for principals and other school leaders, as may be determined by the Board, on and after July 1, 2005.

This bill is a recommendation of the HJR 20/SJR 58 Commission to Review, Study, and Reform Educational Leadership.

The SLLA is a performance-based assessment for the licensure of school principals and assistant principals or vice-principals. The assessment was developed and is administered by the Educational Testing Service and is based on the standards of the Interstate School Leader's Licensure Assessment Consortium (ISLLC). Alaska, Arkansas, Kentucky, Maryland, Mississippi, Missouri, and North Carolina currently use the SLLA. HB 573; CH. 46.

§ 22.1-298 amended. Hearings for teacher dismissal and licensure revocation. Permits local school boards and teacher grievance fact-finding panels to hear a recommendation for dismissal and make a determination whether to make a recommendation to the Board of Education regarding the suspension or revocation of the teacher's license at the same hearing or hold a separate hearing for each action. This bill supersedes current Board of Education regulations requiring a local school board hearing on revocation of the teacher's license when the teacher has been dismissed in addition to a subsequent action by the Board of Education (8 VAC 20-21-660). SB 145; CH. 1007.

§ 22.1-299.3 amended. Teachers; local eligibility license. Prohibits the issuance of local eligibility licenses to teachers providing instruction in special education, and limits the issuance of these licenses to those teachers providing instruction in courses that do not represent core academic areas as defined by P.L. 107-110 (the federal No Child Left Behind Act (NCLB)).

The measure is designed to comply with NCLB provisions addressing "highly qualified" teachers. The 2002 reauthorization of the Elementary and Secondary Education Act, NCLB requires, among other things, that schools receiving certain federal Title I funds ensure that "highly qualified" teachers are in place in all core academic subjects by 2005-2006. In addition, beginning with the 2002-2003 school year, all new hires must be "highly qualified." To satisfy the "highly qualified" classification, teachers must be fully licensed; emergency or similar temporary licensure will not suffice. In addition, new and current teachers must hold undergraduate degrees and meet various state testing and subject matter competency requirements. HB 1048; CH. 920.

§§ 22.1-319 through 22.1-326, 22.1-326.1, and 22.1-328 through 22.1-335. See § 23-276.1; HB 637.

§§ 22.1-340, 22.1-342, and 22.1-343 amended. Department of Correctional Education. Authorizes the Department of Correctional Education to provide community-based educa-

tional programs to adult probationers and parolees in residential diversion centers and to adult prisoners who are participating during their incarceration in the short-term, highly structured, military-style program provided by residential detention centers. HB 1108; CH. 465.

§ 22.1-345.1 added. Parenting programs; Department of Correctional Education. Authorizes the Department of Correctional Education to arrange for noncustodial parent offenders committed to the custody of the Department of Corrections to be afforded the opportunity to participate in pre-release parenting programs that include parenting skills training and anger management. The programs must be administered by the Department directly or by contract and must include integration with transitional programs and other programs for offenders as appropriate. The individuals may be required to establish, reestablish, or maintain family ties and communications in order to continue to participate in the programs. A pre-release parenting program may be part of an offender's treatment program. The provisions of this bill will not become effective unless an appropriation of general funds effectuating the purposes of the bill is included in the appropriation act and signed into law by the Governor. HB 792; CH. 912/SB 98; CH. 875.

TITLE 22.1. MISCELLANEOUS - EDUCATION.

Academic research and advanced education enterprise. Requires the Virginia Research and Technology Advisory Commission to continue its examination of establishing integrated research and academic campuses in the Commonwealth. The commission will conduct a feasibility study on building an academic research and advanced education enterprise in northern Virginia and Hampton Roads to provide a vehicle for multiuniversity collaboration and closer ties to industry. HB 545; CH. 616.

Certain school board benefits, expenses and reimbursements; Arlington County. Authorizes the Arlington County School Board (an elected school board of a division comprised of a county having the county manager plan of government) to grant itself fringe benefits, expenses, and reimbursements, or any of them, as it deems appropriate, and in the manner and form as such fringe benefits, expenses, and reimbursements are provided for school board employees, after satisfying notice and public hearing requirements. The Arlington County School Board may establish such fringe benefits, expenses, and reimbursements by July 1 in any year in which two of the five members are to be elected. Any increased fringe benefits, expenses, and reimbursements will become effective on January 1 of the following year. HB 433; CH. 532.

Standard diploma; verified units of credit. Amends an uncodified act to direct local school boards to adopt procedures, pursuant to Board of Education guidelines, to award verified

units of credit for standard diplomas to students who have (i) entered the ninth grade for the first time during the school years of 2000-2001, 2001-2002, and 2002-2003 and (ii) passed the relevant coursework.

The 2002 Session of the General Assembly directed the Board to develop guidelines for the award of verified units of credit for standard diplomas to these students. HB 1257; CH. 473 (effective 4/12/04).

TITLE 23. EDUCATIONAL INSTITUTIONS.

§§ 23-1.01, 23-30.36, 23-227, 23-253, and 23-253.7. See § 2.2-608; SB 6.

§ 23-4.01 amended. College of William and Mary; easements. Provides for certain drainage and temporary construction easements related to the proposed right-of-way and easement dedication by The College of William and Mary for widening of the intersection of Monticello Avenue and Ironbound Road. SB 653; CH. 339.

§ 23-7.4:2 amended. University of Virginia's College at Wise; reduced tuition. Allows the University of Virginia's College at Wise to charge reduced tuition to any person enrolled at the College who lives within a 50-mile radius of the College, is domiciled in, and is entitled to in-state tuition charges in Tennessee institutions, contingent upon reciprocal reduced tuition arrangements being offered by Tennessee to Virginia students. In addition, the College and its partners or associates offering programs jointly at a regional off-campus center may also charge reduced tuition to any Tennessee resident enrolled in such joint programs who lives within a 50-mile radius of the College and is entitled to in-state tuition charges in Tennessee institutions of higher learning if Tennessee has similar reciprocal arrangements for Virginians. Any such respective partners or associates must separately establish and charge tuition rates for their independent classes or programs at such regional centers. This provision grants authority similar to that already granted to the University of Virginia's College at Wise students residing in Kentucky. HB 82; CH. 520/ SB 283; CH. 501.

§ 23-9.2:4.1 added. Faculty representatives to boards of visitors, the State Board for Community Colleges, and local community college boards. Authorizes the boards of visitors of four-year public institutions of higher education, the State Board for Community Colleges, and local community college boards to appoint a nonvoting, advisory faculty representative to their boards. In the case of the State Board for Community Colleges, the representative will be chosen from among persons elected by the Chancellor's Faculty Advisory Committee. Faculty representatives to boards of visitors and local community college boards will be chosen from among those individuals elected by the faculty, faculty senate, or other equivalent group of the institution. The State Board for Community Colleges, local community college boards, and boards

of visitors may exclude the faculty representative from discussions of faculty grievances, faculty or staff disciplinary matters, salaries, or other matters, in their discretion. HB 64; CH. 519.

§ 23-9.2:4.1 added. Faculty representatives to boards of visitors, the State Board for Community Colleges, and local community college boards. Authorizes the boards of visitors of four-year public institutions of higher education, the State Board for Community Colleges, and local community college boards to appoint one or more nonvoting, advisory faculty representatives to their boards. In the case of the State Board for Community Colleges, any representatives must be appointed from persons elected by the Chancellor's Faculty Advisory Committee. Faculty representatives to boards of visitors and local community college boards must be appointed from individuals elected by the faculty, faculty senate, or other equivalent group of the institution. Any representatives will serve terms of not less than one 12-month period, which is co-terminous with the institution's fiscal year, or for terms mutually agreed to by the State Board for Community Colleges and the Chancellor's Faculty Advisory Committee, or the local community college board or the board of visitors, as the case may be, and the institution's faculty senate or other equivalent group. The State Board for Community Colleges, local community college boards, and boards of visitors may exclude faculty representatives from discussions of faculty grievances, faculty or staff disciplinary matters, or salaries. SB 244; CH. 499.

§§ 23-9.5, 23-14, 23-31, 23-91.34, 23-91.35, 23-91.37, 23-91.39, 23-91.40, 23-91.41, 23-91.43, and 23-91.44 amended. University of Mary Washington. Changes the name of Mary Washington College to the University of Mary Washington.

The State Council of Higher Education for Virginia (SCHEV) is not charged with responsibility for review and approval of a name change for a public institution of higher education; however, SCHEV is required, pursuant to § 23-9.6:1, to "study any proposed escalation of any public institution to a degree-granting level higher than that level to which it is presently restricted" and to review and approve any proposed modifications in institutional missions.

The Board of Visitors of Mary Washington College (MWC) approved the name change unanimously on November 22, 2003. This past year, the Carnegie Foundation, which certifies on a national basis the classification of all institutions of higher learning, reclassified MWC as a university, rather than a baccalaureate liberal arts college, based upon the number of graduate degrees awarded. HB 1029; CH. 195/SB 464; CH. 176.

§ 23-9.6:1 amended. State Council of Higher Education. Directs the State Council of Higher Education to facilitate the development of dual admissions and articulation agreements between two- and four-year public and private institutions of higher education in Virginia and requires the Council to develop estimates of the number of degrees to be awarded by

each institution and include those estimates in its reports of enrollment projections. The dual admissions and articulation agreements would be subject to the admissions requirements of the four-year institutions. Articulation agreements are agreements between two-year and four-year institutions of higher education or between K-12 schools and two-year institutions of higher education that detail the transferability of courses and credits between two-year and four-year institutions of higher education or between high schools and two-year institutions of higher education. SB 338; CH. 502.

§ 23-9.6:2 amended. Policies for required reinstatement of certain military students. Directs the State Council of Higher Education (SCHEV) to include in its guidelines for tuition relief, refunds, and reinstatement for military students who withdrew from enrollment in a public institution of higher education due to service in a "defense crisis" provisions addressing (i) procedures for the required reenrollment of students whose call to active duty military service precluded their completion of a semester or equivalent term and (ii) policies providing for the required reenrollment of such military students.

The current SCHEV guidelines direct the institutions to "detail the circumstances under which a student shall be allowed to re-enroll" and state that "[g]enerally, a student who is called to active duty or is mobilized should be assured a reasonable opportunity to re-enroll ... without having to re-apply for admission if the student returns to the same institution within one year" HB 712; CH. 740.

§ 23-9.14:2 added. Higher education; transfer of course credit. Directs the State Council of Higher Education (SCHEV), in cooperation with the governing boards of the public two- and four-year institutions of higher education, to develop a State Transfer Module that designates those general education courses offered within various associate degree programs at the public two-year institutions that are transferable for credit or admission with standing as a junior (third year) to the public four-year institutions.

The measure also directs SCHEV to (i) facilitate the development of dual admissions and articulation agreements between the public and private two- and four-year institutions; and (ii) develop and make available to the public information identifying all general education courses offered at public two-year institutions and designating those that are accepted for purposes of transfer for course credit. Any articulation agreements will be subject to admissions requirements of the four-year institutions. HB 989; CH. 553.

§ 23-14 amended. Institute for Advanced Learning and Research. Adds the Institute for Advanced Learning and Research to the list of those entities characterized as "educational institutions" and "governmental instrumentalities for the dissemination of education."

Created by the 2002 Session, the Institute is located in Danville and was founded by Averett University, Danville Community College, and Virginia Polytechnic Institute and State University. The Institute is to diversify the region's economy by

providing a site for the development of technology and a trained workforce and expanding access to higher education in Southside Virginia.

Current law designates as "educational institutions" the Commonwealth's four-year public colleges and universities, the Virginia Community College System, the Woodrow Wilson Rehabilitation Center, the Virginia Schools for the Deaf and the Blind, the Eastern Virginia Medical School, and the Southwest Virginia Higher Education Center. This classification as an educational institution will enable the Institute to issue bonds with the approval of its governing board and the Governor (§§ 23-15 and 23-19), acquire property (§ 23-16), be eligible for its bonds to be purchased by the Virginia College Building Authority (§§ 23-30.24, 23-30.25, 23-30.27, and 23-30.28), establish a campus police department (§ 23-232), and authorize such campus police to purchase their service handguns (§ 23-232).

This designation will not empower the Institute to establish unfunded scholarships (§ 23-31), nor will it place the Institute under the State Council of Higher Education for Virginia (SCHEV), the coordinating council for two- and four-year public colleges and universities. In addition, the designation does not require the Institute to submit an annual report to SCHEV regarding financial statements (§ 23-1.01).

The term "educational institution" appears in a variety of contexts throughout the Code. The term, for purposes of § 23-14, does not necessarily include all entities described as "institutions of higher education" or "institutions of higher learning" elsewhere in the Code.

"Educational institution" is used broadly in Code provisions addressing matters such as employment, prohibited contracts, and certain field permits. "Educational institutions" may also sell real estate (§ 13.1-901); establish educational television stations (§ 15.2-966); have students excluded from certain toll payments (§ 22.1-187); and have governing board members reimbursed for travel expenses (§ 23-3). Public "educational institutions" receiving state funds may not discriminate against persons with disabilities (§ 51.5-43). Not referenced in § 23-14, nor subject to SCHEV as a coordinating council, are these designated "educational institutions": the Miller School of Albemarle, the Board of Regents of Gunston Hall, the Frontier Culture Museum, the Science Museum of Virginia, the Jamestown-Yorktown Foundation, and The Library of Virginia. The term has also been used in reference to private correspondence schools (§ 22.1-319). Designation as an "institution of higher education" has been applied to the Virginia Museum of Fine Arts, (which is not designated as an "educational institution") as well as the Science Museum of Virginia, and specifically makes these entities eligible to receive property and funds from localities (§ 23-3.1) and to maintain their state appropriations, despite any increases in endowment funds (§ 23-9.2). HB 933; CH. 857.

§ 23-30.28 amended. Virginia College Building Authority. Clarifies that boards of visitors of public institutions of higher education must designate as Virginia College Building Author-

ity (VCBA) projects those projects to be financed by VCBA bonds secured by a pledge of any one or more of the revenue sources cited in subdivisions (1) through (4) of subsection (d) of § 23-19 (such as project rentals and fees or increased rentals and fees for existing facilities; new rentals and fees for existing facilities; student building fees and other student fees; and other general and nongeneral fund appropriations to the institution). The measure is designed to eliminate the need for institutional designation of projects financed under the VCBA 21st Century Program.

A second enactment clause "validates, ratifies, approves, and confirms" all VCBA bonds issued previously to purchase educational institution bonds pursuant to § 23-30.27, to acquire equipment pursuant to § 23-30.27.1, or to pay for all or any portion of the cost of one or more projects or portion or portions thereof. SB 583; CH. 711.

§ 23-31 amended. Unfunded scholarships. Eliminates the restriction on the number of unfunded graduate and undergraduate scholarships public institutions of higher education may award to resident and nonresident students. The total value of all such scholarships, however, remains unchanged. HB 710; CH. 739.

§§ 23-38.19:3, 23-38.19:4, 23-38.19:5, 23-38.53:8, 23-38.53:9, 23-38.53:10, and 23-38.53:12 through 23-38.53:20. See § 2.2-2238; SB 3.

§§ 23-38.53:21 through 23-38.53:24, and 30-226 through 30-231 added. Brown v. Board of Education Scholarship Program and Fund. Creates the Brown v. Board of Education Scholarship Program for the purpose of assisting students who were enrolled in the public schools of Virginia between 1954 and 1964, in jurisdictions in which such public schools were closed to avoid desegregation, in obtaining a high school diploma, the General Education Development certificate, career or technical education or training, or an undergraduate degree from a public institution of higher education in Virginia. The State Council of Higher Education shall administer the Program. The Brown v. Board of Education Scholarship Awards Committee, established in the legislative branch of state government, is composed of legislators and nonlegislative citizen members appointed by the Joint Rules Committee and the Governor and is authorized to award the scholarships and govern the Program. The Brown v. Board of Education Scholarship Program Fund, a special nonreverting fund, is established on the books of the Comptroller to receive appropriations, gifts, grants, donations, and bequests for the Program. The bill also establishes student eligibility for such scholarships and stipulates that scholarships may be used only for payment of tuition charges. In addition, the bill provides that (i) the Program does not establish any legally enforceable right or entitlement on the part of any person or any right or entitlement to participation in the program; and (ii) scholarships must be awarded to the extent funds are made available or as directed by the appropriation act.

This bill also allows individuals entitled to an income tax refund to contribute a portion, at least \$1, or all of the refund to

the Brown v. Board of Education Scholarship Fund for taxable years beginning on and after January 1, 2004. The Fund provides support by means of grants to persons who were enrolled in the public schools of Virginia between 1954 and 1964, in jurisdictions in which such public schools were closed to avoid desegregation, in obtaining a high school diploma, the General Education Development certificate, career or technical education or training, or an undergraduate degree from a public institution of higher education in Virginia. The State Council of Higher Education shall administer the Program.

The second enactment clause provides that educational terms used in the act shall be construed as defined in Titles 22.1, 23, and 40.1. The third enactment clause requires the Tax Commissioner to include a description of the Brown v. Board of Education Scholarship Program in the instructions for the annual Virginia income tax return package. The fourth enactment clause expresses the General Assembly's acknowledgement of the irreparable harm suffered by African-American and Caucasian students due to the school closings.

This bill is supported by the Dr. Martin Luther King, Jr. Memorial Commission. The provisions of the bill expire July 1, 2008. SB 230; CH. 935.

§ 23-41 amended. College of William and Mary; board of visitors. Increases to four the three-person limit on the number of non-Virginia residents who may be appointed to the board of visitors of the College of William and Mary. SB 397; CH. 695.

§ 23-50.16:32. See § 2.2-3703; SB 352.

§§ 2.2-2006, 2.2-4343, and 23-77.4 amended. University of Virginia Medical Center; procurement exemptions. Extends the procurement exemptions granted to the University of Virginia Medical Center to information technology and telecommunications projects and exempts the Medical Center from the oversight of the Virginia Information Technologies Agency (VITA). The exemptions set out in this bill existed under prior law as in effect before transferring information technology and telecommunications procurement authority to VITA (successor to the Department for Information Technology). These exemptions were preserved as delegated authority in enactment clause 2 in Chapter 579 of the 2002 Acts of Assembly and clauses 15 and 16 of Chapters 981 and 1021 of the 2003 Acts of Assembly. The bill renders these exemptions permanent in the new law. The bill also adds a cross reference to the Virginia Public Procurement Act stating the exemption and updates other cross references. HB 478; CH. 145.

§ 23-215 amended; § 23-9.2:7 added. Distance learning. Requires, effective January 1, 2005, that each public institution of higher education include information in its strategic plan indicating to what extent, if any, it will use distance learning to expand access, improve quality, and minimize the cost of education. For institutions using or planning to use distance learning in the future, such information shall include the degree to which distance learning will be integrated into the curriculum, benchmarks for measuring such integration, and a

schedule for the evaluation of such courses. The State Council of Higher Education must assist the governing boards in the development of such information.

In addition, community colleges are required to maximize the availability and use of distance learning courses addressing workforce training needs. HB 617; CH. 146.

§ 23-231.9. See § 2.2-205; HB 546.

§ 23-231.15 amended. Roanoke Higher Education Authority; Board of Trustees. Revises the Board of Trustees for the Roanoke Higher Education Authority to delete the Executive Director of the Fifth District Employment and Training Consortium and to add the president or his designee of Virginia Intermont College. SB 153; CH. 667.

§ 23-231.20 amended. Institute for Advanced Learning and Research. Increases the membership of the governing board of the Institute for Advanced Learning and Research from nine to 15 by adding six citizen representatives, two each appointed by the Governor, the Senate Committee on Privileges and Elections, and the Speaker of the House of Delegates.

Created by the 2002 Session, the Institute is located in Danville and was founded by Averett University, Danville Community College, and Virginia Polytechnic Institute and State University. The Institute is authorized to enter into and administer agreements with institutions of higher education to deliver traditional and electronic education and is to diversify the region's economy by providing a site for the development of technology and a trained workforce and expanding access to higher education in Southside Virginia. HB 932; CH. 856/SB 570; CH. 889.

§§ 22.1-319 through 22.1-326, 22.1-328 through 22.1-332, 23-276.1 through 23-276.6, 23-276.10, 23-276.11, and 54.1-3029 amended; §§ 23-276.13, 23-276.14, and 23-276.15 added; §§ 22.1-326.1, 22.1-333, 22.1-334, and 22.1-335 repealed. Regulation of private, for-profit schools. Eliminates division of regulatory responsibility between the State Council of Higher Education (SCHEV) and the Board of Education for privately owned, for-profit career training schools by granting SCHEV regulatory authority for private institutions of higher education operating in Virginia and postsecondary schools (which may or may not offer degree programs). The Board of Education will only license and regulate schools for students with disabilities; it will no longer review nondegree credit, certificate, and diploma programs offered by postsecondary schools offering diplomas or certificates.

The measure offers definitions of noncollege degree schools (those offering academic-vocational programs and those limited to vocational (nondegree) programs). School definitions are distinguished by "degree," "nondegree," "college degree," and "noncollege degree" offerings.

The measure also directs SCHEV to appoint the Career College Advisory Board, comprised of college and university representatives and other members, to assist in "academic and administrative matters related to private proprietary institutions

of higher education and academic-vocational noncollege degree schools."

The measure also provides that private institutions shall not be required to obtain another authorization from the Council to operate in Virginia if (i) they were formed, chartered or established in this Commonwealth, or chartered by an Act of Congress; (ii) have maintained a main or branch campus continuously in the Commonwealth for at least 10 calendar years under their current ownership; (iii) were continuously approved or authorized to confer or grant academic or professional degrees by the Council, by the Board of Education or by an act of the General Assembly during those 10 years; and (iv) are fully accredited by an accrediting agency that is recognized by, and has met the criteria for Title IV eligibility of the United States Department of Education. If authorization to confer or grant academic or professional degrees is revoked, the institution must seek reauthorization and must do so annually until it meets this criteria.

Other changes in the measure provide that (i) only institutions of higher education and academic-vocational noncollege degree schools may offer degree programs; (ii) academic-vocational and vocational noncollege degree schools are subject to various contractual, name, and other requirements that were previously limited only to private institutions of higher education (typically, four-year private institutions and other private entities using "college" in their names); and (iii) SCHEV will maintain a list of postsecondary schools it has certified or licensed for operation in Virginia.

SCHEV certification is required to operate as a postsecondary school (private institutions of higher education and academic-vocational or vocational noncollege degree schools); SCHEV approval is required for degree granting and use of the words "college" or "university" (institutions of higher education and academic-vocational noncollege degree schools). HB 637; CH. 991.

§§ 23-276.1 and 23-276.2 amended. Regulation of certain private and out-of-state institutions of higher education. Revises the definition of "institution of higher education" as set forth in the law regulating private and out-of-state colleges, universities, etc., to provide an explicit exception for any public institution of higher education established in statute as an authority and declared a governmental instrumentality pursuant to § 23-14. Present law provides an exception for all state-supported institutions of higher education that are listed in § 23-9.5. However, Eastern Virginia Medical School (EVMS) is covered by the law by virtue of the fact that it is not so listed as a "state-supported institution of higher education" (although EVMS does receive some state funds). Thus, this public institution is currently inadvertently captured under the reporting, etc. requirements of the law relating to private and out-of-state entities. SB 173; CH. 671.

TITLE 23. MISCELLANEOUS - EDUCATIONAL INSTITUTIONS.

James Madison University. Facilitates James Madison University's ability to begin construction needed as a result of fire damage. On November 16, 2003, James Madison University's "medical arts" building burned, thereby rendering the building uninhabitable. The bill authorizes James Madison University to proceed immediately with the construction necessary to rebuild this structure by exempting James Madison University, for only this capital project, from the public procurement process and the Art and Architectural Review Board's evaluation. The bill also authorizes the Secretary of Finance to provide James Madison University with anticipation loans to begin the construction, with the loans being reimbursed from the insurance proceeds and other funds. HB 1296; CH. 1 (effective 2/19/04).

The Miller School of Albemarle. Reduces the appointments to be made by the Governor and the Judge of the Circuit Court of Albemarle County to the Board of Trustees of The Miller School of Albemarle from five to two members, and allows the Board to consist of as many as 23 trustees. The Board, which already appoints five members of the currently 15-member Board, will appoint all remaining members, i.e., 19 members. The number of consecutive terms is reduced from three to two. Persons serving as of July 1, 2004, may complete their respective terms.

The Miller School was created in 1874 by the General Assembly to "give effect to a compromise of the litigation in respect to the construction and effect of the will of Samuel Miller..." This educational institution was formerly known as the Miller Manual Labor School. Located outside Charlottesville, the Miller School is not a public school, but is an independent co-educational institution, enrolling about 165 boarding and day students in grades six through 12. HB 642; CH. 148.

State Council of Higher Education for Virginia; policies and strategies to develop human capital. Requires the State Council of Higher Education for Virginia to develop policies and strategies to eliminate the barriers between the Commonwealth's institutions of higher education and industry and enhance the development of human capital in the Commonwealth. These policies and strategies shall include a review of (i) offering incentives for industry to partner with universities in the practical training of undergraduate and graduate students; (ii) providing opportunities and incentives for corporate scientists and engineers to have adjunct appointments at universities to train and collaborate with faculty and students; (iii) assisting universities in acquiring funding to build or buy facilities where academic labs and corporate entities can work together; (iv) providing opportunities and assistance for academic researchers to take one- to two-year sabbaticals in a corporate setting or national lab and bring that experience back to the institution; (v) increasing the two-year leave of absence for science and engineering faculty to generate more indus-

trial-sponsored research; (vi) allowing industry to fully fund faculty salaries and allow the faculty to work in industry while remaining a university employee, with proper safeguards in place; and (vii) allowing faculty to be part-time university employees and part-time industry employees, also with proper safeguards in place. HB 547; CH. 537.

Virginia Institute of Marine Science; library named. Designates the library at the Virginia Institute of Marine Science (VIMS) the William Jennings Hargis, Jr. Library. Dr. Hargis received the Virginia Life Achievement in Science award in 2003, and is the former VIMS director.

Pursuant to § 23-49.1:1, VIMS is subject to the supervision, management and control of the board of visitors of the College of William and Mary. HB 1313; CH. 572.

TITLE 24.2. ELECTIONS.

§§ 24.2-103, 24.2-109, 24.2-110, 24.2-230, and 24.2-234 amended; § 24.2-109.1 added. Voter registrars; appointment, term, and removal. Provides for an annual performance review by each local electoral board beginning with the year ending June 30, 2006, of the work of the general registrar using the format and forms developed by the State Board of Elections in consultation with representatives of the Virginia Electoral Board Association and Voter Registrars Association of Virginia and available by July 1, 2005. The bill provides for terms of general registrars to begin July 1 rather than April 1. It also clarifies provisions pertaining to the removal of a general registrar by the local electoral board and on petition of the State Board of Elections to the circuit court in certain situations. HB 1266; CH. 27/SB 215; CH. 391.

§ 24.2-303.2 amended. Senatorial districts. Makes a technical change in the boundary between the Fifth and Fourteenth Districts within the City of Chesapeake to eliminate a confusing situation where the Senate line follows a nonvisible precinct line. The adjustment moves the Senate line to visible roads and follows a new precinct line that the City is establishing. The two districts remain within the two percent population deviation followed in the 2001 redistricting. HB 316; CH. 424/SB 184; CH. 389.

§§ 24.2-303.2 and 24.2-304.02 amended. Senatorial and House of Delegates districts. Makes adjustments to the Tenth and Fifteenth Senatorial district boundaries in Cumberland County and to the Twenty-fifth and Fifty-ninth House of Delegates district boundaries in Albemarle County and the Fifty-ninth and Sixtieth House of Delegates district boundaries in Prince Edward County in order to eliminate split precincts. The adjustments place the population deviations of the Tenth Senatorial district and the Twenty-fifth House of Delegates district slightly in excess of the two percent deviation followed in the 2001 redistricting plans. HB 908; CH. 451.

§§ 24.2-303.2 and 24.2-304.02 amended. Senate and House of Delegates districts. Makes adjustments in the boundaries between the Thirty-eighth and Fortieth Senatorial districts and the First and Second Delegate districts in Wise County in order to eliminate a split precinct and between the Sixth and Seventh Delegate districts in Pulaski County to follow local election district lines. The First District population deviation after the adjustment will be -2.3 percent, greater than the two percent deviation followed in the 2001 redistricting plan. HB 1427; CH. 932.

§ 24.2-304.02 amended. House of Delegates districts. Makes a technical change in the boundary between the Forty-seventh and Forty-ninth districts within Arlington County to place all of the Barcroft Precinct in the Forty-seventh district. The precinct was divided between the two districts in the 2001 redistricting plan. The population deviation for both districts remains within the two percent guideline applied in the 2001 redistricting. HB 317; CH. 20.

§ 24.2-304.02 amended. House of Delegates districts. Makes a technical adjustment in the boundary between the Eighty-seventh and Ninetieth House of Delegates districts within the City of Norfolk by moving one census block in order to eliminate a split precinct. Both districts remain within the two percent population deviation established for the 2001 redistricting plan. HB 1320; CH. 479.

§ 24.2-310 amended. Elections; requirements for polling places. Authorizes the distribution on election day of campaign materials on the property where a polling place is located, except to the extent prohibited by law. For example, § 24.2-604 prohibits the distribution of campaign materials within 40 feet of the entrance to a polling place. HB 767; CH. 25.

§ 24.2-403 amended. Voting by persons under age 18. Clarifies that persons who will be 18 by the November presidential election may vote in the presidential primary (and other primaries held on the date of the presidential primary) held in advance of the presidential election. The bill restates the current law that is set out in the provisions on presidential primaries and adds this provision to the laws on voter registration. HB 1340; CH. 481.

§ 24.2-404 amended. Duties of State Board of Elections; electronic pollbooks. Authorizes the State Board to provide a regional or statewide list of registered voters to those localities using electronic pollbooks or using electronic devices at polling place to check voter registration information. HB 411; CH. 428.

§§ 24.2-405, 24.2-406, and 24.2-418 amended. Voter registration applications and records. Permits a person, who signs a statement that he is in fear for his personal safety from another party who has threatened or stalked him, to provide a post office box address, either for his residence or another location in the Commonwealth. The statement must be accompanied by evidence that the person has filed a complaint with a law-enforcement official in connection with the threat or

stalking. The bill also excludes the residence address for these voters from publicly available lists of registered voters and persons voting and from the scope of the public inspection provisions on voter registration records. HB 604; CH. 184.

§§ 24.2-405, 24.2-406, 24.2-419, 24.2-441, 24.2-442, 24.2-443.2, 24.2-443.3, 24.2-643, 24.2-653, 24.2-668, 24.2-701, 24.2-703, 24.2-706, and 24.2-802 amended. Election laws; implementation of Help America Vote Act. Provides for implementation of the Act with respect to voter registration, identification and provisional voting; absentee voting for military and overseas voters; and recounts. SB 462; CH. 410 (effective 4/12/04).

§§ 24.2-504 and 24.2-525 amended. Persons entitled to have name printed on ballot. Provides that a person may have his name on the ballot for only one office at any one election. However, the bill allows a candidate for federal or statewide office, or a candidate for an office being filled in a special election, to have his name printed on the ballot for two offices at an election. Present law allows a person to run for two offices simultaneously in all situations. SB 286; CH. 881.

§§ 24.2-602, 24.2-629, 24.2-632, 24.2-633, 24.2-634, 24.2-638, 24.2-639, 24.2-642, 24.2-649, 24.2-659, 24.2-1009, and 24.2-1010 amended; § 24.2-660 repealed. Voting equipment and technology and related election law offenses; penalties. Incorporates a number of changes in current law provisions on voting equipment and related offenses to cover new developments in voting technology, software, programming and related security and operations issues. As passed, this bill is similar to SB 313 except that this bill contains a provision prohibiting the removal of inoperative voting equipment from a polling place on election day unless the removal is explicitly authorized by statute. HB 837; CH. 993.

§§ 24.2-602, 24.2-629, 24.2-632, 24.2-633, 24.2-634, 24.2-638, 24.2-639, 24.2-642, 24.2-649, 24.2-659, 24.2-1009, and 24.2-1010 amended; § 24.2-660 repealed. Voting equipment and technology and related election law offenses; penalties. Incorporates a number of changes in current law provisions on voting equipment and related offenses to cover new developments in voting technology, software, programming and related security and operations issues. As passed, this bill is similar to HB 837 except that HB 837 contains a provision prohibiting the removal of inoperative voting equipment from a polling place on election day unless the removal is explicitly authorized by statute. SB 313; CH. 1010.

§ 24.2-603.1 amended. Postponement of certain elections; emergency situations. Revises and provides more detail on procedures to be followed when an election is postponed pursuant to an order of the Governor due to a state of emergency. SB 528; CH. 205.

§ 24.2-629 amended. Electronic voting systems. Requires that electronic voting devices be equipped to provide an opportunity for the voter to correct any error in his vote before a permanent record is preserved. SB 457; CH. 409.

§§ 24.2-638 and 24.2-642 amended. Voting equipment at the polling place. Provides that voting and counting equipment, including inoperative equipment, must remain in plain view of the officers of election and in the polling place during the election and through the determination of the vote after the polls close. The bill provides for use of easily portable electronic voting devices for curbside voting under certain conditions. HB 986; CH. 978/SB 94; CH. 1006.

§§ 24.2-659 and 24.2-668 amended. Post-election procedures and securing of election equipment and materials. Applies to localities that have opted to have election materials delivered after the election to the office of the general registrar rather than to the clerk of the circuit court. The bill provides that voting equipment keys, including electronic locking devices, and other election materials shall be secured and retained by the general registrar and then delivered to the clerk of the circuit court by noon of the day following the day that the electoral board ascertains the results of the election rather than by noon of the day following the election. HB 410; CH. 835.

§ 24.2-687 amended. Distribution of information on local referenda. Authorizes local governing bodies of counties and cities to disseminate neutral explanations of pending local referenda at polling places and by publication one or more times before the election. The explanation is limited to 500 or fewer words. In addition, the bill provides that this authorization shall not be construed as a limitation on the dissemination of other neutral materials or advertisements on issues of public concern that are the subject of a referendum and that do not advocate passage or defeat of the referendum. HB 373; CH. 21/SB 359; CH. 399.

§§ 24.2-900, 24.2-901, 24.2-905, 24.2-908, 24.2-921, 24.2-926, 24.2-929, 24.2-943, and 24.2-944 amended. Campaign Finance Disclosure Act; disclosure requirements for political campaign advertisements. Includes various revisions, including revisions to definitions, filing requirements, and enforcement provisions. HB 1026; CH. 457.

§§ 24.2-904 and 24.2-908 amended. Campaign Finance Disclosure Act; information required of candidates, campaign committees, and other persons and committees. Deletes the requirement, or possibility of an administratively mandated requirement, that campaign committees and other persons and committees provide the account number for the depository account for campaign or committee funds. The law would continue to require the name of the financial institution where the account is held. HB 682; CH. 441.

§§ 24.2-904, 24.2-928, and 24.2-929 amended. Campaign Finance Disclosure Act; required filings and penalties. Provides for a civil penalty of up to \$500 for the failure to file, or the late filing, of candidate or committee statements of organization. The bill also gives the State Board of Elections or local election official 14 days, rather than seven days, to notify the filer of a campaign disclosure report that the report is incomplete and requires additional information. HB 1321; CH. 480.

§ 24.2-911 amended. Campaign finance disclosure; reporting requirements; certain exempt political party committees. Raises from \$10,000 to \$15,000 the annual amount of contributions or expenditures that triggers the requirement for certain local political party committees to file periodic campaign finance disclosure reports. The bill also deletes the requirement that the State Board of Elections adjust the trigger amount annually for inflation. HB 1191; CH. 469.

§§ 24.2-916, 24.2-917, and 24.2-923 amended. Campaign Finance Disclosure Act; filing schedules. Provides that candidates for public office who have not filed a final report closing their past campaign are required to file reports on an election year schedule in succeeding election years for the same office. The bill also provides for semi-annual nonelection-year reports in municipal elections and clarifies reporting requirements pertaining to certain last-minute pre-election expenditures by persons and committees other than candidates. HB 850; CH. 26.

§ 24.2-919.1 added. Campaign finance disclosure; special reports of large contributions received by members of boards of supervisors and city and town councils. Requires an incumbent member to report any single contribution, or aggregate contributions from a single donor, of more than \$500 within five business days of receipt to the local electoral board where the incumbent resides. The bill applies only to contributions received in non-election years. SB 470; CH. 411.

§§ 24.2-943 and 24.2-944 amended. Campaign advertisement requirements; requirements for radio and television advertisements. Provides that the additional disclosure statement required for candidate-sponsored radio and television advertisements that "I am (or "This is") [name of candidate], candidate for [name of] office, and I (or 'my campaign') sponsored this ad." will not apply to advertisements that support the sponsoring candidate and that do not identify or make reference to any other clearly identified candidate. The bill also permits candidates and candidate campaign committees to use the phrase "Authorized by" as an alternative to the phrase "Paid for by" in the legend that is part of the basic requirements for all campaign advertisements. HB 1363; CH. 55.

TITLE 25. EMINENT DOMAIN.

§ 25.1-107 added. Condemnation of lands within adopted conservation or redevelopment plans. Provides that after the adoption of a conservation or redevelopment plan, should any property located within the area of the conservation or redevelopment plan be downzoned without the expressed consent of the property owner, and should the locality initiate condemnation proceedings against that owner after any such downzoning, the date of valuation shall be the date of adoption of the conservation or redevelopment plan.

If the property located within a conservation or redevelopment plan was downzoned without the expressed consent of the

property owner within a period of five years prior to the adoption of the conservation or redevelopment plan, and if such downzoning was not part of a comprehensive rezoning of the locality, then, if the locality should initiate condemnation proceedings within five years after the adoption of the conservation or redevelopment plan against the same owner who owned the property at the time of the downzoning, the date of valuation shall be the day before the date the property was downzoned. HB 820; CH. 540.

TITLE 26. FIDUCIARIES GENERALLY.

§ 26-7.2 amended. Mailing of notice, etc., by clerk. Allows the clerk to serve a notice, process or rule by certified or overnight mail as well as by registered mail as currently allowed. HB 983; CH. 367.

TITLE 27. FIRE PROTECTION.

§ 27-98 amended. Statewide Fire Prevention Code; enforcement. Clarifies that the State Fire Marshal may establish procedures for the enforcement and administration of the Statewide Fire Prevention Code (Code) in jurisdictions that do not enforce the Code at the local level. In addition, the bill authorizes the State Fire Marshal, subject to the approval of the Board of Housing and Community Development, to recover the actual enforcement and administration costs in those jurisdictions for which he serves as the enforcement authority. HB 451; CH. 787.

TITLE 27. MISCELLANEOUS - FIRE PROTECTION.

Use of natural cut Christmas trees in certain places of worship. Provides that the Board of Housing and Community Development adopt regulations permitting the use of natural cut Christmas trees in the common areas of places of worship that do not have automatic sprinkler systems. In October, the International Code Council building and fire codes were adopted for Virginia, which included the international fire code regulation of the use of natural cut Christmas trees. This bill would overrule this regulation to allow for the use of natural cut Christmas trees in places of worship that do not have automatic sprinkler systems. HB 622; CH. 138 (effective 3/15/04).

**TITLE 28.2. FISHERIES AND HABITAT OF
THE TIDAL WATERS.**

§ 28.2-201 amended. Saltwater licenses and permits. Authorizes the Virginia Marine Resources Commission to adjust fees for saltwater fishing licenses and permits. This bill caps the fee increases at \$5 or a percentage equal to the increase in the CPI calculated from the time the fee was last set or adjusted, whichever is greater. Any such adjustment in a permit or license fee cannot occur more often than once every three years. The amount generated from increases in the commercial fishing licenses and permits is to be paid into the Marine Fishing Improvement Fund and the increased amounts generated from increases in the recreational fishing licenses are to be paid into the Virginia Saltwater Recreational Fishing Development Fund. The bill also authorizes the Commission to establish permit fees for the delayed or limited entry fisheries, as well as for shellfish relaying and scientific collections. HB 1024; CH. 860.

§§ 28.2-302.1 and 29.1-311 amended; §§ 28.2-302.2:1 and 29.1-310.2 added. Combined freshwater and saltwater fishing licenses. Establishes a special combined fishing license for persons who want to fish in freshwater and saltwater. If a person purchases this license, he will not have to buy a basic state fishing license issued by the Department of Game and Inland Fisheries or the saltwater recreational fishing license issued by the Virginia Marine Resources Commission. The cost of this license is \$19.50 for residents and \$37.50 for nonresidents. Of the \$19.50 fee for the resident combined license, \$7 will be paid into the Virginia Saltwater Recreational Fishing Development Fund, \$12 will be paid into the Game Protection Fund and 50 cents will be paid to a Virginia Marine Commission sales agent. Of the \$37.50 fee for the nonresident combined license, \$7 will be deposited in the Virginia Saltwater Recreational Fishing Development Fund, \$30 will be deposited into the Game Protection Fund and 50 cents will go to the sales agent.

The bill also establishes a trip license that allows persons to fish in all inland and tidal waters for five successive days. This license can be obtained in lieu of having to purchase a basic trip fishing license and a saltwater recreational license at a cost of \$10.50 for residents and \$15.50 for nonresidents. Five dollars per license sold will be paid into the Virginia Saltwater Recreational Fishing Development Fund, and \$5 per resident license sold and \$10 per nonresident license sold shall be paid into the Game Protection Fund. The sales agent will receive 50 cents for each license sold. HB 1452; CH. 486 (effective 1/1/05).

§ 28.2-527 amended. Theft of oysters and clams. Provides that any person who takes naturally occurring oysters or clams from leased planting grounds without the permission of the owner is guilty of larceny. HB 1278; CH. 475.

§§ 28.2-1205, 28.2-1206, and 28.2-1208 amended. Royalties for use of state-owned bottomland. Exempts riparian owners of commercial facilities (i) engaged in ship construction or repair, (ii) providing services to the ship cargo industry, and (iii) engaged in the business of selling or servicing watercraft from having to pay any rents or royalties to the Virginia Marine Resources Commission. The owners of such facilities will still have to pay a fee between \$25 to \$100 for the use of state bottomlands. The Commission is required to charge a royalty for any easement or lease it grants for the right to prospect for oil, gas and other minerals. In addition, \$100 will be charged to public service companies, which are placing pipelines or cables on or in state-owned bottomland. Uncollected rents and royalties assessed by the Commission prior to July 1, 2004, are declared void and the agency is prohibited from assessing any rents or royalties, except those collected in the removal of bottom material, until July 1, 2005. HB 182; CH. 899/SB 606; CH. 1018.

§ 28.2-1205 amended. Bottomlands permit. Prohibits any person from reapplying for a Virginia Marine Resources' bottomlands permit within a year of the denial of the original permit if it is for the same or substantially similar use of the bottomlands. SB 432; CH. 405.

§ 28.2-1303 amended. Wetlands boards. Directs localities that have enacted wetlands zoning ordinances and created wetlands boards to appoint one to three alternate members to the wetlands board. Alternate members may serve at board meetings in place of absent members. HB 489; CH. 277.

§§ 28.2-1600 through 28.2-1623 added. Leasing of water column. Authorizes the Virginia Marine Resources Commission to lease the water column above certain state-owned bottomlands for aquacultural purposes. In applying for a lease, a person has to identify the size, location and characteristics of the proposed leased area, describe the types of aquaculture structures to be deployed, and provide a five-year development plan detailing the activities to take place in the leased area. There is a \$100 application fee for a lease of less than one acre and a \$250 fee for a lease of between one to 10 acres. The Commission is empowered to determine the amount of the annual rent, taking into account the actual time that the water column will be used each year. The rent cannot exceed \$50 per acre for the first four years of the lease and \$250 for the fifth and subsequent years. Each five-year lease may be renewed for an additional five-year period, if the leased area has been aquaculturally productive. The bill has a delayed effective date of July 1, 2005, and is only effective if state funding is included for this specific purpose in the general appropriation act for the period July 1, 2005, through June 30, 2006. SB 605; CH. 892.

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

Property conveyance. Authorizes the Virginia Marine Resources Commission to grant an easement and 50-foot right-of-way to Virginia Electric and Power Company in the Elizabeth River for the construction of an additional electrical transmission line cable to provide service to Norfolk and the surrounding area. The easement will cross several Baylor Survey Grounds. HB 1436; CH. 483.

**TITLE 29.1. GAME, INLAND FISHERIES
AND BOATING.**

§ 29.1-103 amended; § 29.1-701.1 added. License fees revised. Authorizes the Board of Game and Inland Fisheries, through the adoption of regulations, to revise the fees for hunting, trapping, fishing, and motorboat registration. The fees cannot be changed more than once every three years. Any increase or decrease in the fee cannot be for more than \$5. HB 301; CH. 1027.

§§ 29.1-103 and 29.1-113 amended. Annual hunting stamp. Authorizes the Board of Game and Inland Fisheries to establish an annual hunting stamp. The stamp would be required of anyone who hunts on lands leased by the Department. The cost of the stamp would be the same as the cost of an annual resident hunting license, which is currently \$12. HB 536; CH. 280.

§ 29.1-301 amended. Hunting, trapping and fishing license exemption. Exempts the children and grandchildren of a landowner and the spouses of the landowner's children and grandchildren from having to obtain a license to hunt, trap or fish on landowner's property. Currently, the exemption extends to the landowner, his or her spouse, their children and only minor grandchildren, and the landowner's parents. HB 758; CH. 846.

§§ 29.1-303, 29.1-303.3, and 29.1-305 amended. Nonresident youth hunting licenses. Establishes license fees for nonresident youth who wish to hunt in Virginia. Currently, there is no distinction by age for the various nonresident-hunting licenses. Under this bill the basic nonresident hunting license would be \$12 for nonresident youth under 12, \$15 for nonresidents between the ages of 12 to 15, and would remain at \$80 for nonresidents 16 or older. The cost of the youth resident combination license, which allows residents under the age of 16 to hunt (i) bear, deer and turkey, (ii) with a bow and arrow during special archery season, and (iii) with a muzzleloader during muzzleloading season, is \$15. For a nonresident under 16, the cost of this license would be \$30. Finally, the fee for the big game license for a nonresident, which is \$12 for a resident older than 16 and \$7.50 for a resident under 16, would be \$60

for a nonresident 16 or older, \$15 for a nonresident 12 to 15, and \$12 for a nonresident under 12. HB 133; CH. 269.

§§ 29.1-310.2 and 29.1-311. See § 28.2-302.1; HB 1452.

§ 29.1-338. See § 18.2-46.1; HB 1060.

§§ 29.1-341, 29.1-344, and 29.1-349 amended; § 29.1-341.1 added. Stationary duck blinds. Clarifies the definition of a stationary duck blind. Such a blind has to be erected at a fixed location for the purpose of hunting or shooting waterfowl. This will eliminate the practice of erecting what are known as "dummy blinds," which are placed on the shore or in the water in order to prevent the construction of an actual blind in the immediate vicinity. HB 132; CH. 422.

§§ 29.1-352 and 29.1-355 amended. Damage stamp program. Extends coverage under the damage stamp program to beekeepers to collect for damages to their bee colonies and beekeeping equipment caused by bear, deer, elk or big game hunters. HB 1069; CH. 463/SB 199; CH. 87.

§ 29.1-508.1 added. Use of drugs on wildlife. Prohibits persons from administering drugs to any vertebrate wildlife except as allowed under a Department of Game and Inland Fisheries permit or regulation. The penalty for violation of this prohibition is a Class 2 misdemeanor. SB 261; CH. 171.

§§ 29.1-517 and 29.1-518 amended. Killing of beaver. Allows landowners whose crops or property has been damaged by beavers to kill, or employ someone to kill, beavers out of season without having to obtain a permit from the Department of Game and Inland Fisheries. HB 54; CH. 421.

§ 29.1-521 amended. Baiting of wild animals. Provides a rebuttable presumption for any person charged with hunting over baited areas that he knew he was occupying a baited blind or other baited place for the purpose of taking wild birds or wild animals. HB 1044; CH. 862.

§ 29.1-527.1 added. Feeding of waterfowl. Allows localities to prohibit the feeding of migratory and nonmigratory waterfowl in a heavily populated area where the feeding of waterfowl, in the opinion of the governing body, would be a threat to public health or the environment. The locality is required to give notice to the Department of Game and Inland Fisheries of its intent to adopt such an ordinance and the Department is to make available to the locality a suggested model ordinance. The penalty for violation of such an ordinance is a civil fine not to exceed \$50. SB 54; CH. 386.

§ 29.1-529 amended. Baiting of deer. Allows the baiting of deer if it is done pursuant to a permit issued by the Department of Game and Inland Fisheries under its urban deer management program. HB 809; CH. 447.

§ 29.1-573 amended. Nonindigenous aquatic nuisance species. Directs the Department of Game and Inland Fisheries to utilize the best available scientific technology that is specific to controlling the targeted nonindigenous aquatic nuisance species, environmentally sound, practical, and cost effective. This bill also directs the Secretary of Natural Resources to seek and

accept all possible funding to carry out the purposes the Nonindigenous Aquatic Nuisance Species Act. HB 1142; CH. 467.

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

Spotlighting of deer or elk. Repeals the 1958 Act of Assembly that makes it unlawful to take or attempt to take deer or elk between sunset and sunrise by the use of a spotlight or flashlight. This act is obsolete since § 29.1-523 currently prohibits such activity. This bill is a recommendation of the Code Commission. HB 25; CH. 258.

Hunting antlerless deer. Repeals a 1956 Act of Assembly that permits the killing of antlerless deer if a person has purchased a special permit. The cost of the permit is \$2.20. This act is obsolete as a result of the enactment of § 29.1-305, which establishes a bear, deer, and turkey license. Tags are attached to this license that allow a hunter to take antlerless deer. The conditions under which these deer can be taken are prescribed by a specific Game Department regulation. This bill is a recommendation of the Code Commission. HB 26; CH. 259.

Hunting of wild turkeys. Repeals the 1954 Act of Assembly that establishes a season for hunting wild male turkeys in Pittsylvania County. The 1954 act also prohibited the hunting, capturing or killing of wild turkey hens. This Act of Assembly is obsolete since the Code of Virginia empowers the Board of Game and Inland Fisheries to promulgate regulations pertaining to the hunting of any wild animals or freshwater fish. The turkey season and bag limits are currently set by regulation. This bill is a recommendation of the Code Commission. HB 27; CH. 260.

Squirrel-hunting season. Repeals a 1952 Act of Assembly mandating that squirrel-hunting season in Floyd County could not begin before September 15 of each year. This act is obsolete because §§ 29.1-501 and 29.1-502 empower the Board of Game and Inland Fisheries to adopt regulations pertaining to the hunting and taking of wild animals and freshwater fish. The Board has adopted a specific regulation that makes it unlawful to hunt squirrel from the first Saturday in September through January 31 of each year. HB 28; CH. 261.

Damage stamp program. Repeals the 1948 Act of Assembly that required a person to obtain a \$1 damage stamp to hunt bear or deer in Craig County. This bill is a recommendation of the Virginia Code Commission. HB 75; CH. 33.

Bird sanctuary. Repeals a 1954 Act of Assembly that allows Roanoke County to designate an area, upon the request of all landowners in that area, as a bird sanctuary. This bill is a recommendation of the Virginia Code Commission. HB 76; CH. 265.

Hunting in Halifax and Cumberland Counties. Repeals the 1958 Act of Assembly that made it illegal in Halifax and Cum-

berland Counties to hunt deer with a rifle and to hunt any wild bird or other wild animal with a rifle larger than .22-caliber rifle. This bill is a recommendation of the Virginia Code Commission. HB 77; CH. 266.

TITLE 30. GENERAL ASSEMBLY.

§ 30-19.03:1.2 added. Unemployment compensation; bills affecting revenue of the Commonwealth. Provides that bills enhancing unemployment compensation benefits payable to a claimant must contain a statement prepared by the Virginia Employment Commission, in consultation with the Department of Planning and Budget, estimating potential revenue losses, in the form of decreased tax revenues, to the Commonwealth. The bill provides that no bill enhancing unemployment compensation benefits can be considered at a regular session of the General Assembly unless the bill contains the revenue loss statement in the second or final enactment clause. SB 664; CH. 895.

§ 30-19.1:4. See § 18.2-36.1; HB 1059.

§ 30-19.1:10. See § 58.1-344.3; HB 1486.

§ 30-19.3 amended. General Assembly; prefiling. Establishes a set day of the month for prefiling to begin. Currently, prefiling begins 60 days prior to even-numbered-year sessions and 180 days prior to the odd-numbered-year sessions. Pinpointing the date that prefiling begins has been challenging because the convening date for the session varies and the statute is unclear whether the first day of the session is included within the time allowed. The bill establishes the third Monday in November prior to even-numbered year sessions and the third Monday in July prior to odd-numbered year sessions for prefiling to begin. The bill provides that the deadline for prefiling legislation will be established by the procedural resolution of the General Assembly, or the Joint Rules Committee, if the General Assembly has not acted. This schedule is closest to the current prefiling period. HB 3; CH. 718.

§§ 2.2-508, 2.2-1503, 2.2-2423, 2.2-2424, 2.2-2434, 2.2-2453, 2.2-2457, 2.2-2626, 2.2-2666.1, 2.2-2669, 2.2-2676, 2.2-2685, 2.2-5601, 9.1-108, 9.1-111, 10.1-1325, 15.2-4507, 15.2-4510, 15.2-4512, 15.2-4832, 15.2-4836, 17.1-700, 17.1-701, 17.1-704, 17.1-802, 17.1-901, 17.1-904, 22.1-354.6, 23-50.16:5, 23-231.2, 23-231.3, 23-231.15, 23-231.20, 24.2-306, 30-34.1, 30-56, 30-58.3, 30-112, 30-145, 30-156, 30-158, 30-171, 30-173, 30-174, 30-175, 30-178, 30-179, 30-182, 30-183, 30-186 through 30-189, 30-192.1, 30-192.2, 30-192.8, 30-192.9, 30-192.10, 30-192.12, 30-193, 30-198, 30-202, 30-203, 30-219, 30-220, 32.1-357, 51.1-124.20, 51.5-39.2, 58.1-202.2, 65.2-1301, 65.2-1302, and 65.2-1303 amended. Clarifications for certain collegial bodies. Confirms certain collegial body requirements to meet the legislative guidelines adopted by the Joint Rules Committees and codifies certain existing collegial bodies. These bodies include: the Institute for Advanced Learning and Research, the

Commonwealth Council on Aging, Alzheimer's Disease and Related Disorders Commission, the Capitol Square Preservation Council, the Advisory Council on Career and Technical Education, the Chesapeake Bay Commission, the Chesapeake Bay Restoration Fund Advisory Committee, the Virginia Coal and Energy Commission, the Virginia Code Commission, the Virginia State Crime Commission, the Criminal Justice Services Board, the Criminal Sentencing Commission, the Advisory Board of Economists, the Commission on Electric Utility Restructuring, the Ethics Advisory Panels of the House and Senate, the Freedom of Information Advisory Council, the Council on Virginia's Future, the Geographic Information Network Advisory Board, the Hampton Roads Transportation District Commission, the Virginia Housing Study Commission, the Virginia Council on Human Resources, the Information Technology Investment Board, the Virginia Commission on Intergovernmental Cooperation, the Joint Legislative Audit and Review Commission, the Judicial Council, the Judicial Inquiry and Review Commission, the Advisory Committee on Juvenile Justice, the Legislative Support Commission, the Virginia Military Advisory Council, the Dr. Martin Luther King, Jr. Memorial Commission, the Martin Luther King, Jr. Living History and Public Policy Center, the Northern Neck-Middle Peninsula Public Education Consortium, the Northern Virginia Transportation Authority, the Northern Virginia Transportation District Commission, the Potomac and Rappahannock Transportation District Commission, the Governing Board of the Virginia Office for Protection and Advocacy, the Virginia Public Buildings Board, the Public-Private Partnership Contracts Oversight Group, the Joint Reapportionment Committee, the Advisory Council on Revenue Estimates, the Roanoke Higher Education Authority, the Small Business Commission, the Small Business Environmental Compliance Advisory Board, the Southern Growth Policies Board, the Southern Regional Education Board, the Southern States Energy Board, the Board of Trustees of the Southwest Virginia Higher Education Center, the Board of Trustees of the Virginia Tobacco Settlement Foundation, the Board of Veterans' Services, the Board of Directors of the Virginia Commonwealth University Health System Authority, the Virginia Israel Advisory Board, the Board of Trustees of the Virginia Retirement System, Commission on Unemployment Compensation, the State Water Commission, the Statewide Coordinating Committee for the Medical Costs Peer Review Program under the Workers Compensation Act, the Workforce Council, and Virginia Commission on Youth. HB 1231; CH. 1000.

§§ 30-34.4:1 and 30-34.15. See § 2.2-608; SB 6.

§ 30-133. See § 58.1-3506; SB 5005.

§ 30-170.1 added. Joint Commission on Health Care; cooperation of other agencies. Provides that upon request, every department, division, board, bureau, commission, authority or other agency created by the Commonwealth, and any political subdivision of the Commonwealth, shall cooperate with and assist the Commission in performance of its duties. Such provisions already exist in statute for other state commissions, such

as the Virginia Crime Commission and the Virginia Commission on Youth. HB 692; CH. 296.

§ 30-179. See § 2.2-3707; HB 358.

§ 30-198. See § 2.2-205; HB 546.

§§ 30-226 through 30-233 added. The Virginia Disability Commission. Establishes the Virginia Disability Commission ("Commission") as a legislative commission, with the purpose of identifying and recommending legislative priorities and policies that should be adopted or examined by the General Assembly in order to provide ongoing support in developing and reviewing services and funding related to Virginians with disabilities. The Commission shall consist of 12 members that include six legislative members, five nonlegislative citizen members, and the Lieutenant Governor. Of the five nonlegislative members, two shall be consumers with disabilities, two shall be members of the medical, insurance, or rehabilitation professions, and one shall be a citizen at large. The Lieutenant Governor shall continue to serve as chairman until January 14, 2006, at which time the chairmanship of the Commission shall be assumed by a legislative member. The bill provides that the Commission must seek approval from the Joint Rules Committee if it is not funded in the first year of its existence. If the Commission is not funded in the second year, the provisions of the statute creating the Commission will expire. There is a three-year sunset provision on this bill. HB 817; CH. 992/SB 381; CH. 1015.

§§ 30-226 through 30-231. See § 23-38.53:21; SB 230.

TITLE 30. MISCELLANEOUS - GENERAL ASSEMBLY.

Joint Commission on Administrative Rules. Repeals the sunset clause that provided for the expiration of the Commission on June 30, 2004; deletes provisions prohibiting establishment of any full-time equivalent position to staff the Commission and permitting use of existing staff and transferred funds to assist the Commission; and retains the provision requiring the Division of Legislative Services to provide staff support. SB 434; CH. 777.

TITLE 32.1. HEALTH.

§ 32.1-14. See § 2.2-608; SB 6.

§ 32.1-19.1 repealed. Reporting of telemedicine initiatives. Repeals the statute that requires the Commissioner of Health to annually report by October 1 to the Governor and the General Assembly on the status of telemedicine initiatives by agencies of the Commonwealth. SB 278; CH. 683.

§ 32.1-23.1 amended. Promotion of pharmaceutical assistance programs and pharmaceutical discount purchasing cards. Requires the Commissioner of Health and the Commissioner of the Department for the Aging to develop a strategy, in coordination with the Virginia Area Agencies on Aging and other private and nonprofit organizations, for disseminating information to the public concerning the availability of pharmaceutical assistance programs and for training senior citizen volunteers to assist in completing applications for such programs and discount purchasing cards. The bill also requires the Commissioners to disseminate, with such funds as may be made available, information to the public relating to recent congressional actions concerning pharmaceutical benefits to be provided under the Medicare program and how such benefits may help senior citizens with the costs of pharmaceutical benefits. In addition, the two Commissioners will encourage pharmaceutical manufacturers to include application forms for pharmaceutical discount purchasing card programs on their respective websites in a format capable of being downloaded and printed by consumers. The Department for the Aging will include direct links to the forms on its website, when practicable. The bill also requires the Commissioners to report to the Governor and the General Assembly on the feasibility of developing a single application form for Virginians to use to seek eligibility for the nearly 50 pharmaceutical assistance programs and pharmaceutical discount purchasing cards. The bill also requires the Commissioners to disseminate, with such funds as may be made available, information to the public relating to recent congressional actions concerning pharmaceutical benefits to be provided under the Medicare program and how such benefits may help senior citizens with the costs of pharmaceutical benefits. In determining the feasibility, the Commissioners must obtain copies of the application forms used by such pharmaceutical assistance programs and pharmaceutical discount purchasing cards in Virginia, compile a list of the various information required to complete such application forms, identify common elements, and analyze the forms for readability and simplicity. In order to perform the duties provided in the new subsection, the Commissioners may appoint an advisory task force of stakeholders to assist them. HB 1202; CH. 318.

§ 32.1-23.1 amended. Dissemination of Medicare pharmaceutical benefits information; certain training of senior citizen volunteers. Requires the Commissioners of Health and the Department for the Aging to disseminate, with such funds as may be made available, information to the public relating to recent congressional actions relating to pharmaceutical benefits to be provided under the Medicare program and how such benefits may help senior citizens with the costs of pharmaceutical benefits. This bill also requires the Commissioner of Health and the Commissioner of the Department for the Aging to develop a strategy, in coordination with the Virginia Area Agencies on Aging, for disseminating information to the public concerning the availability of pharmaceutical assistance programs and for training senior citizen volunteers to assist in completing applications for pharmaceutical assistance pro-

grams and pharmaceutical discount purchasing cards. SB 158; CH. 73.

§§ 2.2-3705, 17.1-503, 32.1-42, 32.1-43, 32.1-44, 32.1-45, 32.1-48, 32.1-48.01 through 32.1-48.04, 32.1-116.3, 32.1-127.1:03, 44-146.16, and 44-146.17 amended; §§ 32.1-48.05 through 32.1-48.17 added. Communicable diseases of public health threat; quarantine and isolation. Sets out a procedure for the State Health Commissioner to issue orders of quarantine when a person or persons or an affected area in Virginia have been known to be exposed to or infected with or may reasonably be suspected to be exposed to or infected with a communicable disease of public health threat. The bill also sets out a procedure for the State Health Commissioner to prepare orders of isolation when he determines that a person or persons or an affected area have been infected or reasonably may be suspected to be infected with a communicable disease of public health threat and that exceptional circumstances exist rendering the isolation procedures that apply to communicable diseases of public health significance insufficient control measures to contain the communicable disease of public health threat. Amendments are provided to exempt the State Health Commissioner's records of findings for an order of quarantine or order of isolation from the Freedom of Information Act, to authorize disclosure of patient's health records to the State Health Commissioner or his designee, to coordinate any quarantine or isolation of an affected area with a declaration of a state of emergency by the Governor and to make certain cross-related sections consistent. The Board of Health is required to promulgate emergency regulations to implement this provision. An enactment clause states there is an emergency, thus rendering the bill effective upon passing. Technical amendments to list definitions in alphabetical order and correct archaic syntax are also included. HB 1483; CH.773/SB 685; CH. 1021.

§§ 2.2-2818, 32.1-46, 32.1-50, 32.1-60, 32.1-64.1, 32.1-138, 32.1-325, 32.1-331.15, 45.1-161.35, 45.1-161.70, 45.1-161.292:43, 46.2-208, 46.2-322, 53.1-22, 54.1-3812, 59.1-297, 59.1-298, 59.1-310.4, and 63.2-1808 amended; § 54.1-2957.02 added. Licensed nurse practitioners; forms and certificates. Provides that licensed nurse practitioners may sign various forms and certificates, and provide medical information or treatment in certain situations, including situations involving the immunization of children, examination of persons suspected of having tuberculosis, prenatal tests, nursing homes, release of certain privileged medical information, competency for driver licenses, release of certain veterinary records, and assisted living facilities. The bill also provides that whenever any law or regulation requires a signature, certification, stamp, verification, affidavit or endorsement by a physician, it will be deemed to include a signature, certification, stamp, verification, affidavit or endorsement by a nurse practitioner. Three enactment clauses provide that: (i) these provisions will take effect 60 days after the effective date of the regulations of the Boards of Medicine and Nursing; (ii) the Boards of Medicine and Nursing must promulgate emergency regulations, i.e., within 280 days of enactment, with the

amendments requiring the nurse practitioners' authority for signatures, certifications, stamps, verifications, affidavits and endorsements to be included in the written protocol between the supervising physician and the nurse practitioner; and (iii) that the tanning facility signs will be updated in compliance with the new law when posted or replaced after the effective day of the act. HB 855; CH. 855 (effective - see bill).

§ 32.1-65 amended. Screening tests for infants. Directs that the physician or certified nurse midwife charged with an infant's care after delivery perform the screening test for inborn errors of metabolism rather than the physician, nurse or midwife in charge of the delivery of the baby. HB 1133; CH. 760.

§ 32.1-102.1 amended. Certificate of public need for medical care facilities; intermediate care facilities for the mentally retarded. Removes the requirement to obtain a certificate of public need (COPN) for intermediate care facilities for the mentally retarded that will have no more than 12 beds and are in an area identified as in need of residential services for people with mental retardation in any plan of the Department of Mental Health, Mental Retardation and Substance Abuse Services. Other intermediate care facilities will continue to be covered by COPN. SB 197; CH. 75.

§§ 32.1-102.3 and 32.1-102.6 amended. Certificate of public need for medical care facilities; criteria for determining need. Modifies the criteria relating to the extent to which the project will be accessible to all residents of the area proposed to be served by a medical care facility to require the Commissioner of Health to consider the effects on accessibility of any proposed relocation of an existing service or facility. The bill also requires the appropriate health planning agency to notify the local governing bodies in the planning district where the project is proposed to be located. Finally, the bill requires the health planning agency to consider comments from the relevant local governing bodies and all other public comments in making its decision, and stipulates that such comments must be part of the record provided to the Department of Health. HB 391; CH. 95/ SB 86; CH. 71.

§§ 32.1-125.01 and 32.1-127.1:03. See § 54.1-2400; HB 577.

§§ 32.1-126 and 63.2-1800 amended. Location of licensed nursing homes and assisted living facilities; notification to electric utilities. Requires the State Health Commissioner to notify electric utilities in Virginia on a quarterly basis as to the location of all licensed nursing homes in the State, and requires the Commissioner of the Department of Social Services to do the same for assisted living facilities. The purpose of the bill is to facilitate the restoration of electrical service and prioritization of customers during widespread power outages. The requirement of a quarterly notification can also be met by the maintenance of an accessible electronic database. HB 891; CH. 304.

§ 32.1-127 amended. Vaccines in certified nursing facilities and nursing homes. Requires, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each nursing home and certified nursing facil-

ity provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention. HB 1178; CH. 762.

§§ 32.1-127.1:03, 32.1-127.3, 54.1-105, 54.1-106, 54.1-111, 54.1-2400, 54.1-2400.2, 54.1-2401, 54.1-2403.01, 54.1-2403.1, 54.1-2403.2, 54.1-2408.1, 54.1-2409, 54.1-2409.1, 54.1-2906, 54.1-2907, 54.1-3000, 54.1-3005, 54.1-3008, 54.1-3009, 54.1-3016, 54.1-3019, and 63.2-1805 amended. Nurse Licensure Compact; holder of multistate licensure privilege. Clarifies and reinforces the regulatory authority of the Board of Nursing and the Department of Health Professions over persons issued a multistate licensure privilege to practice nursing in Virginia. This bill renders provisions relating to discipline, practice protocols, and other scope of practice requirements applicable to any person holding a multistate licensure privilege issued under the Nurse Licensure Compact. The Compact will become effective on January 2005. The Board of Nursing is required to promulgate emergency regulations to implement the provisions of the Compact. HB 633; CH. 49 (effective - see bill).

§§ 2.2-3705, 8.01-413, 32.1-127.1:03, 37.1-230, and 38.2-608 amended. Health records privacy; procedure for certain patients to obtain access to their records. Revises the various laws setting out an exception to the patient's traditional access to his own health records to provide consistency with a new procedure that must be used to ensure fair appraisal of the judgment of a treating physician or clinical psychologist concerning the potential harm to the patient or others that could result from such access. This provision revises the standard by which a patient can be denied access to his records to require the treating physician or clinical psychologist to find that a review of the individual's health records would be reasonably likely to endanger the life or physical safety of the individual or another person, or that a reference in the health records to another person would be reasonably likely to cause substantial harm to the referenced person. The individual may designate a reviewing physician or clinical psychologist at his own expense, or the relevant health care provider or insurance entity denying access to the health record will designate a reviewing physician or clinical psychologist at the expense of the relevant health care provider or insurance entity. The designated physician or clinical psychologist will make a judgment as to whether the health record should be made available to the individual. The access decision of the designated reviewing physician or clinical psychologist must be followed. HB 877; CH. 65.

§ 32.1-127.1:03. See § 37.1-67.3; HB 878.

§ 32.1-127.1:03 amended. Health records privacy. Revises the Virginia patient privacy provision to comply more closely with the regulations promulgated pursuant to the federal Health Insurance Portability and Accountability Act of 1996, as amended, relating to health records. Closer compliance is

achieved through various syntax changes in terminology, definitions, and forms, and revisions and additions to the definitions, e.g., "health care entity," as defined in this provision, includes all health care providers, health plans or health care clearinghouses. The bill refers to an "individual" instead of a "patient"; to "health records" instead of "medical records"; and "health care providers" or "health care entities" instead of providers. This provision also revises the standard by which a patient can be denied access to his records to require the treating physician or clinical psychologist to find that a review of the individual's health records would be reasonably likely to endanger the life or physical safety of the individual or another person, or that a reference in the health records to another person would be reasonably likely to cause substantial harm to the referenced person. The individual may designate a reviewing physician or clinical psychologist at his own expense or the health care entity denying access to the health record will designate a reviewing physician or clinical psychologist at the expense of the relevant health care entity. The designated physician or clinical psychologist will make a judgment as to whether the health record should be made available to the individual. HB 879; CH. 67.

§ 32.1-127.1:03. See § 40.1-8; SB 136.

§§ 2.2-3705, 8.01-413, 16.1-266, 16.1-343, **32.1-127.1:03, 37.1-67.3, 37.1-134.9, 37.1-134.12, 37.1-134.21, 37.1-226 37.1-230, and 38.2-608 amended. Health records privacy; access to health records; compliance with federal Health Insurance Portability and Accountability Act regulations.** Makes statutes relating to the Freedom of Information Act, civil procedure, denial of access to health records, juvenile and domestic court proceedings, health records privacy, involuntary commitment, court-appointed guardians and conservators, release of mental health information, and health insurance information consistent with federal regulations concerning disclosure and electronic transmission of protected health information promulgated pursuant to the Health Insurance Portability and Accountability Act. The bill provides a modified procedure for a patient to pursue obtaining his own records when a treating physician or clinical psychologist has placed a statement in his record denying such access. The standard for such statements is changed to reasonably likely to endanger the life or physical safety of the individual or another person, or that a reference in the health records to another person, who is not a health care provider, would be reasonably likely to cause substantial harm to the referenced person. The individual may, at his own expense, designate a reviewing physician or clinical psychologist with equivalent credentials to those of the physician or clinical psychologist denying him access to his records to determine whether he can have access to the information. In the alternative, the relevant health care entity is obligated to designate a physician or clinical psychologist, at its expense, to determine whether the individual will obtain access to his information. The decision of the designated physician or clinical psychologist must be followed. The bill also includes technical amendments to laws relating to disclosure of mental health information. The bill addresses access to health records and

information for guardians ad litem and attorneys representing minors in juvenile and domestic court proceedings, proceedings to authorize treatment for patients incapable of providing consent to treatment, persons who are subject to petitions for involuntary commitment, and respondents who are the subjects of petitions to appoint guardians or conservators or both. SB 337; CH. 1014.

§ 32.1-164.1:1 amended. Validity of septic tank permits. Grandfathers certain onsite sewage systems into the Board of Health's regulatory scheme. The bill provides that whenever any onsite sewage system is failing and the Board's regulations for repairing it impose (i) a requirement for treatment beyond the level of treatment provided by the existing onsite sewage system when operating properly or (ii) a new requirement for pressure dosing, the owner may request a waiver from such requirements. The Commissioner is required to grant such request, unless he finds that the failing system was installed illegally without a permit. Such waivers must be recorded in the land records of the clerk of the circuit court. Except between a husband and a wife, such waivers are not transferable and are null and void upon transfer or sale of the property. The owner of the property is required to disclose, in writing, to any and all potential purchasers or mortgage holders that any operating permit for the onsite sewage system that has been granted a waiver shall be null and void at the time of transfer or sale of the property and that the Board's regulatory requirements for additional treatment or pressure dosing are required before an operating permit may be reinstated. HB 930; CH. 916.

§ 32.1-170 amended. Emergency plans for the safe handling of community public water supplies during any extended power outage. Authorizes the Board of Health to promulgate requirements and criteria for the development and maintenance of an emergency management plan for each community public water supply for the provision of pure water during any extended power outage. HB 1198; CH. 317.

§ 32.1-176.4 amended. Private well construction; local standards. Adds Goochland County to those localities that may by ordinance establish their own standards, consistent with State Board of Health regulations, pertaining to location and testing of water from private wells, and more stringent than those adopted by the Board pertaining to construction and abandonment of such wells. SB 125; CH. 72.

§§ 32.1-262, 32.1-267, and 32.1-268 amended. Health statistics and vital records. Deletes the requirement that any statement indicating racial designation be omitted from reports of divorces and annulments required to be filed by the clerk of court with the State Registrar regarding a final decree of divorce or annulment, and in marriage and adoption records. Information pertaining to racial designation is essential in establishing health histories, and in conducting anthropological, sociological, and genealogical research, particularly among racial and ethnic minority persons. SB 223; CH. 88.

§ 32.1-263 amended. Vital records; filing of death certificates. Specifies that a licensed funeral director, funeral services licensee, office of the state anatomical program, or the

next of kin can file the death certificate with the registrar of vital records. The bill addresses the problem encountered by the registrar of vital records under the present law when the surface transportation and removal companies that are registered with the Board of Funeral Directors and Embalmers or persons who are not licensed by the Board of Funeral Directors and Embalmers fail to file the death certificate with the registrar. This bill makes it quite clear that even the next of kin, if first to assume custody of the body, has an obligation to file the certificate of death with the registrar. HB 159; CH. 124.

§§ 32.1-283.1 and 32.1-283.2. See § 2.2-3703; SB 352.

§ 32.1-325 amended. **Medical assistance services; marriage and family therapy.** Mandates Medicaid reimbursement to licensed marriage and family therapists for services covered by the state plan. This bill does not mandate any new services, but merely adds marriage and family therapists to the list of mandated Medicaid providers who may be reimbursed for services that are already covered by the state plan and Medicaid regulations. HB 224; CH. 125.

§ 32.1-325 amended. **Long-term care partnership plan.** Requires the Board of Medical Assistance Services to establish, consistent with federal law, a long-term care partnership program that will encourage the private purchase of long-term care insurance as the primary source of funding the participant's long-term care. The program must provide protection from estate recovery as authorized by federal law. SB 266; CH. 246.

§ 32.1-351.2 amended. **Children's Health Insurance Program Advisory Committee.** Revises the name, purpose, membership, and responsibilities of the current Outreach Oversight Committee to Family Access to Medical Insurance Security (FAMIS) to create the Children's Health Insurance Program Advisory Committee and declares the purpose of the committee to be to assess policies, operations and outreach for FAMIS and FAMIS Plus (Medicaid for children) and to evaluate various enrollment, utilization, and outcomes of children for these programs. The committee's membership is limited to 20 members and will include the Joint Commission on Health Care, the Department of Social Services, the Department of Health, the Department of Education, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Virginia Health Care Foundation, various provider associations and children's advocacy groups, and other individuals with significant knowledge and interest in children's health insurance. The committee will make recommendations on FAMIS and FAMIS Plus to the Director of the Department of Medical Assistance Services and the Secretary of Health and Human Resources. HB 836; CH. 301.

§§ 32.1-366 and 32.1-367. See § 58.1-302; HB 5018.

TITLE 32.1. MISCELLANEOUS - HEALTH.

Ambulance permits to be consistent with certain federal requirements. Requires the Commissioner of Health to issue permits or licenses for emergency medical services agencies and vehicles as needed to ensure compliance with federal regulations relating to reimbursement of ambulance services pursuant to Medicare and Medicaid. HB 627; CH. 139.

Certain certificate of public need for nursing facility or extended care services. Amends Chapter 912 of the 2000 Acts of Assembly to authorize the Commissioner of Health to accept and approve a request to amend the conditions of certain certificates of public need that were issued pursuant to an exception to the statutory moratorium on nursing home beds that was in effect until 1996. This bill revises the previously amended authority for the issuance of certificates of public need for three continuing care providers located in Loudoun County, Williamsburg, and Virginia Beach. This provision authorizes the facilities to request that the Commissioner approve changes in their certificates to allow them to continue to admit private-pay patients who are not contract holders if the facility was established for the care of retired military personnel and their spouses or widows or widowers and the facility's nursing home facility has a contract holder occupancy rate less than 85 percent. HB 501; CH. 85/SB 388; CH. 91.

TITLE 33.1. HIGHWAYS, BRIDGES AND FERRIES.

§ 33.1-12 amended. **Design-build contracts.** Grants the Director of the Department of Rail and Public Transportation the same capacity as the Commonwealth Transportation Commissioner to enter into design-build contracts. SB 364; CH. 110.

§ 33.1-12.1 added. **Agreements between CTC and certain cities and towns.** Allows the Commonwealth Transportation Commissioner (CTC) to enter into agreements with cities and towns pursuant to which the cities and towns assume responsibility for the design, right-of-way acquisition, and construction of urban system highways. HB 904; CH. 623.

§ 33.1-23.4 amended. **Allocation of funds for secondary system highway construction.** Provides that not more than one-third of the annual secondary system highway funds apportioned to a county under this section may be used to reimburse the county for (i) debt service for bonds or (ii) eligible project costs incurred on approved projects included in the county's Secondary Six-Year Plan and the county's capital improvement program. Such funds may also be used by the county for debt service for bonds issued for, or eligible project costs incurred or to be incurred on, approved projects included, at the time such bonds are issued or such costs are incurred or

are to be incurred, in the Six-Year Improvement Program of the Commonwealth Transportation Board and the county's capital improvement program. HB 485; CH. 791.

§§ 33.1-23.5:1 and 33.1-41.1 amended. City street maintenance payments; payments to Arlington and Henrico Counties. Strengthens the accountability of Arlington and Henrico Counties and localities receiving city (or town) street maintenance payments by revising existing expenditure reporting requirements. SB 563; CH. 118.

§ 33.1-46.2 amended. HOV lanes. Doubles the fines for second, third, fourth, and subsequent high-occupancy vehicle (HOV) lane violations committed in the 8th Planning District, and provides for assessment of three driver demerit points for these second, third, fourth, and subsequent violations as well. SB 508; CH. 704.

§§ 33.1-56.1 through 33.1-56.5 added. HOT lanes. Provides for the designation of high-occupancy toll (HOT) lanes with electronically collected and photo-enforced tolls. HB 151; CH. 783.

§ 33.1-72.1 amended. Subdivision streets. Revises the requirements and procedures by which subdivision streets opened to the public prior to July 1, 1992, may be brought up to state standards for acceptance into the state secondary highway system. SB 257; CH. 677.

§ 33.1-120 amended. Condemnations by the Commonwealth Transportation Commissioner. Provides that the Commonwealth Transportation Commissioner is not permitted to force relocation on improved owner-occupied property until the owner is permitted to withdraw the funds represented by the certificate filed with the Court. However, if the owner refuses to withdraw the funds represented by the certificate filed with the Court or if the Commissioner reasonably believes that the owner does not possess clear title to the property being taken, that ownership of the property is disputed, or that certain owners cannot be located, the Commissioner may petition the Court to establish that the owner does not possess clear title, that the ownership of the property is in dispute, that certain owners can not be located, or that the owner has refused to withdraw the funds represented by the Certificate filed with the Court, and request that the Commissioner be given authority to force relocation. HB 834; CH. 803.

§ 33.1-132 amended. Condemnation by CTC. Reduces from one year to 180 days the time by which, if the Commonwealth Transportation Commissioner (CTC) has taken possession of property without instituting condemnation proceedings, commissioners or a jury shall be appointed to ascertain the amount of compensation to be paid for the property taken and damages done, if any. HB 835; CH. 804.

§ 33.1-221.1:1.1 added. Railway Preservation and Development Fund. Codifies language hitherto existing only in general appropriation acts, relating to the Railway Preservation and Development Fund. HB 644; CH. 621.

§ 33.1-223.2:9 added. Landfill gas pipelines; notice by VDOT to counties. Requires the Virginia Department of Transportation (VDOT), whenever it grants permission for the location of a landfill gas pipeline within any highway right-of-way, to notify every county through which the pipeline will pass. HB 1263; CH. 808.

§ 33.1-223.2:9 added. Tolls. Provides that in order to provide an incentive for motorists to travel at off-peak hours, on highways controlled by the Virginia Department of Transportation, the amount of the toll may vary according to the time of day, day of the week, traffic volume, or any or all of these variables. The amount of the toll and the time of day when such toll changes shall be fixed and revised by the Commonwealth Transportation Board; however, the variation must be reasonably calculated to minimize the impact on toll revenue generated by the toll. HB 1376; CH. 1003.

§ 33.1-223.2:9 added. Comprehensive roadside management program. Requires the Virginia Department of Transportation to promulgate regulations for a comprehensive roadside management program that includes opportunities for participation by individuals, communities, and local governments. SB 260; CH. 679.

§ 33.1-223.2:9 added. Virginia Department of Transportation to maintain certain property. Requires the Virginia Department of Transportation to mow the grass and remove weeds and debris on property acquired for the construction of a transportation project. These activities must be performed in accordance with the same schedules used for these activities on other rights-of-way maintained by the Department in the same locality. At the written request of the governing body or a locality, the Department must provide additional services on the property acquired for the construction of a transportation project including removal of abandoned vehicles. These additional services are to be funded from the construction allocations to the project. SB 277; CH. 682.

§ 33.1-223.2:9 added. U.S. Route 29 bypass around Charlottesville. Provides that, if the construction of a U.S. Route 29 bypass around Charlottesville is not constructed because of opposition from the local metropolitan planning organization, and the Federal Highway Administration requires the Commonwealth to reimburse the federal government for federal funds expended in connection with that project, an amount equal to the amount of the required reimbursement will be deducted by the Commonwealth Transportation Board from primary system highway construction funds allocated or allocable to the Culpeper Highway Construction District and an amount equal to the total of all state funds expended on the project will be deducted by the Commonwealth Transportation Board from state primary system highway construction funds allocated or allocable to the same highway construction district. SB 670; CH. 1025.

§ 33.1-252 amended. Richmond Metropolitan Authority; free use of toll facilities by quadriplegics. Allows toll-free use of Richmond Metropolitan Authority toll facilities by quadriplegic drivers. SB 57; CH. 655.

§ 33.1-252.2 added. Release of "Smart Tag" information. Provides that, with three exceptions, data generated by automated electronic toll-collection systems (such as "Smart Tag") on use of toll facilities by individually identifiable vehicles can only be disclosed when so required by order of a court of competent jurisdiction. The bill also provides for injunctive relief and payment of attorneys' fees for persons aggrieved by violations. SB 148; CH. 665.

§§ 33.1-268, 33.1-269, and 33.1-277 amended. Credit assistance revenue bonds. Authorizes the issuance of Commonwealth of Virginia transportation credit assistance revenue bonds for the purpose of funding a portion of the Dulles Corridor mass transit project. HB 1005; CH. 807.

§ 33.1-370.2 added. Nonconforming advertising signs. Provides that maintenance of and repairs to nonconforming signs will be governed by Chapter 7 (Outdoor Advertising) of Title 33.1 (Highways) and regulations promulgated by the Commonwealth Transportation Commissioner. SB 58; CH. 656.

§§ 33.1-430, 33.1-431, 33.1-433, and 33.1-435 amended. Transportation improvement districts. Facilitates the establishment of local transportation improvement districts in Fairfax County in connection with the "Rail to Dulles" project. HB 502; CH. 792.

§§ 33.1-447 through 33.1-463 added. Local transportation district for Charlottesville and Albemarle County. Provides for the creation of a local transportation district within Charlottesville and Albemarle County. Such district could be used to facilitate the construction of a U.S. Route 29 bypass. HB 1419; CH. 966.

TITLE 33.1. MISCELLANEOUS - HIGHWAYS, BRIDGES AND FERRIES.

Country Music Highway. Designates that portion of U.S. 23 lying within Wise, Lee, and Scott Counties the "Country Music Highway." HB 910; CH. 625.

Fairfax Station Road. Designates the entire length of Fairfax Station Road in Fairfax County a Virginia byway. HB 997; CH. 628.

George Fortune, Jr., Memorial Bridges. Designates the Interstate Route 66 bridges over U.S. Route 29 in Fairfax County the "George Fortune, Jr., Memorial Bridges." SB 155; CH. 581.

Humelsine Parkway. Designates Virginia Route 199 between I-64 west of Williamsburg and I-64 east of Williamsburg the Humelsine Parkway. HB 1444; CH. 643.

I-66 study; HOT lanes. Requires that any study by the Virginia Department of Transportation of possible improvements to Interstate Route 66 (I-66) outside the Capital Beltway

(I-495) include consideration of High-Occupancy Toll (HOT) lanes. SB 139; CH. 664.

Jack and Carter Hardesty Bridge. Designates the U.S. Route 340 bridge over the Norfolk Southern right-of-way north of the Town of Berryville in Clarke County the Jack and Carter Hardesty Bridge. SB 34; CH. 579.

Korean War Veterans Memorial Highway, World War II Veterans Memorial Highway, Vietnam War Veterans Memorial Highway. Designates the entire length of Interstate Route 64 in Virginia as the "Korean War Veterans Memorial Highway," the entire length of Interstate Route 81 in Virginia as the "World War II Veterans Memorial Highway," and the entire length of Interstate Route 95 in Virginia as the "Vietnam Veterans Memorial Highway." The Department of Transportation is required to place and maintain appropriate markers indicating the designations of these highways; however, the cost of initially placing these markers must be paid from private sources. HB 1413; CH. 641.

Monacan Bridge. Designates the Lynchburg bypass bridge across the James River between Amherst County and the City of Lynchburg the "Monacan Bridge." HB 1182; CH. 763/ SB 560; CH. 117.

Pleasant Valley Road. Designates a portion of Pleasant Valley Road in Fairfax County a Virginia byway. HB 998; CH. 629

Sam Snead Memorial Highway. Designates U.S. Route 220 in Bath County the Sam Snead Memorial Highway. SB 13; CH. 578.

The Stuart Finley Bridge. Designates the VA route 2760 bridge over Lake Barcroft in Fairfax County "The Stuart Finley Bridge." HB 1474; CH. 969.

Virginia byway. Designates U.S. Route 17 from Tappahannock to Spotsylvania County a Virginia byway. HB 1154; CH. 633.

Virginia's Heritage Music Trail: The Crooked Road. Designates certain highways in Southwest Virginia "Virginia's Heritage Music Trail: The Crooked Road." HB 909; CH. 624.

Woodlawn Road; property rights of the Commonwealth. Requires the Department of Transportation, with the assistance of the Office of the Attorney General, to assert the property rights of the Commonwealth with respect to Woodlawn Road in Fairfax County and Fort Belvoir. HB 1291; CH. 235/SB 590; CH. 119.

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

§ 35.1-14. See § 2.2-4002; HB 784.

§ 35.1-18 amended. Nudist camps for juveniles. Provides that the Board of Health shall not issue a license to the owner

or lessee of any hotel, summer camp, or campground in the Commonwealth that maintains or conducts as any part of its activities a nudist camp for juveniles. A "nudist camp for juveniles" is defined to be a hotel, summer camp or campground that is attended by nude juveniles whose parent, grandparent or legal guardian is not also registered and present with the juvenile in the same camp. HB 158; CH. 987.

§ 35.1-25 amended. Regulation of restaurants; definition. Exempts convenience stores and gas stations having 15 or fewer seats at which food is served to the public on the premises and that are not part of a national or regional restaurant chain from regulation under the Department of Health. HB 918; CH. 227.

TITLE 36. HOUSING.

§ 36-22.1 added. Conveyance of streets; no trespass policy. Requires each housing authority to adopt a "no trespass" policy designed to protect the premises controlled by such authority and residents from nonresidents who enter the premises for unlawful purposes or without any lawful purpose. In adopting such policies, the authority shall determine whether to petition a locality or the Commonwealth to close to the public and convey to the authority any streets serving authority property. Neither a locality nor the Commonwealth shall be required to grant the conveyance. The Attorney General shall develop and distribute a model policy that takes into account any relevant constitutional limitations on such action by housing authorities, the locality or the Commonwealth; however, no housing authority is required to adopt the model policy. SB 233; CH. 585 (effective 1/1/05).

§§ 36-55.25, 36-55.26, 36-55.30, 36-55.30:2, 36-55.31, 36-55.33:1, 36-55.34:1, 36-55.37, 36-55.38, and 36-55.39 amended. Virginia Housing Development Authority; financing of certain mixed-income and mixed-use housing developments. Authorizes the Virginia Housing Development Authority (Authority) to finance mixed-income and mixed-use housing developments in revitalization areas designated by local governments if (i) the surrounding area is predominantly of lower income or (ii) the Authority's ability to provide the low and moderate income housing will be enhanced by having a portion of the units occupied by persons and families who are not of low or moderate income. The bill limits the percentage of persons or families who are not of low and moderate income in any economically mixed project to 80 percent and provides that nonhousing buildings may not be financed by the Authority unless a certification is provided by the housing sponsor that a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions. HB 825; CH. 187.

§ 36-99.5:1 amended. Uniform Statewide Building Code; certain housing facilities. Requires the Board of Housing and Community Development to promulgate regulations in accor-

dance with the Administrative Process Act establishing standards for such additional fire detection and suppression systems as it deems necessary to increase the safety of persons in assisted living facilities, residential dwelling units designed or developed and marketed to senior citizens, nursing homes and nursing facilities. This requirement would be in addition to the current regulations requiring smoke detectors and sprinkling systems in nursing homes and nursing facilities. SB 183; CH. 584.

§ 36-99.6:3 added. Uniform Statewide Building Code; regulation of HVAC facilities. Provides that the Board of Housing and Community Development to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) establishing standards for heating, ventilation, and airconditioning (HVAC) facilities in new, privately owned residential dwellings. HB 423; CH. 132.

§ 36-105 amended; § 36-105.1:1 added. Uniform Statewide Building Code; enforcement; rental inspections. Clarifies the inspection authority of local building officials for existing commercial and residential buildings or structures, including the authority of a local governing body to adopt and enforce an inspection program for residential dwelling units that are rented to tenants pursuant to the Landlord and Tenant Act (§ 55-217 et seq.) or the Virginia Residential Landlord Tenant Act (§ 55-248.2 et seq.). The bill sets out the procedures for localities to conduct rental inspections and the fees therefore. The bill contains technical amendments. HB 828; CH. 851 (effective - see bill).

§ 36-135 amended. Board of Housing and Community Development; membership. Increases the membership of the Board of Housing and Community Development from 13 to 14 by adding the Director of Regulatory Compliance of the Virginia Building Officials Association and specifies his term. HB 123; CH. 944.

§ 36-139.8. See § 2.2-2238; SB 3.

§§ 15.2-2418, 36-155, 36-156, and 36-169 amended. Housing Funds. Eliminates the requirement for the Department of Housing and Community Development to provide reports to the legislative committees on the Urban Public-Private Partnership Redevelopment Fund, the Virginia Removal or Rehabilitation of Derelict Structures Fund, and the Housing Revitalization Zone Fund. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). The bill also removes the requirement that fifty percent of all monies received by localities from the Virginia Removal or Rehabilitation of Derelict Structures Fund be utilized in housing revitalization zones. SB 4; CH. 577.

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

§§ 37.1-67.01, 37.1-67.1, and 37.1-71 amended. Emergency custody and temporary detention orders; transportation. Provides parameters for specifying the law-enforcement agency and jurisdiction to execute emergency custody orders or temporary detention orders and provide transportation of the subjects of such orders. In the case of emergency custody orders, the magistrate must specify the primary law-enforcement agency from the jurisdiction served by the community services board that designated the person to perform the evaluation to execute the order and provide transportation; however, if the community services board serves more than one jurisdiction, the primary law-enforcement agency from the particular jurisdiction within the community services board's service area where the person who is the subject of the emergency custody order was taken into custody or, if the person is not yet in custody, the primary law-enforcement agency from the jurisdiction where the person is presently located. In the case of temporary detention orders, the magistrate must specify in the order the law-enforcement agency of the jurisdiction in which the person resides to execute the order and provide transportation; however, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute the order and provide transportation. The bill authorizes law-enforcement agencies to enter into agreements to facilitate the execution of temporary detention orders and provide transportation. For both the emergency custody orders and the temporary detention orders, the evaluation or treatment must be conducted immediately in accordance with state and federal law. HB 589; CH. 737.

§§ 16.1-266, 16.1-343, 32.1-127.1:03, 37.1-67.3, 37.1-134.9, 37.1-134.12, and 37.1-134.21 amended. Access to health records for guardians ad litem and attorneys representing minors and certain adults in court proceedings. Ensures compliance with federal regulations concerning protected health information promulgated pursuant to the Health Insurance Portability and Accountability Act while providing access to health records and information for guardians ad litem and attorneys representing minors in juvenile and domestic court proceedings, proceedings to authorize treatment for patients incapable of providing consent to treatment, persons who are subject to petitions for involuntary commitment, and respondents who are the subjects of petitions to appoint guardians and/or conservators. HB 878; CH. 66.

§§ 37.1-67.3, 37.1-134.9, 37.1-134.12, 37.1-134.21, 37.1-226, and 37.1-230. See § 32.1-127.1:03; SB 337.

§ 37.1-67.5:01 added. Interpreters in mental commitment proceedings. Requires a judge or magistrate to appoint an in-

terpreter for a non-English-speaking person who is the subject of or a witness in a mental commitment proceeding. Failure to appoint an interpreter when one is not reasonably available or when the person's level of English fluency cannot be determined is not a basis for dismissing the petition or voiding the order. The interpreter's compensation is paid out of the state treasury. SB 24; CH. 243.

§§ 37.1-70.5 through 37.1-70.9 amended. Sexually violent predators; civil commitment. The bill requires state and local courts, clerks and agencies to provide the Commitment Review Committee with information that it requests. The prisoner must remain in secure custody pending the circuit court hearing and the date for the circuit court hearing is extended to 60 days after filing the petition from the current 30 days. The bill also provides for a minimum 30-day continuance if less than full commitment is ordered, during which time alternatives to full commitment shall be developed. The bill allows presentence and postsentence reports and victim impact statements to be used in the civil commitment process. HB 1237; CH. 764.

§ 37.1-70.10 amended. Placement of committed persons and notice to community. Requires the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services, prior to the siting of a new facility or the designation of an existing facility to be operated for the control, care and treatment of persons convicted of a sexually violent offense who have been referred for civil commitment, to notify the state elected officials for and the local governing body of the jurisdiction of the proposed location, designation or expansion of the facility. Upon receiving the notice, the local governing body of the jurisdiction of the proposed site or where the existing facility is located may publish a descriptive notice concerning the proposed site in a newspaper of general circulation in the jurisdiction. The Commissioner must also establish an advisory committee relating to any such facility that must consist of state and local elected officials and community organizations serving the jurisdiction in which the facility is proposed to be or is located. Upon request, the members of the advisory committee will be notified whenever the Department increases the number of beds in the relevant facility. SB 556; CH. 707.

§ 37.1-134.6 amended. Conservators and guardians. Modifies definitions of "conservator" and "guardian" to include any local or regional tax-exempt charitable organization that is established to provide conservatorial or guardian services to incapacitated persons. The tax-exempt charitable organization cannot be a provider of direct services to the incapacitated person. Currently, in addition to persons appointed by the court, local or regional programs designated by the Department for the Aging may serve as "public" conservators and guardians. HB 984; CH. 858.

§ 37.1-134.17 amended. Adult guardianship and conservatorship. Expands the ability to name standby guardians or conservatorships or both from situations in which a parent or legal guardian has made such a request for an incapacitated child to situations in which a child can make such request for

an incapacitated parent. Under the current statute, only parents or legal guardians may seek standby guardianship. HB 494; CH. 135.

§ 37.1-134.21 amended. Temporary detention orders. Corrects an incorrect cross reference to appeals of temporary detention orders. SB 25; CH. 104.

§ 37.1-137.4 amended. Conservatorship. Eliminates the authority of a conservator for an incapacitated person to seek a divorce without prior court authorization. Guardians of incapacitated persons are prohibited from seeking a change in a person's marital status without prior court approval. HB 1103; CH. 756/SB 19; CH. 652.

§ 37.1-179.2 added. Licensure conditions for certain methadone clinics; emergency. Prohibits the granting of an initial license to a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements, if such provider is to be located within a one-half mile of a public or private day care center or public or private K-12 school, except when such service is provided by a hospital licensed by the Board of Health or the Commissioner of the Department of Mental Health, Mental retardation or Substance Abuse Services or owned or operated by an agency of the Commonwealth. Upon receiving a notice of a proposal for or an application to obtain initial licensure from a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements, the Commissioner must, within 15 days of such receipt, notify the local governing body of and the community services board serving the jurisdiction in which the facility is to be located of such proposal or application and its proposed location. The local governing body and the community services board must submit comments to the Commissioner on the proposal or application within 30 days of the date of the notice. The local governing body must notify the Commissioner of compliance with the location restrictions and any relevant local ordinances. No applicant for a license to provide treatment for persons with opiate addiction through the use of methadone or other opioid replacements that has obtained a certificate of occupancy in accordance with the law and regulations in effect on January 1, 2004, will be required to comply with this law. No existing licensed provider will be required to comply with these provisions in any city or county in which it is currently providing treatment. Further, the location restriction will not apply to the jurisdictions located in Planning District 8, i.e., Northern Virginia. A second enactment clause provides that: the Commissioner must not grant or issue any initial license for a methadone clinic after the date of the enactment of this provision, unless the provider is in compliance with this act. HB 745; CH. 845.

§ 37.1-179.2 added. Licensure conditions for certain methadone clinics; emergency. Prohibits the granting of an initial license to a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements, if such provider is to be located within a one-half mile of a public or private day care center or

public or private K-12 school, except when such service is provided by a hospital licensed by the Board of Health or the Commissioner of the Department of Mental Health, Mental retardation or Substance Abuse Services or owned or operated by an agency of the Commonwealth. Upon receiving a notice of a proposal for or an application to obtain initial licensure from a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements, the Commissioner must, within 15 days of such receipt, notify the local governing body of and the community services board serving the jurisdiction in which the facility is to be located of such proposal or application and its proposed location. The local governing body and the community services board must submit comments to the Commissioner on the proposal or application within 30 days of the date of the notice. The local governing body must notify the Commissioner of compliance with the location restrictions and any relevant local ordinances. No applicant for a license to provide treatment for persons with opiate addiction through the use of methadone or other opioid replacements that has obtained a certificate of occupancy in accordance with the law and regulations in effect on January 1, 2004, will be required to comply with this law. No existing licensed provider will be required to comply with these provisions in any city or county in which it is currently providing treatment. Further, the location restriction will not apply to the jurisdictions located in Planning District 8, i.e., Northern Virginia. A second enactment clause provides that: the Commissioner must not grant or issue any initial license for a methadone clinic after the date of the enactment of this provision, unless the provider is in compliance with this act. SB 607; CH. 823.

§ 37.1-207.1. See § 2.2-2670; SB 304.

§§ 37.1-226 through 37.1-230 amended. Disclosure of mental health information. Adds to the law in Title 37.1 relating to disclosure of mental health information various technical amendments to clarify (i) who may submit a bill to a third party payor; (ii) that the information on the patient must include his address and date of birth; (iii) that patient consent or authorization is required for disclosure of mental health information; and (iv) that patient consent or authorization must be in writing and must be dated and signed and must also comply with the requirements for authorization of disclosure set out in subsection G of § 32.1-127.1:03. Subsection G of § 31.2-127.1:03 requires the name of the patient, the provider and the identity of the person to whom disclosure may be made, and the nature of the information to be disclosed.

This bill also sets out a procedure by which a patient may receive a review by an objective physician or clinical psychologist of whether the patient may receive a copy of a third party payors' information in those instances where the treating physician or clinical psychologist has advised the third party payor that the information would be reasonably likely to endanger the life or physical safety of the patient or another person or contains a reference to another person that would be reasonably likely to cause substantial harm to the referenced person. The standard for limiting disclosure to the patient who

is the subject of the record is changed from "might adversely affect the patient's health" to "would be reasonably likely to endanger the life or physical safety of the patient or another person, or that such record makes reference to a person other than a health care provider, and the access requested would be reasonably likely to cause substantial harm to such referenced person." HB 876; CH. 54.

§ 37.1-230. See § 32.1-127.1:03; HB 877.

§§ 37.1-255, 37.1-256, and 37.1-256.1 amended; § 37.1-257 repealed. **Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.** Moves the powers and duties that are currently attributed to the Office of Inspector General to the powers and duties of the Inspector General and clarifies that the Inspector General can access information related to the delivery of services to consumers operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services or served by providers outside of the state facility system, including the licensed mental health treatment units in state correctional facilities. However, the Inspector General is not given access to privileged peer review information of the providers, except privileged information relating to consumers from state facilities and the mental health treatment units in state correctional facilities. The Code Commission reviewed the legislation in the course of its revision of Title 37.1. While it recognizes the need for clarifying amendments to be made, the Code Commission takes no position on the substantive changes made. The bill also contains technical amendments. SB 212; CH. 169.

TITLE 38.2. INSURANCE.

§§ 38.2-100, 38.2-316, 38.2-1401, 38.2-1700, 38.2-1800, and 58.1-2501 amended; §§ 38.2-6100 through 38.2-6113 added. **Insurance; dental plan organizations.** Establishes a new regulatory system specifically for dental plan organizations, pursuant to which companies that provide a dental plan are required to be licensed. The measure also establishes required and optional dental benefit contract provisions, required provisions for plan dentist contracts, and requirements relating to the filing of premium rates and subscription fees. SB 156; CH. 668.

§ 38.2-111 amended. **Miscellaneous casualty insurance.** Defines "miscellaneous casualty insurance" as insurance against liability, and against loss, damage, or expense arising out of injury to the economic interests of any person. It does not include any other statutorily-specified class of insurance, and would not include insurance that is contrary to law or public policy. HB 221; CH. 182.

§ 38.2-401 amended. **Fire Programs Fund.** Requires the Executive Director of the Department of Fire Programs to establish written standards for determining the extent to which clients outside the Commonwealth shall be financially responsible for the cost of fire and emergency services training

provided by the Department of Fire Programs. Revenues generated shall be retained in the Fire Programs Fund and used solely for providing additional training to members of Virginia's fire and emergency services. SB 154; CH. 164.

§ 38.2-517 amended. **Motor vehicle insurance; unfair settlement practices.** Provides, with respect to a glass claim arising under a motor vehicle insurance policy, that an insurer's failure to disclose (i) the true nature of a third party representative; (ii) that an insured is not required to use the facility, service or products recommended by the insurer; or (iii) that the insured or its third party representative has a financial interest in the recommended replacement or repair facility, an unfair settlement practice, constitutes unfair settlement practices. The referring insurer is accountable for any violations by the third party representative. HB 1342; CH. 767.

§ 38.2-608. See § 32.1-127.1:03; HB 877.

§ 38.2-608. See § 32.1-127.1:03; SB 337.

§ 38.2-1230 amended. **Insurance; domestic reciprocals.** Requires prior written approval of material transactions, and timely disclosure of most other transactions, between a domestic reciprocal and a related party and, when the transaction is material to the reciprocal, between any two or more of the reciprocal's related parties. The measure requires the annual filing of a related parties summary and that a reciprocal's surplus, following any dividends or distribution to any of the reciprocal's related parties, shall be reasonable in relation to the reciprocal's outstanding liabilities and adequate to its financial needs. SB 355; CH. 174.

§ 38.2-1603 amended. **Virginia Property and Casualty Insurance Guaranty Association.** Recognizes the existence of Virginia Property and Casualty Insurance Guaranty fund coverage for certain qualifying claims that have been assumed as direct obligations of the insolvent insurer prior to the insurer's being declared insolvent. The bill clarifies that certain transactions, including routine reinsurance transactions and surplus lines transactions, are not novations that would establish a direct obligation of the insurer to the insured. The bill also expands the definition of "insolvent insurer" to include an insurer that is licensed in Virginia when the obligation with respect to the covered claim was assumed. HB 596; CH. 285.

§§ 38.2-1800 and 59.1-200 amended; §§ 59.1-441.1 through 59.1-441.6 added; § 38.2-4415 repealed. **Legal services plans.** Transfers responsibility for regulating legal services plan sellers from the State Corporation Commission's Bureau of Insurance to the Department of Agriculture and Consumer Services. The measure establishes requirements for the registration of legal services plan sellers, authorizes the Board of Agriculture and Consumer Services to prescribe regulations relating to legal services plan sellers, and authorizes the Department to investigate violations. Legal services plan sellers must make contract records available to the Department upon request and maintain a true copy of each contract for its term. A seller who knowingly and willfully violates the re-

quirement shall be guilty of a Class 3 misdemeanor. HB 363; CH. 784.

§§ 38.2-1800, 38.2-1824, 38.2-1865.6 through 38.2-1865.13, 38.2-2411, 38.2-2412, 38.2-2412.1, and 38.2-2412.2. See § 9.1-102; HB 1057.

§ 38.2-1867 amended. **Virginia Insurance Continuing Education Board; Virginia Association of Health Underwriters.** Adds one representative from the Virginia Association of Health Underwriters to the Virginia Insurance Continuing Education Board and decreases, from two to one, the number of representatives on the Board from the Virginia Association of Insurance and Financial Advisors. HB 1238; CH. 765.

§ 38.2-1906 amended. **Insurance; rates.** Allows insurers, other than workers' compensation insurers, to limit the amount of a premium increase applicable to the renewal of a policy, and to phase in the increase over a specified period. HB 553; CH. 838.

§ 38.2-2114 amended. **Homeowners insurance; nonrenewal.** Prohibits an insurer from refusing to renew a homeowners insurance policy solely because a claim was made more than 60 months prior to the policy expiration date. HB 818; CH. 300.

§ 38.2-2125 amended. **Fire insurance; flood coverage; notices.** Requires insurers issuing a new or renewal contract or policy of fire insurance that excludes coverage for damage due to flood or any other overflow of a body of water to provide written notice to the policyholder that contents coverage may be available with the flood policy for an additional premium. An insurer is required to notify a policyholder when flood coverage is excluded from a policy or contract and that flood insurance is available from the insurer, insurance agent or the National Flood Insurance Program. The requirement applies to policies issued or renewed on or after October 1, 2004. HB 609; CH. 288.

§ 38.2-2127 added. **Homeowners insurance deductibles.** Requires an insurer who unilaterally changes the deductible on a policy insuring an owner-occupied dwelling to provide written notice to the insured stating that the deductible has been changed and explaining how the new deductible will be applied. This section will apply to policies renewed in Virginia on or after October 1, 2004. HB 898; CH. 745.

§ 38.2-2127 added. **Homeowners insurance; exclusions for dangerous or vicious animals.** Authorizes the issuer of a homeowner's policy, with the insured's written consent, to exclude from coverage any liability resulting from an injury caused by a dangerous or vicious animal owned by or in the care, custody, or control of the insured if such animal has bitten, attacked, or inflicted injury on a person or companion animal. HB 1007; CH. 751.

§§ 38.2-2416 through 38.2-2419 amended. **Powers of attorney; fidelity and surety insurers.** Eliminates the requirements that powers of attorney binding fidelity and surety insurers be recorded. The power of attorney must be attached to the bond

or other obligation. The measure does not apply to surety bail bondsmen. HB 460; CH. 357.

§ 38.2-3100.2 added. **Insurance; funding agreements.** Authorizes insurers licensed to write life insurance or annuities in Virginia to issue funding agreements. A funding agreement authorizes the insurer to accept funds and provides for an accumulation of funds for the purpose of making one or more payments in fixed or variable amounts, or both, that are not based on mortality or morbidity contingencies. The issuance of funding agreements constitutes transacting an insurance business in the Commonwealth. In a liquidation of an insurer, the holders of a funding agreement will receive the same priority that is currently accorded to policyholders. SB 535; CH. 254.

§§ 38.2-3220, 38.2-3221, 38.2-3222, and 38.2-3229 amended. **Insurance; annuity nonforfeiture.** Incorporates model provisions adopted by the National Association of Insurance Commissioners' Standard Nonforfeiture Law for Individual Deferred Annuities. The measure also establishes a formula that uses an index-based interest rate to determine the minimum nonforfeiture amounts for individual deferred annuity contracts issued on or after July 1, 2005, and details application of the formula, including that it may be applied to certain contracts issued before July 1, 2005. HB 1181; CH. 313.

§ 38.2-3405. See § 54.1-2963.1; SB 224.

§§ 38.2-3407.10 and 38.2-5803 amended. **Insurance; provider panels.** Allows a health insurance provider to send a provider directory electronically to its insureds. If the directory is provided electronically, it shall be updated monthly. SB 618; CH. 715.

§ 38.2-3407.15 amended. **Health insurance carriers; fair business practices; retroactive denials.** Prohibits a health insurance carrier from imposing any retroactive denial of payment or seeking recovery or refund of a previously paid claim unless the carrier specifies in writing the specific claim for which the retroactive denial is to be imposed or the recovery or refund is sought. The carrier must also explain why the claim is being retroactively adjusted. HB 322; CH. 425.

§ 38.2-3420 amended. **Insurance; multiple employer welfare arrangements.** Excludes from the State Corporation Commission's regulatory jurisdiction any multiple employer welfare arrangement (MEWA) comprised only of banks and their employees that (i) is duly licensed as a MEWA by the insurance regulatory agency of a state contiguous to the Commonwealth, (ii) files with the Commission a copy of its certificate of authority or other proper license from the contiguous state, and (iii) has no more than 50 Virginia residents who are employees of its member banks enrolled in or receiving accident and sickness benefits as insureds, members, enrollees, or subscribers of the MEWA. HB 1327; CH. 236.

§ 38.2-3525 amended. **Insurance; group accident and sickness insurance coverage for dependent children.** Allows insurers, at the policyholder's election, to extend coverage under a group accident and sickness insurance policy to include

any child of an insured group member, regardless of the child's age. HB 1404; CH. 771.

§§ 38.2-3540.1 and 38.2-4319 amended. Accident and sickness insurance; claims experience. Requires health maintenance organizations to provide, upon request, to those health care plan policyholders that employed an average of at least 100 insured, subscribers or enrollees in the preceding 12-month period, as part of the insured's claims experience record, (i) a summary of claims charges incurred and the amount paid for each claim for the most recent available 24-month period; (ii) a listing of the number of insured or subscribers for whom combined medical costs or claims exceeded \$100,000 in the most recently available 12-month period; and (iii) total enrollment in each membership category. The existing disclosure requirements applicable to group accident and sickness insurance policies and subscription contracts are amended to incorporate the new provisions regarding the size of the group policyholder that may request the information and to increase the threshold enrollees for whom information must be disclosed from those with payments or costs in excess of \$50,000 to those in excess of \$100,000. HB 1408; CH. 772 (effective 1/1/05).

§§ 38.2-4123, 38.2-4214, 38.2-4319, and 38.2-4509 amended; § 38.2-1315.1 added. Insurance; actuarial opinions. Requires every insurer to submit annually an actuarial opinion and supporting documents, including a summary of opinion or issues, memoranda, and work papers prepared in conformity with appropriate National Association of Insurance Commissioners annual statement instructions. The documents shall be privileged and confidential and not discoverable or admissible in a civil action. The new requirements apply to fraternal benefit societies, health services plans, health maintenance organizations, and dental or optometric services plans. HB 1186; CH. 315.

§§ 38.2-4300, 38.2-4301, and 38.2-4302 amended. Health maintenance organizations. Provides that, for purposes of health maintenance organization regulation, "net worth" and "capital and surplus" have the same meaning. Persons owning or having the right to acquire five percent or more of voting securities or subordinated debt of an entity applying for a license to establish or operate a health maintenance organization are required to disclose such fact when applying for a license. SB 372; CH. 175.

§ 38.2-4306 amended; § 38.2-4320.1 added. Health maintenance organizations; Medicaid; Family Access to Medical Insurance Security (FAMIS) Plan. Removes the requirement that Medicaid HMOs include in the evidence of coverage a statement entitling any Medicaid recipient or FAMIS participants to conversion of their coverage to an individual contract. The measure conforms the requirements for the explanation of benefits for Medicaid recipients and FAMIS participants to the standards prescribed in the state plan for medical assistance services and the FAMIS Plan. Statutory requirements will not apply to the extent such requirements differ from the Department of Medical Assistance Services' standards. A second

enactment clause declares that an emergency exists and this measure will become effective upon passage. HB 628; CH. 185 (effective 3/19/04).

§§ 38.2-5001, 38.2-5009, and 38.2-5020 amended. Virginia Birth-Related Neurological Injury Compensation Act. Increases assessments for participating physicians and hospitals, and nonparticipating physicians on an incremental basis beginning in 2005, to maximums of \$5,500, \$200,000, and \$300, respectively. The bill also eliminates the authority to pay attorney's fees to applicants who are not admitted into the birth injury fund program. HB 1407; CH. 931.

§§ 38.2-5001, 38.2-5009, and 38.2-5020 amended. Virginia Birth-Related Neurological Injury Compensation Act. Increases assessments for participating physicians and hospitals, and nonparticipating physicians on an incremental basis beginning in 2005, to maximums of \$5,500, \$200,000, and \$300, respectively. The bill also eliminates the authority to pay attorney's fees to applicants who are not admitted into the birth injury fund program. SB 687; CH. 896.

§§ 38.2-6100 and 38.2-6101 added. Interstate Insurance Product Regulation Compact. Provides that Virginia is a Compacting State under the Interstate Insurance Product Regulation Compact. The Compact is intended to: (i) promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products; (ii) develop uniform standards for those insurance products; (iii) act as a central clearinghouse to review insurance products and advertisements; (iv) approve product filings and advertisements; (v) improve coordination of regulatory resources and expertise among state insurance departments regarding uniform standards and review of relevant insurance products; (vi) create the Interstate Insurance Product Regulation Commission; and (vii) perform other related functions consistent with state regulation of the business of insurance. This bill also appoints the Commissioner of Insurance as the Commonwealth's representative to the Interstate Insurance Product Regulation Commission. HB 1155; CH. 761.

TITLE 38.2. MISCELLANEOUS - INSURANCE.

Health insurance; mandated coverage for biologically based mental illness. Repeals the scheduled July 1, 2004, sunset of the mandated health insurance benefit that requires the same coverage for biologically based mental illness as is provided for other illnesses, conditions or disorders. SB 44; CH. 156.

TITLE 40.1. LABOR AND EMPLOYMENT.

§ 40.1-2 amended. Commissioner of Labor and Industry. Provides that any reference to the Commissioner of Labor and Industry shall include his authorized representatives, except where the context clearly indicates the contrary. The bill allows the Commissioner to appoint a designated representative to carry out functions assigned to the Commissioner. Under current law, the Commissioner can appoint designated representatives in the occupational safety and health area, but his ability to make such appointments in other areas is not explicit. HB 687; CH. 294.

§ 40.1-4.1. See § 2.2-608; SB 6.

§ 40.1-6. See § 2.2-2407; SB 363.

§§ 32.1-127.1:03 and 40.1-8 amended. Department of Labor and Industry; disclosure of information. Directs licensed emergency medical services agencies to release to the Commissioner of the Department of Labor and Industry, or his designee, certain prehospital patient care reports when such records are requested for a patient who has suffered an injury, disability, or death resulting from an accident or illness while engaged in his employment. The Commissioner shall only disclose such information in compliance with federal regulations and the Health Insurance Portability and Accountability Act of 1996. SB 136; CH. 163.

§ 40.1-28.5. See § 18.2-341; SB 659.

§ 40.1-29 amended. Payment of wages and salaries; prepaid debit cards. Eliminates the requirement that payments of wages by prepaid debit cards be deposited into a trust account. Payments of wages by credit to prepaid debit cards or card accounts are specifically authorized, provided the employee affirmatively consents and the employer discloses any applicable fees. HB 472; CH. 358.

TITLE 42.1. LIBRARIES.

§ 42.1-15.1 amended. State Library Board. Provides that certain libraries serving a population of greater than 13,000 shall not use funds derived from any state aid to employ a librarian who does not meet the qualification for holding a professional librarian position. Currently, the prohibition applies to all public funds. HB 1085; CH. 559.

TITLE 43. MECHANICS' AND CERTAIN OTHER LIENS.

§ 43-3 amended. Mechanic's lien; attachment to easement. Clarifies that any mechanic's lien associated with work or materials furnished relative to an easement shall attach only to that easement and not to fee simple title to the real estate. HB 1410; CH. 240.

§ 43-32 amended. Mechanic's lien; keeper of garage, hanger or marina. Increases the maximum lien for repairs or alterations made at the request of the owner of the boat, aircraft, or vehicle that the keeper of the garage, hanger or marina shall have from \$625 to \$800. HB 220; CH. 215.

§§ 43-34, 46.2-1203, and 46.2-1603.1 amended. Salvage and nonrepairable vehicles. Streamlines the process by which salvage and nonrepairable vehicle can be disposed of. HB 1119; CH. 369.

TITLE 44. MILITARY AND EMERGENCY LAWS.

§§ 44-14 and 44-114 amended; § 44-12 repealed. Board of Military Affairs. Abolishes the Board of Military Affairs. The Board was created in 1930 to advise the Governor and the Adjutant General on military affairs. The need for the Board to meet has diminished since the creation of the Public Safety Secretariat and, during the past seven years, the Board has been completely inactive. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 11; CH. 12.

§ 44-93.5 amended. Military and emergency laws; protection of job security of members of military reserves. Allows the Attorney General to represent an employee denied the employment protections of §§ 44-93, 44-93.2, 44-93.3, and 44-93.4 when on active state military duty. The provision would make the enforcement provisions parallel to the federal employment protections available to employees on active federal duty where the United States Department of Labor may intercede and refer cases to the United States Attorney General. HB 618; CH. 147.

§§ 44-146.16 and 44-146.17. See § 32.1-42; HB 1483/SB 685.

§ 44-146.17:2 added. Emergency Services and Disaster Law; annual statewide drill. Requires the Governor to conduct an annual statewide drill on response to a large-scale natural disaster. The drill shall include the participation of local governments, affected state agencies, public utilities, law-enforcement agencies, and other entities as determined by

the Governor. The bill also provides for the Governor to report to the chairs of the Committee on Militia, Police and Public Safety and the Senate Committee on General Laws on the results of the drill by December 31 of each year. HB 415; CH. 430.

§§ 44-146.18 and 44-146.22. See § 2.2-3703; SB 352.

§ 44-146.19 amended. **Municipalities; alert and warning system.** Requires all localities with a population greater than 50,000 to establish an alert and warning plan for the dissemination of adequate and timely warning to the public in the event of a warning or threatened disaster. The bill also requires the local governing body to amend its local emergency operations plan to include rules for the operation of its alert and warning plan, which may include outdoor warning sirens, Emergency Alert Systems, NOAA Weather Radios, amateur radio operators, or other personal notification systems that are capable of disseminating adequate and timely warning to the public in the event of an emergency or threatened disaster. The plan must be established by July 1, 2005. HB 873; CH. 302.

TITLE 45.1. MINES AND MINING.

§§ 45.1-161.35, 45.1-161.70, and 45.1-161.292:43. See § 32.1-46; HB 855.

TITLE 46.2. MOTOR VEHICLES.

§§ 46.2-100, 46.2-730, and 46.2-1157 amended. **Antique trailers.** Provides for the registration of antique trailers in the same manner presently provided for the registration of antique motor vehicles. The bill also explicitly authorizes towing of trailers by antique motor vehicles. HB 608; CH. 796.

§§ 46.2-100 and 46.2-676 amended; §§ 46.2-916.1, 46.2-916.2, and 46.2-916.3 added. **Over-the-road operation of golf carts and utility vehicles.** Authorizes limited over-the-road operation of golf carts and utility vehicles and reorganizes present Code provisions dealing, generally, with golf carts and their operation. HB 899; CH. 746.

§§ 46.2-208 and 46.2-322. See § 32.1-46; HB 855.

§ 46.2-208 amended. **Access to DMV records.** Provides for access to records of the Department of Motor Vehicles (DMV) for authorized representatives of insurance companies or of any not-for-profit entities organized to prevent and detect insurance fraud, conduct claims investigations, or perform rating and underwriting activities. No such information shall be used for solicitation of sales, marketing, or other commercial purposes. HB 1383; CH. 811.

§§ 18.2-272, 46.2-301, and 46.2-329 amended. **Driving after forfeiture of license for DUI conviction.** Clarifies which

penalty provisions apply for driving on a suspended or revoked license or in violation of the terms of a restricted license. HB 557; CH. 948.

§ 46.2-301 amended. **Driving while license, permit, or privilege to drive suspended or revoked.** Provides that mandatory minimum punishment for a third or subsequent offense of driving on a suspended license applies only if such offense occurs within 10 years of the first offense. The bill also revises existent language in an attempt to clarify, without changing the intent of the law. HB 774; CH. 801.

§§ 46.2-301, 46.2-341.28, 46.2-357, and 46.2-391. See § 18.2-36.1; HB 1059.

§ 46.2-322 amended. **Examination of licensees; confidential sources of information.** Adds pharmacists and other licensed medical professionals who are treating the driver or prescribing him medications to those sources of information about a driver's mental and physical capacity that the Department of Motor Vehicles shall keep confidential. HB 272; CH. 351.

§ 46.2-330 amended. **Driver's licenses and learner's permits; renewals; vision examinations.** Provides that no driver's license or learner's permit issued to any person who is 80 years old or older will be renewed unless the applicant for renewal appears in person and either (i) passes a vision examination or (ii) presents a report of a vision examination, made within 90 days prior thereto by an ophthalmologist or optometrist, indicating that the applicant's vision meets or exceeds the standards contained in § 46.2-311. HB 257; CH. 218/SB 402; CH. 112.

§§ 46.2-330 and 46.2-1521 amended; §§ 46.2-221.2, 46.2-221.3, 46.2-221.4, and 54.1-117 added; § 46.2-331 repealed. **Armed forces personnel; expiration of certain licenses, etc.** Provides for extensions of documents (i) issued by the Department of Motor Vehicles (DMV), the DMV Commissioner (except special license plates issued to members of the National Guard), or the Motor Vehicle Dealer Board or (ii) related to the practice of any business, profession, or calling regulated under Title 54.1 of the Code, for citizens of Virginia serving outside Virginia or the United States in the armed forces of the U.S. or the U.S. diplomatic service. HB 319; CH. 975.

§ 46.2-335 amended. **Motorcycle learner's permits.** Allows persons to operate motorcycles under a motorcycle learner's permit if accompanied by a person providing immediate supervision from an accompanying motor vehicle (instead of motorcycle). It also allows nighttime operation and operation on limited access highways. Operation while under supervision of someone who is not licensed to operate a motorcycle is disallowed. HB 477; CH. 733.

§ 46.2-335 amended. **Youthful drivers.** Allows foster parents of persons less than 18 years old to certify that they have driven for 40 hours or more, with at least 10 of those hours being at night. Presently, such certification must be made by the applicant's parent or legal guardian. HB 866; CH. 805.

§ 46.2-341.16:1 amended. Commercial driver's licenses; hazmat endorsement. Authorizes imposition of additional fees for issuance of any hazmat endorsement, in order to off-set costs incurred as the result of provisions of the U.S.A. Patriot Act. SB 345; CH. 109 (effective 3/15/04).

§ 46.2-341.26:5. See § 18.2-268.5; HB 654.

§ 46.2-341.26:5. See § 18.2-268.5; HB 786.

§ 46.2-346 amended. Copying driver's licenses, etc. Prohibits reproduction by photograph or otherwise of any driver's license, temporary driver's permit, learner's permit, or special identification card issued by the Department of Motor Vehicles (DMV) with the intent to commit an illegal act. Present law prohibits copying without permission of DMV (but makes no mention of illegal acts or special identification cards). HB 86; CH. 722.

§ 46.2-391 amended. Revocation of license for multiple convictions of driving while intoxicated. Clarifies language regarding administrative license revocation for multiple DUI offenses to eliminate an apparent requirement that a "second offense" or "third offense" be proven for the revocation to occur. The intended effect of new wording is to accomplish revocation for multiple "first offenses," i.e., those cases where the Commonwealth was unable to or did not prove that the defendant had a prior offense. HB 676; CH. 951.

§§ 46.2-391 and 46.2-391.2. See § 19.2-294.1; SB 384.

§ 46.2-391.2 amended. Administrative license revocation. Provides that when a person is arrested or summonsed for a DUI offense, the period of administrative license revocation shall be seven days for a first alleged offense, 60 days or time of trial, whichever occurs first, for a second alleged offense and time of trial for a third or subsequent alleged offense. Under current law, the suspension period is seven days in all cases. HB 1136; CH. 960.

§ 46.2-392 amended. Penalties for aggressive driving. Allows the court to suspend the driver's license of and issue a restricted license to a person convicted of aggressive driving. HB 593; CH. 361.

§ 46.2-393 amended. Reckless driving; license suspension. Deletes an incorrect Code reference that has existed since the 1974 General Assembly passed the Virginia Driver Improvement Act establishing the uniform demerit point system. The 1974 bill deleted a provision requiring an automatic license revocation for two reckless driving convictions in 12 months; however, a reference to this provision in another section of the Code was not removed. SB 499; CH. 115.

§ 46.2-417 amended. Reimbursement for costs of responding to emergencies. Provides that failure to satisfy a judgment to a locality for responding to an emergency call necessitated by a DUI, reckless driving, driving without a license, driving on a suspended or revoked license and improperly leaving the scene of an accident or a terrorist hoax results in suspension of the person's driver's license, registration certificates and license plates. HB 1137; CH. 998.

§ 46.2-490 amended; §§ 46.2-490.3 through 46.2-490.11 added; § 46.2-490.2 repealed. Driver improvement clinics. Gives the Department of Motor Vehicles (DMV) clear statutory authority to impose penalties for wrongdoing on the part of driver improvement clinic operators and instructors. The bill describes offenses for which DMV may impose suspensions, revocations of clinic and instructor certificates, and gives DMV the ability to impose civil penalties for such offenses. Penalties may be contested using a hearing procedure. The bill also defines and gives DMV express authority to certify computer-based clinic providers. HB 847; CH. 622.

§§ 46.2-604 and 46.2-731 amended. Disabled parking; license plates. Provides for the issuance of disabled parking license plates to the parents and legal guardians of persons with physical disabilities that limit or impair their ability to walk. SB 362; CH. 692.

§ 46.2-629 amended. Odometer reading disclosures. Exempts owners or transferors of motor vehicles having gross vehicle weight ratings of more than 16,000 pounds from odometer reading disclosure requirements. HB 180; CH. 724.

§ 46.2-694 amended. Distribution of the "four for life" fund. Revises the formula for distribution of the \$4 per year that is charged and collected for registration of motor vehicles. HB 1002; CH. 194.

§ 46.2-698 amended. Registration of farm vehicles; fees. Establishes for the purpose of registration of "farm vehicles," what is and what is not a "farm." SB 127; CH. 663.

§ 46.2-700 amended. Specialized mobile equipment. Allows transportation on specialized mobile equipment of safety equipment, including but not limited to highway traffic safety cones, to be used on a job site. HB 1312; CH. 478.

§ 46.2-703 amended. International Fuel Tax Agreement (IFTA). Establishes the violations and penalties for interstate motor carriers operating in Virginia without proper registration and identification markers as required by the IFTA. The bill also provides who may be cited for violations and authorizes the seizure of vehicles when an interstate motor carrier fails to satisfy a judgment. HB 1305; CH. 376.

§§ 46.2-725, 46.2-736.2, 46.2-742 through 46.2-742.2, 46.2-745, 46.2-746.3, 46.2-746.7, 46.2-749, and 46.2-749.4 amended. Special license plates; "housekeeping." Makes several "housekeeping" amendments to various statutes relating to special license plates in order to (i) bring greater uniformity issuance of and qualifications for special license plates for persons issued various military decorations and (ii) bring other sections in Article 10 of Chapter 6 of Title 46.2 (Special License Plates) into technical conformity with amendments made in 2003 to § 46.2-725 (special license plates, generally). HB 900; CH. 747.

§§ 46.2-733 and 46.2-1500 amended. Motor vehicle dealers. Repeals the provision of § 46.2-1500 that exempts persons who sell and distribute fire-fighting equipment, ambulances, and funeral vehicles from having to be licensed as motor vehi-

cle dealers. The amendment to § 46.2-733 amends a cross-reference to a renumbered subdivision in § 46.2-1500. HB 453; CH. 788 (effective 1/1/05).

§ 46.2-734 amended. License plates for certain reconstructed vehicles. Authorizes use of one rear-mounted license plate on specially constructed vehicles built, reconstructed, restored, preserved, and maintained for historic or hobby interest. SB 259; CH. 678.

§§ 46.2-737, 46.2-746.4, 46.2-746.9, 46.2-749.59, and 46.2-749.69 amended; §§ 46.2-742.4, 46.2-746.2:2.2, 46.2-746.2:5, 46.2-746.4:01, 46.2-746.8:2, 46.2-749.28:2, 46.2-749.30:2, 46.2-749.98:1, and 46.2-749.101 through 46.2-749.109 added; §§ 46.2-742.3, 46.2-746.2:2.1, 46.2-749.28:1, and 46.2-749.98 repealed. Special license plates. Authorizes or reauthorizes issuance of special license plates for supporters of adoption programs offered by the Virginia Department of Social Services and licensed Virginia nonprofit child-placing services, Mothers Against Drunk Driving, Project Lifesaver, the Interdenominational Children's Foundation of Virginia, the Boy Scouts of America, and the Juvenile Diabetes Research Foundation; court-appointed special advocate programs, the Virginia Motor Sports Initiative; members of the American Legion; commemorating the 200th anniversary of the Town of Occoquan, the 350th anniversary of the County of New Kent, the 150th anniversary of Burke's Station, and the 275th anniversary of the County of Prince William; retired law-enforcement officers; U.S. Navy chief petty officers; bicycle enthusiasts; Langley Air Force Base; persons awarded the Combat Infantryman Badge; and general registrars. HB 38; CH. 984.

§§ 46.2-746.7, 46.2-746.8, and 46.2-746.9 amended; §§ 46.2-736.01, 46.2-736.02, 46.2-746.2:2.1, 46.2-746.4:3, 46.2-746.6:2, 46.2-746.8:1, 46.2-749.5:1, 46.2-749.23:1, 46.2-749.28:1, 46.2-749.32 through 46.2-749.36, 46.2-749.39, 46.2-749.41, 46.2-749.42, 46.2-749.43, 46.2-749.47, 46.2-749.73:1, 46.2-749.84, 46.2-749.85, 46.2-749.87, 46.2-749.88, 46.2-749.93, and 46.2-749.95 through 46.2-749.100 repealed. Special license plates; expired authorizations. Repeals authorization for issuance of special license plates that have failed to meet the deadline for receipt of the minimum number of prepaid applications. The affected plates are those for registered nurses, submarine service veterans, the American Red Cross, Fraternal Order of Police Associates, Fraternal Order of Police Auxiliary, Corvette motor vehicle enthusiasts, National Association of Retired Federal Employees, Virginia Federation of Women's Clubs, local government attorneys, the Motorcycle Rider Safety Training Program, the Virginia Statute for Religious Freedom, the Marriage Encounter Movement, retired state employees, the POW/MIA logo, insurance agents, Cold War veterans, Virginia is for Lovers, historic covered bridges, the Leukemia and Lymphoma Society, Seton House, the Interdenominational Children's Foundation of Virginia, the Washington Capitals, the National Motto -- In God We Trust, medical doctors, emergency medical technicians, paramedics, hunter safety instructors, the Police Benevolent Association, Langley Air

Force Base, multiple sclerosis, Job's Daughters, the Civilian Conservation Corps, coal mining heritage, teachers, the Children's Hospital of the King's Daughters, military parachutists, and the Izaak Walton League. HB 2; CH. 717.

§§ 46.2-749.43:1 and 46.2-749.101 through 46.2-749.109 added; § 46.2-749.43 repealed. Special license plates; Senate omnibus. Authorizes or reauthorizes special license plates for the 200th anniversary of the Town of Occoquan, the POW/MIA logo, supporters of Virginia agriculture, the 275th anniversary of the County of Prince William, supporters of the Blue Ridge Parkway Foundation, organ donor programs, barbershop quartet singing enthusiasts, supporters of the Washington D.C. United soccer team, supporters of the Canine Health Foundation, and supporters of children with special needs. SB 21; CH. 653.

§ 46.2-749.101 added. Special license plates; supporters of the Virginia Sheriffs' Institute; fees. Authorizes issuance of revenue-sharing special license plates to supporters of the Virginia Sheriffs' Institute. The annual fee for these plates will be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 will be paid annually to the Virginia Sheriffs' Institute and used exclusively to memorialize and honor Virginia law-enforcement officers killed in the line of duty. SB 444; CH. 700.

§ 46.2-750 amended. Vehicle registration; vehicles owned by regional jail authorities. Provides for registration of vehicles owned by regional jail authorities as "local government" vehicles. HB 83; CH. 721.

§ 46.2-752 amended. Local motor vehicle taxes and fees. Allows localities to issue local vehicle licenses (windshield decals) free of charge to active auxiliary members of volunteer fire departments and active auxiliary members of volunteer rescue squads. HB 145; CH. 723/SB 350; CH. 689.

§ 46.2-803.1 amended. Lane restrictions for certain commercial motor vehicles on certain highways. Requires that, on Interstate Route 81, commercial motor vehicles not use the left-most lane. The bill also requires that commercial motor vehicles keep to the right-most lane when operating at a speed of 15 miles per hour or more below the posted speed limit on an interstate highway with no more than two lanes in each direction. HB 1346; CH. 809.

§§ 46.2-808, 46.2-838, 46.2-839, 46.2-849, 46.2-905, 46.2-906.1, 46.2-932, 46.2-1015, and 46.2-1051 amended. Operation of bicycles and similar vehicles. Requires the driver of any vehicle overtaking another vehicle (whether a "motor vehicle" or not) proceeding in the same direction to pass at least two feet to the left of the overtaken vehicle. The bill also allows a person operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped to signal a right turn or pull to the right by extending the right hand and arm in a horizontal position straight from and level with the shoulder beyond the right side of the bicycle, electric personal assistive mobility device, electric power-as-

sisted bicycle, or moped, and may signal slowing down or stopping by extending the right arm downward. Additionally, the bill allows persons riding bicycles, electric personal assistive mobility devices, or electric power-assisted bicycles on a highway to ride two abreast if they do not impede the flow of traffic. Helmets required by local ordinances for persons riding bicycles, electric personal assistive mobility devices, or electric power-assisted bicycles on the highway must at least meet the Consumer Product Safety Commission standard. Persons using roller skates or skateboards or riding toys or other devices on wheels or runners on the highways (except bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, and motorcycles) must keep as near as safely practicable to the far right side or edge of the right traffic lane so that they will be proceeding in the same direction as other traffic. It also provides that every bicycle, electric personal assistive mobility device, electric power-assisted bicycle, and moped, when in use between sunset and sunrise, must be equipped with a headlight on the front that emits a white light visible in clear weather from a distance of at least 500 feet and a red reflector visible from a distance of at least 600 feet when directly in front of lawful lower beams of headlights on a motor vehicle. HB 552; CH. 947/SB 252; CH. 973.

§§ 46.2-819 and 46.2-819.1 amended; § 46.2-819.3 added.

Toll roads; failure to pay toll. Provides a civil penalty of \$25 for a first offense or \$50 for any subsequent offense plus the operator's administrative fee and the toll due, and applicable court costs if the vehicle is found to have used a toll facility without payment of the required toll. The operator of a toll facility may send an invoice or bill to the driver as part of an electronic or manual toll collection process prior to seeking remedies allowed by the bill. Penalties assessed as the result of action initiated by the Virginia Department of Transportation shall be remanded to the Virginia Department of Transportation's Toll Facilities Revolving Fund. Penalties assessed as the result of action initiated by an operator of a toll facility other than the Virginia Department of Transportation shall be remanded to the toll facility's account for expenses associated with operation of the facility and payments against any bonds or other liens issued as a result of the construction of the facility. The bill provides that imposition of a civil penalty for failure to pay a toll shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such civil penalty is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. HB 1157; CH. 924.

§ 46.2-819.2 amended. Failing to pay for motor fuel; penalty. Clarifies that any person who intentionally drives away without paying for motor fuel may be prosecuted for larceny, in addition to the \$100 civil penalty. HB 592; CH. 795.

§ 46.2-832 amended. Damaging signs. Makes it a Class 1 misdemeanor (jail for up to 12 months and/or a fine up to \$2,500) to deface, damage, knock down, or remove any street address sign posted to assist in address identification in connection with enhanced 9-1-1 service. HB 658; CH. 291.

§ 46.2-833 amended. Traffic lights. Provides that drivers of vehicles approaching an intersection controlled by traffic lights that are dark because of power failures or similar causes shall proceed as though the intersection were controlled by all-way stop signs. HB 777; CH. 743

§ 46.2-833 amended. Traffic lights. Makes noncompliance with traffic light signals a traffic infraction punishable by a fine of no more than \$350. SB 421; CH. 252.

§ 46.2-834 amended. School crossing guards. Requires school crossing guards to whom hand-held stop signs are supplied by their local school divisions to use them to control traffic at school crossings. HB 1445; CH. 575.

§ 46.2-867 amended; § 46.2-865.1 added. Penalties for racing. Provides that causing serious bodily injury to another while racing a motor vehicle in a manner that shows a reckless disregard for human life is a Class 6 felony. The bill also requires seizure and forfeiture of a convicted person's vehicle and surrender of the person's driver's license for one to three years. HB 993; CH. 859.

§ 46.2-868 amended. Reckless driving; penalties. Provides that if a person is convicted of reckless driving while driving on a suspended or revoked operator's license (for a moving violation) and as the sole and proximate cause of his reckless driving, causes the death of another, he is guilty of a Class 6 felony. HB 250; CH. 349.

§ 46.2-870 amended. Speed limits. Provides that the maximum speed limit will be 65 miles per hour on (i) interstate highways, (ii) multi-lane, divided, limited access highways, and (iii) high-occupancy vehicle lanes that are physically separated from regular travel lanes and 60 miles per hour on U.S. Route 360 where it is a nonlimited access, multilane, divided highway. SB 408; CH. 696.

§ 46.2-873.1 amended. Speed limits. Adds Clarke, Fauquier, Frederick, Warren, and Wythe to the list of counties within which the maximum speed limit on dirt roads is 35 miles per hour, unless increased or decreased by the Commonwealth Transportation Commissioner. Presently, this provision applies only to Loudoun County. HB 35; CH. 719.

§§ 16.1-69.40:1 and 46.2-878.2 amended. Local, prepayable traffic offenses. Provides that the fine for speeding in certain residential districts that have signs displaying the speed limit is \$200 and can be suspended only if the court orders 20 hours of community service. Under current law the fine can be up to \$200 and there is no reference to community service. The bill also provides that the prepayable fine is \$200 plus an amount per mile-per-hour. HB 253; CH. 350.

§ 46.2-881.1 added. Yard sales. Allows local governing bodies to require any person hosting any yard sale, auction, or other special event that is open to the public, held out-of-doors, and is within 100 feet of any public highway on which the posted speed limit is 35 miles per hour or more to notify the local governing body of the event. The local governing body may then provide for placement of temporary signs, 50 feet

from the location of the event in both directions, stating: Caution--Congested Area Ahead. This bill will not become effective unless reenacted by the 2005 Session. SB 246; CH. 775 (effective - see bill).

§ 46.2-892 amended. Amber warning lights on rural mail delivery vehicles. Allows rural mail delivery vehicles to display at least one flashing amber warning light, mounted on the roof of the vehicle, in close proximity to a sign with the words "U.S. Mail." For additional safety, a flashing amber warning light may be mounted on the rear of the vehicle to be used in conjunction with rear-mounted "U.S. Mail" signs, but use of such a rear-mounted light is not required. HB 556; CH. 359.

§ 46.2-914 amended. Mopeds. Requires all moped drivers to have identification that includes their name, address, and date of birth. Violations are punishable by a fine of no more than \$50. HB 1120; CH. 758.

§ 46.2-924 amended. Pedestrians. Allows the governing body of towns in Loudoun County to provide by ordinance for the installation and maintenance of highway signs at marked crosswalks specifically requiring operators of motor vehicles, at the locations where such signs are installed, to yield the right-of-way to pedestrians crossing or attempting to cross the highway. SB 101; CH. 658.

§ 46.2-1022 amended. Colored warning lights. Authorizes certain Department of Military Affairs vehicles and Virginia National Guard vehicles, as designated by the Adjutant General, when used in state active duty service to perform particular law-enforcement functions, to be equipped with flashing, blinking, or alternating blue, blue and red, blue and white, or red, white, and blue combination warning lights of types approved by the Superintendent. Presently, use of these lights is limited to Department of Corrections vehicles designated by the Director of the Department of Corrections and law-enforcement vehicles. HB 1335; CH. 323.

§ 46.2-1052 amended. Sight-seeing carriers; limousine and executive sedan carriers. Updates an outdated cross-reference to definitions in § 46.2-2000. HB 232; CH. 613.

§ 46.2-1077.1 added. Mobile infrared transmitters. Prohibits operation by any person of a motor vehicle on the highways of the Commonwealth when the vehicle is equipped with a mobile infrared transmitter used to preempt or change the signal given by a traffic light. The bill also makes it illegal to sell any of these devices in the Commonwealth, except for uses permitted by the bill. The bill doesn't apply to law-enforcement, fire-fighting, life-saving, or rescue vehicles or ambulances responding to an emergency call or operating in an emergency situation, nor to any vehicle providing public transportation service in a corridor approved for public transportation priority by the Virginia Department of Transportation or the governing body of any county, city, or town having control of the highways within its boundaries. HB 87; CH. 268.

§ 46.2-1088.4 added. Utility trailers. Requires that either two or more reflectors of a type approved by the Superintendent of State Police or at least 100 square inches of solid reflectorized

material be affixed to the rear end of every trailer that has an unloaded weight of 3,000 pounds or less. The reflectors or reflective material must be applied so as to outline the rear end of the trailer. HB 429; CH. 785.

§ 46.2-1088.4 added. Passenger cars with nitrous oxide-supplied engines. Prohibits operation on the public highways of motor vehicles whose engines are supplied with nitrous oxide. Violations constitute Class 3 misdemeanors (fine up to \$500). HB 564; CH. 282.

§ 46.2-1157 amended. Motor vehicle safety inspections. Exempts certain new motor vehicles from initial safety inspections. HB 85; CH. 267.

§ 46.2-1166 amended. Motor vehicle safety inspection stations. Requires each motor vehicle safety station to have garage liability insurance in the amount of at least \$500,000 with an approved surplus lines carrier or an insurance company licensed to write such insurance in this Commonwealth. HB 1425; CH. 383.

§§ 46.2-1176 and 46.2-1178 amended. Emissions inspections; hybrid vehicles. Exempts qualified hybrid vehicles from the motor vehicle emissions inspection program. HB 887; CH. 915.

§§ 46.2-1188 through 46.2-1192 amended; §§ 46.2-1190.1 and 46.2-1190.7 added. Motorcycle rider safety training centers. Provides for licensure of motorcycle rider safety training centers, instructors, etc., by the Department of Motor Vehicles. HB 532; CH. 734.

§§ 46.2-1203 and 46.2-1603.1. See § 43-34; HB 1119.

§ 46.2-1208 amended. Abandoned vehicles. Provides that when a manufactured home or a mobile home is found abandoned on somebody else's property, the owner or person having a security interest in the abandoned manufactured home or mobile home has 120 days (instead of 30 days) to reclaim the vehicle before the owner of the property on which the manufactured home or mobile home was found abandoned can apply to the Department of Motor Vehicles to get his own title to the abandoned manufactured home or mobile home. HB 346; CH. 353.

§ 46.2-1222 amended. Parking on secondary system highways. Allows the governing bodies of Fairfax, James City, Loudoun, Montgomery, Prince George, Prince William, and York Counties by ordinance to restrict or prohibit parking on secondary highways within their boundaries. Current law requires approval of these actions by the Commonwealth Transportation Board. HB 677; CH. 797.

§ 46.2-1222.1 amended. Parking. Allows towns in Fairfax County the same power as the County to regulate or prohibit parking of certain vehicles. HB 721; CH. 225/SB 273; CH. 108.

§ 46.2-1222.1 amended. Regulation of parking in certain localities. Expands the range of vehicles that the counties of Arlington, Fairfax and Prince William (described by form of

government) may include in their local ordinances that regulate the parking of certain vehicles on public highways in residence districts. SB 471; CH. 702.

§ 46.2-1500 amended. Motor vehicles dealers. Provides that mobile cranes that exceed the size or weight limitations as set forth in || 46.2-1105, 46.2-1110, 46.2-1113, or Article 17 (| 46.2-1122 et seq.) of Chapter 10 of Title 46.2 (Motor Vehicles) of the Code are not "motor vehicles" for the purpose of sale by persons not licensed as motor vehicle dealers. SB 387; CH. 111.

§ 46.2-1503.5. See § 2.2-608; SB 6.

§ 46.2-1530.2 amended. Dealer's manual transaction fee. Increases from 10 per month to 20 per month the number of manual transactions that may be conducted by a dealer with the Department of Motor Vehicles without incurring an additional fee. The bill expires on January 1, 2006. HB 1423; CH. 812 (effective 4/14/04).

§§ 46.2-1700, 46.2-1701, 46.2-1702, 46.2-1703, 46.2-1705, and 46.2-1707 amended; §§ 46.2-1701.2 and 46.2-1701.3 added. Driver training schools. Provides the Department of Motor Vehicles with appropriate statutory authority to regulate driver training schools and amend its driver training school regulations. SB 288; CH. 587.

§ 46.2-1992 amended. Trailer dealers. Exempts from licensure as trailer dealers persons dealing solely in utility/cargo trailers that weigh no more than 3,000 pounds. HB 340; CH. 726 (effective 4/12/04).

§ 46.2-1993.67:2 added. Franchised motorcycle dealers. Requires manufacturers and distributors, in the event of an involuntary discontinuation, cancellation, or nonrenewal of a franchise agreement, to repurchase certain vehicles, parts, and equipment from the dealer. SB 112; CH. 107.

§ 46.2-2000 amended. Passenger carriers; definition of "minibus." Increases the number of passengers that can be transported by a "minibus" from 16 to 31. SB 511; CH. 780.

TITLE 46.2. MISCELLANEOUS - MOTOR VEHICLES.

Motor vehicles; failure to pay parking citations. Repeals the July 1, 2005, "sunset" on the 2003 act that extended the power of the Commissioner of the Department of Motor Vehicles to refuse to renew motor vehicle registrations when an owner of a vehicle owes delinquent parking citations to the locality where it is registered. This act does not apply to rental vehicles. SB 419; CH. 698.

Release of personal data by the Department of Motor Vehicles to toll facility operators and toll technology entities. Allows the Commissioner of the Department of Motor Vehicles to enter into agreements with private toll facility operators

or toll collection technology entities to enable them to obtain from the Department personal information in order to conduct motor vehicle research relating to methods of electronic toll collection. SB 107; CH. 660.

TITLE 48. NUISANCES.

§§ 48-16 and 48-17. See § 18.2-46.1; HB 1060.

TITLE 50. PARTNERSHIPS.

§§ 50-73.17, 50-73.48:3, 50-73.54, 50-73.57:2, 50-73.57:3, 50-73.69, 50-73.93, and 50-73.138. See § 13.1-616; HB 342.

§§ 50-73.46, 50-73.46:1, 50-73.52:1, 50-73.69, 50-73.83, 50-73.132, 50-73.134, 50-73.137:1, and 50-73.137:2. See § 13.1-754; SB 538.

§§ 50-73.70 and 50-73.83. See § 13.1-1065; HB 1187.

TITLE 51.1. PENSIONS, BENEFITS, AND RETIREMENT.

§ 51.1-124.22 amended. Virginia Retirement System; overpayments. Permits the Virginia Retirement System ("VRS") to recoup overpayments of benefits paid under programs administered by VRS, from benefits paid under the VRS Group Insurance Plan. HB 200; CH. 80.

§ 51.1-126.5 amended. Virginia Retirement System; defined contribution plan. Permits an employee who moves from a position covered under the Virginia Retirement System's ("VRS") defined contribution plan to a position covered under a different VRS retirement program to use his own funds to purchase service time in the new program if the amount in his defined contribution plan account is insufficient to pay the actuarial cost of the total time worked in the prior position. SB 540; CH. 206.

§§ 51.1-138, 51.1-205, and 51.1-216 amended. Retirement; law-enforcement officers. Provides that law-enforcement officers in service on June 30, 2002, and July 1, 2002, with five or more years of creditable service are not required to serve at least five years as a member under a specific retirement system in order to receive maximum retirement benefits. The five-year requirement for service as a member under a specific retirement system was enacted by the 2002 Session of the General Assembly. HB 334; CH. 83 (effective 3/12/04).

§ 51.1-139 amended. Virginia Retirement System; employer in default. Clarifies the process to occur when an employer becomes financially unable to make contributions to the Virginia Retirement System on behalf of its employees. SB 541; CH. 207.

§§ 22.1-79 and 51.1-155 amended; § 22.1-70.3 added. Re-hiring of retired teachers; designation of critical need areas. Directs local school boards to annually survey their respective divisions to identify critical shortages of teachers and administrative personnel by subject matter, and report such critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System (VRS). The school board may delegate this duty to the division superintendent. Retired persons rehired as teachers and administrators for such identified shortage positions may elect to continue to receive VRS benefits.

Under current law, only the Superintendent of Public Instruction is empowered to identify the critical shortage areas; this authority expires on July 1, 2005. Similarly, additional enactment clauses create a corresponding July 1, 2005, sunset for this measure. HB 1171; CH. 563 (effective 4/12/04).

§ 51.1-164 amended. Virginia Retirement System benefits; payment to successor of decedent by affidavit. Permits benefits to be paid to a person claiming to be the successor of a deceased member upon his filing an affidavit certifying, among other things, that the value of the entire personal probate estate does not exceed the maximum value of such estate allowed to be processed by affidavit under the Virginia Small Estate Act (currently \$15,000). Under current law Virginia Retirement Benefits cannot be paid under such conditions if the value of the entire personal probate estate exceeds \$10,000. HB 201; CH. 81.

§ 51.1-206 amended. Virginia Law Officers' Retirement System. Classifies service rendered as an employee under the Virginia Law Officers' Retirement System as service rendered in a hazardous position for purposes of retirement benefits under or pursuant to the State Police Officers' Retirement System. The bill applies to persons retiring on or after October 1, 1999. SB 311; CH. 687.

§ 51.1-303 amended. Judicial Retirement System; technical correction. Makes a technical correction to the maximum credit that a former judge may transfer to the Virginia Retirement System when he accepts a nonjudicial position covered by the Virginia Retirement System. SB 174; CH. 672.

§ 51.1-505 amended. Group life and accident insurance for state and local employees. Provides an employee who has at least 20 years of creditable service with life insurance benefits equal to twice the amount of his highest annual salary, and provides a retiree, who retired with at least 20 years of creditable service, and then returns to work in a covered position, with life insurance equal to the greater of twice his highest salary or the amount he would have been eligible for had he remained retired. The bill does not apply to eligible employees who retired or retire on or after July 1, 1999, provided that such

employees are alive on or after July 1, 2004. HB 199; CH. 102.

§ 51.1-602 amended. Government Employees Deferred Compensation Plan Act; collection of administrative fees by political subdivisions. Permits participating political subdivisions to collect administrative fees imposed by the Virginia Retirement System from participating employees. HB 551; CH. 86.

§ 22.1-199.1 amended; §§ 51.1-617 and 51.1-618 added. Enhanced compensation and retirement benefits for certain employees of local public school boards. Authorizes local school boards to employ turnaround specialists to address conditions at a public school that may impede educational progress and effectiveness and academic success. The bill also authorizes local school boards to offer increased retirement benefits and compensation to turnaround specialists and licensed instructional personnel teaching in a subject matter in grades six, seven, or eight under a middle school critical shortage program adopted by the State Board of Education. HB 576; CH. 436.

§§ 51.1-1000 through 51.1-1003 amended; § 51.1-1004 added. State and local retirement systems; electronic communication. Permits the Virginia Retirement System and certain local retirement systems to communicate required information to members and beneficiaries through electronic media. SB 599; CH. 209.

§ 51.1-1103 amended. Virginia Sickness and Disability Program; suspension of eligibility. Clarifies that an employee is ineligible to participate in the Virginia Sickness and Disability Program during any period of nonpay status due to suspension pending investigation or outcome of employment-related court action. HB 700; CH. 186.

§ 51.1-1110 amended. Virginia Sickness and Disability Program. Precludes payment of short-term disability benefits for elective medical procedures, including surgery, during an initial six-month probationary period without approval of the employer. The employee shall give reasonable advance notice to his immediate supervisor and the employer shall not unreasonably withhold authorization for such medically necessary absences. Current law provides such coverage beginning the first day of employment. The provisions do not apply to short-term disability benefits for which payment began prior to July 1, 2004. SB 628; CH. 1019.

§ 51.1-1112 amended. Virginia Sickness and Disability Program; long-term disability benefits; state employees. Requires employees, as a condition to receiving long-term disability benefits under the Virginia Sickness and Disability Program, to apply for Social Security disability benefits unless they are otherwise directed. HB 699; CH. 96.

§§ 51.1-1113 and 51.1-1124 amended. Sickness and Disability Program for state employees. Clarifies that when an employee receives long-term disability benefits and returns to active employment in any position, not just the same position

he previously held, then any succeeding period of disability shall constitute a new period of disability. HB 701; CH. 97.

§ 51.1-1114 amended. Virginia Sickness and Disability Program; collection of disability overpayments. Permits the Board of Trustees of the Virginia Retirement System to collect overpayments of disability benefits from any payments due the disabled member's survivor and beneficiaries. Under current law the Board is authorized to make such collections from payments due directly to the disabled member. HB 703; CH. 99.

§§ 51.1-1117, 51.1-1123, and 51.1-1133 amended. Virginia Sickness and Disability Program; actuary. Clarifies that the actuary authorized to recommend certain benefit adjustments is the actuary of the Virginia Sickness and Disability Program, instead of the actuary of the Virginia Retirement System. HB 702; CH. 98.

§ 51.1-1400 amended. Retirement health insurance credits. Clarifies that retirees under the state optional and alternative retirement plans are eligible for the health insurance credits provided to state retirees. HB 163; CH. 79.

§ 51.1-1401 amended. Retirement; health insurance credits for retired school superintendents. Provides that school superintendents who retire pursuant to the alternative defined contribution plan shall receive the same health insurance credit benefits afforded to retired teachers. HB 356; CH. 84.

TITLE 51.1. MISCELLANEOUS - PENSIONS, BENEFITS, AND RETIREMENT.

Optional supplemental health insurance credit for retired state employees. Repeals the optional supplemental health insurance credit for retired state employees that has not become effective because the Internal Revenue Service has not affirmatively ruled that such a plan could be treated as a qualified plan for federal income tax purposes. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 16; CH. 76.

TITLE 51.5. PERSONS WITH DISABILITIES.

§§ 51.5-53 and 51.5-56 amended. Assistive Technology Loan Fund Authority; powers. Authorizes the board of directors of the Assistive Technology Loan Fund Authority to borrow money to carry out its statutory purposes and to execute evidences of such indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from fees and charges imposed by the authority and to provide for the payment of the same and for the rights of the holders thereof. The

bill also adds a definition of bonds and contains technical amendments. HB 354; CH. 728.

§ 51.5-72 amended; § 51.5-72.1 added. Advisory Boards for the Virginia Industries for the Blind. Combines the regional advisory boards for the Virginia Industries for the Blind in Charlottesville and Richmond into one state board with a reduced membership. The two existing boards began to conduct joint meetings in 1998 as an efficiency measure, and the joint venture has proved to be successful. Under current law, an advisory board is created for each manufacturing and servicing district established. Because only two service districts currently exist and the Department does not anticipate that any more will be created, the authority of the Board for the Blind and Vision Impaired to establish advisory boards is repealed. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 12; CH. 13.

TITLE 52. POLICE (STATE).

§ 52-8.3. See § 2.2-3703; SB 352.

§ 52-8.4 amended. Commercial motor vehicle safety; hours of service. Exempts from hours-of-service requirements operators of vehicles engaging in the provision or restoration of utility services when the loss of such service is unexpected, unplanned or unscheduled. HB 516; CH. 23 (effective 3/2/04).

§§ 52-11.4 and 52-11.5 added. Unclaimed property; sale and disposal by State Police. Allows the State Police to provide for the sale or use of unclaimed personal property that has been in its possession unclaimed for more than 60 days. "Unclaimed personal property" is defined to include any personal property, other than firearms or other weapons, that (i) belongs to another that has been acquired by a law-enforcement officer pursuant to his duties; (ii) is not needed in any criminal prosecution; (iii) has not been claimed by its rightful owner; and (iv) the State Treasurer has indicated will be declined pursuant to the Uniform Disposition of Unclaimed Property Act. Prior to sale or use of the unclaimed property, the State Police must attempt to notify by mail the rightful owner of the property, receive in writing from the attorney for the Commonwealth that the property is not needed for a criminal prosecution, post on its website for 60 days a description of the property and notice of the time, date, and place of display and sale of the property and publish in a newspaper of general circulation in the locality where the sale is to be held once a week for two successive weeks prior to the sale, a notice that includes the date, time, place of the sale, general description of items to be sold and the State Police website address. The bill also provides for the disposition of funds from such sale into the Literary Fund. Alternatively, the State Police may retain any unclaimed personal property for its own use, or use of other

law-enforcement agencies, if that is a more economical alternative to the purchase of a similar item. No claim may be made or any suit initiated for the recovery of the property or the proceeds after one year from the date of sale. The bill also creates a section that allows the State Police to destroy unclaimed firearms or other weapons if it complies with the notice provisions relating to the disposition of unclaimed personal property set forth above. HB 360; CH. 427.

§ 52-32. See § 15.2-1718; SB 317.

§ 52-34.3 amended. **Amber alert system; issuance of alerts.** Clarifies that the initial decision to make a local or regional Amber Alert is at the discretion of the local or regional law-enforcement officials, but the local or regional law-enforcement officials must provide information regarding the abducted child to the State Police prior to issuing the alert. The initial decision to make a statewide Amber Alert is at the discretion of the State Police. HB 214; CH. 270.

§ 52-46 added. **Applicant Fingerprint Database.** Requires the State Police to develop a separate fingerprint database for use in criminal background checks for the purpose of allowing agencies and entities who require a criminal background check as a condition of licensure, certification, employment or volunteer service to be advised when an individual who is currently licensed, certified, employed or volunteering is arrested for, or convicted of a criminal offense which would disqualify the individual from his current status. The bill also provides that an entity authorized to submit fingerprints to the database shall not be considered negligent per se in a civil action if it elected not to submit fingerprints. SB 634; CH. 826.

TITLE 52. MISCELLANEOUS - POLICE (STATE).

Awards service handgun to widow of Anthony Daryl Campbell. Awards the service handgun of Virginia State Trooper Anthony Daryl Campbell to his widow. SB 623; CH. 257.

State Police radio system. Authorizes the Secretary of Public Safety to finalize and implement the Statewide Agencies Radio System (STARS) contract, consistent with the language in the 2003 budget bill. This includes the authority to acquire sites by eminent domain. STARS is a statewide radio and data communication system for law enforcement. SB 608; CH. 824.

TITLE 53.1. PRISONS AND OTHER METHODS OF CORRECTION.

§ 53.1-22. See § 32.1-46; HB 855.

§ 53.1-27 amended. **State correctional facilities; stores.** Provides that a portion of the profits from stores or commissaries within correctional facilities may be expended for pre-release and post-release reentry and transition services. Currently, the profits are used for recreational and educational purposes and other purposes beneficial to the inmates. SB 615; CH. 417.

§§ 53.1-95.8 and 53.1-109. See § 19.2-152.2; HB 1308.

§§ 53.1-116 and 53.1-203. See § 18.2-36.1; HB 1059.

§ 53.1-116 amended. **Jails; good time policies.** Clarifies that it is the responsibility of each individual jailer to determine the manner in which discretionary additional credits are awarded for institutional work assignments, participation in classes and local work force programs. The jailer is required to have written policy stating the criteria for and conditions of the credits. The bill does not change the rate of five days for every 30 days served. SB 389; CH. 400.

§ 53.1-120 amended. **Assessment for courthouse and courtroom security.** Broadens the use of the \$5 fee collected by the courts for assessment for courthouse and courtroom security to allow the fee to be used to fund equipment and other personal property to be used in connection with courthouse security, if requested by the sheriff, and not just security personnel as under current law. HB 504; CH. 432/SB 214; CH. 390.

§ 53.1-124. See § 19.2-159; HB 1056/SB 330.

§§ 53.1-172 and 53.1-174 amended; §§ 53.1-176.1, 53.1-176.2, and 53.1-176.3 added. **Interstate Compact for the Supervision of Adult Offenders.** Establishes a new interstate compact to replace the existing Compact. The former Compact (Out of State Supervision of Parolees or Probationers, 1937) will stay in effect to deal with those states that do not adopt the new Compact. The Compact takes effect on the later of July 1, 2004, or the date that 35 states adopt it. Under the new Compact, an Interstate Commission is created. The Commission's duties include establishing uniform procedures to manage the movement of adult offenders under community supervision between participating states; ensuring the opportunity for input and providing a timely notice to victims and jurisdictions where offenders are authorized to travel or relocate across state lines; establishing a uniform data collection system; monitoring compliance of interstate movement of offenders and initiating interventions to address noncompliance; and coordinating training programs regarding interstate movement for officials involved in such activities. Each Compacting State is responsible for supervision of adult offenders in its communities who are authorized by the Compact to travel across state lines. Such responsibilities include tracking the location of offenders, transferring supervision, and returning offenders to originating jurisdictions. The bill also creates a council to oversee the operations of the Compact within Virginia. SB 448; CH. 407 (effective - see bill).

TITLE 53.1. MISCELLANEOUS - PRISONS AND OTHER METHODS OF CORRECTION.

State Compensation Board. Requires the State Compensation Board to (i) maintain in the Local Inmate Data System (LIDS) specific data fields for an inmate's country of birth and country of citizenship, (ii) require all jail facilities that are subject to LIDS reporting to complete the additional fields for all inmates housed at such facilities, (iii) annually encourage all jail facilities subject to LIDS reporting to request compensation from the United States Department of Justice State Criminal Alien Assistance Program (SCAAP) for costs associated with incarcerating undocumented aliens (iv) provide information to all jail facilities on the eligibility requirements to obtain such funds; and (v) monitor local jail participation in the SCAAP program. HB 235; CH. 82.

State correctional facilities; private contracts. Provides that on or after July 1, 2004, no new prison financing, site selection, acquisition, construction or maintenance, leasing, management or operation of a new prison facility shall be commenced unless based upon a written analysis of the benefit to the Department of Corrections, including an analysis of the costs and benefits of utilizing the Corrections Private Management Act (§ 53.1-261 et seq.) or the Public-Private Education Facilities and Infrastructure Act (§ 56-575.1 et seq.). HB 1042; CH. 861.

TITLE 54.1. PROFESSIONS AND OCCUPATIONS.

§§ 54.1-105, 54.1-106, 54.1-111, 54.1-2400, 54.1-2400.2, 54.1-2401, 54.1-2403.01, 54.1-2403.1, 54.1-2403.2, 54.1-2408.1, 54.1-2409, 54.1-2409.1, 54.1-2906, 54.1-2907, 54.1-3000, 54.1-3005, 54.1-3008, 54.1-3009, 54.1-3016, and 54.1-3019. See § 32.1-127.1:03; HB 633.

§§ 54.1-114 and 54.1-4421. See § 2.2-608; SB 6.

§ 54.1-117. See § 46.2-330; HB 319.

§ 54.1-307.1 amended. Department of Professional and Occupational Regulation; complaint information; time for filing complaints. Authorizes the Department of Professional and Occupational Regulation to consider information from public sources as the basis for written complaints against a regulant. The bill also extends the period of time that a complaint may be filed against a regulant where the regulant has misrepresented, concealed or omitted any information material to the establishment of a violation to two years from the date of discovery of the misrepresentation, concealment or omission. Under current law, the period of time is extended only when the regulant materially misrepresents any information required by statute or regulation to be disclosed. The bill further pro-

vides that in cases where criminal charges involving matters that would also constitute a violation of the regulations or laws of the regulant's profession or occupation enforced by the Department are brought against the regulant, an investigation may be initiated by the Department within two years of the date that the criminal charges are brought. HB 716; CH. 297.

§ 54.1-406 amended. Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects; necessity for license; design-build contracts. Provides that a contractor licensed by the Board for Contractors is not required to get an architect's or engineer's license to bid on or negotiate design-build contracts or perform services, other than architectural, engineering or land surveying services under a design-build contract. The bill provides, however, that the architectural, engineering or land surveying services offered or rendered in connection with such contracts shall only be rendered by a licensed architect, professional engineer or land surveyor. HB 854; CH. 191.

§ 54.1-503 amended. Department of Professional and Occupational Regulation; Board for Asbestos, Lead, and Home Inspectors; necessity for license. Clarifies that it is unlawful to contract or perform asbestos or lead abatement activities without possessing a license as an asbestos contractor or lead contractor. HB 463; CH. 133.

§ 54.1-516.1 added. Department of Professional and Occupational Regulation; Board for Asbestos, Lead, and Home Inspectors; summary suspension of licenses. Provides authority for the Board for Asbestos, Lead, and Home Inspectors to order summary suspension of a license issued by the Board or approvals for training managers, principal instructors, and training courses issued by the Board without a hearing or an informal fact finding conference. The bill also provides that proceedings for a hearing or an informal fact finding conference must be instituted simultaneously with the suspension. HB 462; CH. 222.

§ 54.1-603.1 added. Department of Professional and Occupational Regulation; Auctioneers Board; continuing education. Provides for the Auctioneers Board to establish continuing education for licensed auctioneers. Under the bill, the Board shall require at least six hours of Board-approved continuing education courses for the renewal or reinstatement of a license. In addition, the bill provides that any continuing education courses completed by an auctioneer pursuant to a requirement of the Certified Auctioneer's Institute or participation in the educational programs sponsored by the National Auctioneer's Association or Virginia Auctioneer's Association shall satisfy the continuing education requirement. HB 1022; CH. 956.

§ 54.1-702 amended. Board for Barbers and Cosmetologists; membership. Requires that of the two licensed cosmetologists on the Board for Barbers and Cosmetologists, at least one such member shall be a salon owner. Currently, of the two licensed cosmetologists appointed, one may be an owner or operator of a cosmetology school. The bill provides that it does not affect existing appointments for which the

terms of current members have not expired. However, any new appointments made after July 1, 2004, shall be made in accordance with the provisions of the bill. The bill contains technical amendments. HB 124; CH. 945.

§ 54.1-1101 amended. Board for Contractors; exemptions from licensure; penalty. Grants an exemption from licensure to any person who performs or supervises repair or improvement of residential dwelling units owned by him that are subject to the Virginia Residential Landlord Tenant Act. The bill further provides that such person and certain persons enumerated in the bill who are exempted from licensure shall comply with the Uniform Statewide Building Code. The bill contains technical amendments. HB 831; CH. 189.

§ 54.1-1103 amended. Board for Contractors; necessity for licensure; design-build construction. Provides that, while a licensed architect or professional engineer is not required to be licensed or certified as a contractor to engage in, or offer to engage in, contracting work or operate as an owner-developer in the Commonwealth when bidding upon or negotiating design-build contracts or performing services under a design-build contract, he must be licensed as a contractor to render construction services in connection with a design-build contract. HB 849; CH. 190.

§ 54.1-1115 amended. Board for Contractors; prohibited acts; misrepresentation; penalty. Adds a prohibition for any person contracting for, or bidding upon the construction, removal, repair or improvements to or upon real property owned, controlled or leased by another person without the proper class of license as defined in § 54.1-1100 (i.e., Class A, B, or C license) for the value of work to be performed. Currently, a person is prohibited from contracting for, or bidding upon the construction, removal, repair or improvements to or upon real property owned, controlled or leased by another person without a license or certificate. The bill also provides that any person undertaking such work without the proper class of license (i.e., Class A, B, or C license) shall be fined an amount not to exceed \$500 per day for each day that such person is in violation, in addition to the authorized penalties for the commission of a Class 1 misdemeanor. HB 422; CH. 131.

§§ 54.1-1140 through 54.1-1143 added. Board for Contractors; certification of elevator mechanics. Institutes a certification program by the Board for Contractors of elevator mechanics and sets forth the requirements for certification. The bill defines elevator mechanic as an individual who is certified by the Board for Contractors and is engaged in erecting, constructing, installing, altering, servicing, repairing, testing or maintaining elevators, escalators, dumbwaiters, or related conveyances in accordance with the Uniform Statewide Building Code. However, a person not certified as an elevator mechanic may perform maintenance that is not related to the operating integrity of an elevator, escalator, dumbwaiter or related conveyance, as provided in the regulations of the Board. The bill provides a one-year waiver of the examination requirement if the applicant is able to demonstrate that he has at least five years experience as a mechanic in the elevator industry. The

bill provides that elevator mechanics must be certified effective July 1, 2005. HB 829; CH. 188.

§§ 54.1-2313, 54.1-2324, and 54.1-2333 amended; § 57-27.3 added. Department of Professional and Occupational Regulation; Cemetery Board; financial reports; authorization for interment. Clarifies that the annual financial report that cemetery companies are required to provide the Cemetery Board for a perpetual care trust fund or preneed trust account be provided on forms prescribed by the Board. The bill also (i) authorizes a cemetery to accept the notarized signature of one next of kin of a decedent for the purpose of authorizing the interment or entombment of the deceased or the erection of a memorial or marker unless the cemetery has written notice of a dispute among the next of kin, (ii) authorizes the Board to regulate and establish qualifications for compliance agents, and (iii) provides for the cemetery to withhold services until the parties have reached mutual agreement or a court has entered an order adjudicating the issue. In addition, the bill requires the Cemetery Board to promulgate regulations within 280 days of the effective date of the act. SB 303; CH. 247.

§§ 54.1-2316 and 54.1-2322 amended; § 54.1-2313.1 added. Cemetery Board; perpetual care trust funds and preneed burial contracts; appointment of receiver. Authorizes the Cemetery Board to petition the court to appoint a receiver to oversee the cemetery operations of a cemetery company in certain situations in order to protect the public. The bill also (i) increases the amount that a new cemetery company must place in an irrevocable perpetual care trust fund from \$25,000 to \$50,000, and (ii) clarifies that the principal of the trust fund must be used for perpetual care unless approval for other uses has been approved by the Board or the court. The bill requires the Board to promulgate regulations within 280 days. HB 857; CH. 192 (effective - see bill).

§§ 32.1-125.01, 32.1-127.1:03, 54.1-2400, 54.1-2505, 54.1-2506.01, 54.1-2706, 54.1-2709.2, 54.1-2910.1, 54.1-2915, and 54.1-3480 amended; §§ 54.1-2400.6, 54.1-2400.7, and 54.1-2400.8 added; §§ 54.1-2906, 54.1-2907, 54.1-2919, 54.1-3009, 54.1-3010, 54.1-3216, and 54.1-3615 repealed.

Health professions; disciplinary proceedings. Grants to all health regulatory boards the authority to delegate some informal fact-finding proceedings to an appropriately qualified agency subordinate pursuant to regulations adopted by the relevant board. The bill makes general an existing provision for most health regulatory boards to order a physical or mental examination of a practitioner when he is unable to practice because of excessive use of alcohol or drugs or mental illness, after preliminary investigation by an informal fact-finding proceeding. The bill moves two sections relating to reporting requirements for hospital and other health care institutions and practitioners into the general provisions for health regulatory boards. Both sections are amended to require that the reports be made to the Director of the Department of Health Professions and are made applicable to persons holding the multistate licensure privilege to practice nursing. The bill requires the Commissioner of the Department of Social Services to report health professionals who may be guilty of fraudulent, unethical

or unprofessional conduct. The bill adds an immunity provision for any person who reports regarding the conduct or competency of a health care practitioner as required by law or regulation or provides information pursuant to an investigation or testifying in a judicial or administrative proceeding as a result of such report, unless the person acted in bad faith or with malicious intent. Finally, the bill requires the health regulatory boards to promulgate emergency regulations relating to the delegation of fact-finding proceedings to an agency subordinate. HB 577; CH. 64 (effective - see bill).

§ 54.1-2405 amended. Copies of patient records when professional practice closed, sold or relocated; notice; charges. Modifies the provision requiring notice specifying that copies of records will be sent to any like-regulated provider of the patient's choice or provided to the patient when a practice is being closed, sold or relocated. This bill provides that the charges for the records must not exceed the actual costs of copying and mailing or delivering the records. "Current patient" is defined as "a patient who has had a patient encounter with the provider or his professional practice during the two-year period immediately preceding the date of the record transfer." "Relocation of a professional practice" is defined as "the moving of a practice located in Virginia from the location at which the records are stored at the time of the notice to another practice site that is located more than 30 miles away or to another practice site that is located in another state or the District of Columbia." HB 875; CH. 53.

§§ 54.1-2517 and 54.1-2523. See § 2.2-3703; SB 352.

§ 54.1-2712 amended; § 54.1-2711.1 added. Practice of dentistry or dental hygiene by students; temporary licenses to persons enrolled in advanced dental education programs; emergency. Modernizes the authority for dental students and dental hygiene students to practice under the direction of competent instructors. This bill removes the mere authority to perform dental operations when enrolled in advanced dental programs (e.g., internships, residencies, certificate and degree programs in hospitals and schools of dentistry) and authorizes the Board to issue temporary annual licenses to these advanced dental students. The Board may promulgate regulations to carry out the temporary licensure program and may require reports from the hospitals and schools of dentistry that operate the programs. Students enrolled in schools of dentistry may perform dental operations in accredited programs, nonprofit dental clinics providing indigent care, governmental or indigent care clinics to which they are assigned in their final academic year, and private dental offices for a limited time during the final academic year. Two enactment clauses require that (i) the Board of Dentistry must promulgate emergency regulations and (ii) the act is an emergency, to be in effect from its passage. HB 1049; CH. 754 (effective 4/12/04).

§§ 54.1-2715, 54.1-2717, and 54.1-2718 amended. Practice of licensed dentists in certain dental clinics. Authorizes licensed dentists to practice as employees of dental clinics operated by the Department of Health, the Department of Men-

tal Health, Mental Retardation and Substance Abuse Services or a Virginia charitable corporation operated as a clinic for the indigent and the uninsured that is organized for the delivery of primary health care services as a federal qualified health center or at a reduced or sliding fee scale or without charge. Present law is presumed to authorize only dentists who hold temporary permits to practice in these settings. HB 626; CH. 48.

§ 54.1-2729 amended. Board of Dentistry; continuing education for dental hygienists. Eliminates the requirement that dental hygienists complete 15 hours of continuing education courses for license renewal or reinstatement after April 1, 1995. Under the bill, continuing education courses will still be required in accordance with the Board of Dentistry's regulations, which will now have the flexibility to set the requisite number of hours. HB 524; CH. 137.

§ 54.1-2900 amended. Practice of podiatry; surgery. Increases the anatomical area of the foot where a podiatrist may perform amputations. The bill authorizes podiatrists to perform amputations proximal to the metatarsal-phalangeal joints in a hospital or ambulatory surgery center that has the appropriate statutorily required accreditation. The bill does not allow amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. HB 409; CH. 731.

§ 54.1-2910.1 amended. Podiatric specialty board certification. Allows podiatrists to list specialty board certifications awarded by the American Board of Multiple Specialties in Podiatry (ABMSP) on their practitioner profiles. Currently, the Board of Medicine only allows the listing of specialty certifications approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association. The ABMSP offers specialty certification to qualified podiatrists in three areas: primary care in podiatric medicine, podiatric surgery, and prevention and treatment of diabetic foot wounds. SB 498; CH. 703.

§§ 54.1-2922, 54.1-2923, and 54.1-3613 repealed. Medical complaint investigation committees and medical and psychological practices audit committees. Abolishes medical complaint investigation committees, medical practices audit committees, and psychological practices audit committees. The medical complaint investigation committees conduct informal inquiries for the purpose of recommending to the Board of Medicine whether sufficient grounds exist to warrant further proceedings by the Board on whether disciplinary action against a practitioner should be taken. The medical practices audit committees review the practice of the disciplined licensees to ascertain whether their practices conform to the conditions placed on their licenses by the Board of Medicine. The Board has had difficulty in finding physicians to serve on these committees. Currently, the Board of Medicine, the Department of Health Professions, the Health Practitioners' Intervention Program and expert witnesses carry out the functions of the medical practices audit and medical complaint investigation committees. Psychological practices audit committees review the practices of disciplined licensees to ascertain whether their practices conform to the conditions

placed on their licenses by the Board of Psychology. The Board has always chosen to conduct audits with the assistance of expert witnesses as needed instead of appointing formal committees. This bill was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 211; CH. 40/SB 5; CH. 68.

§§ 54.1-2956.1, 54.1-2956.3, 54.1-2956.4, and 54.1-2956.5 amended. Occupational therapy. Requires persons who practice or advertise as occupational therapy assistants or use the designation "O.T.A." or any variation thereof to obtain initial certification from a credentialing organization approved in regulation by the Board of Medicine. This provision also makes it unlawful to practice occupational therapy without licensure from the Board. The Board is also given clear authority to require licensure of occupational therapists and certification of occupational therapy assistants. The occupational therapist members of the Advisory Board are required to be licensed. Further, the Advisory Board's powers are revised to include recommendations to the Board of credentialing organizations to be approved for initial certification of occupational therapy assistants.

Current law authorizes the practice of occupational therapy assistants without certification as long as the person is supervised by an occupational therapist in compliance with Board requirements. The current law also restricts the use of titles such as "occupational therapist" to individuals who hold licensure from the Board. Under this bill, applicants for licensure will continue to use titles such as "occupational therapist, license applicant." Individuals who do not claim to be occupational therapy assistants may continue to assist in the provision of occupational therapy services under the supervision of an occupational therapist in accordance with Board requirements. Two enactment clauses require the Board to promulgate emergency regulations and condition initial compliance with the licensure and certification requirements of this provision on the timelines, etc., set forth in the Board's regulations. HB 309; CH. 61 (effective - see bill).

§§ 54.1-2957.02 and 54.1-3812. See § 32.1-46; HB 855.

§§ 54.1-2957.4, 54.1-2957.5, and 54.1-2957.6 amended. Regulation of athletic trainers. Revises the regulatory requirements for athletic trainers from certification to licensure. The Board of Medicine will promulgate regulations for the credentials of athletic trainers with the assistance of the Advisory Board on Athletic Training. Athletic trainers who are certified pursuant to the law in effect on June 30, 2004, will not be required to be licensed until July 1, 2005. Enactment clauses require the Board of Medicine to promulgate emergency regulations to implement the provisions of this act and to deem that athletic trainers who are certified to practice athletic training pursuant to the law in effect on June 30, 2004, will be, upon application, in compliance with the new licensure requirements and will be issued a license to practice athletic training. The Board is authorized to charge a reasonable fee for the applica-

tion for and issuance of the license. SB 159; CH. 669 (effective - see bill).

§ 54.1-2962.2 added. Physician-patient relationships; establishment, effect of certain emergency room evaluations, termination. Provides that any physician-patient relationship that may be created by virtue of an on-call physician or his agent evaluating or treating a patient in an emergency room will be deemed terminated without further notice upon the discharge of the patient from the emergency room or if the patient is admitted to the hospital, upon his discharge from the hospital and after completion of follow-up as prescribed by the physician, unless the physician and the patient affirmatively elect to continue the physician-patient relationship. This provision does not relieve a physician of his post-discharge duty to satisfy the standard of care required in Virginia, i.e., "the degree of skill and diligence practiced by a reasonably prudent practitioner in the field of practice or specialty in this Commonwealth." SB 160; CH. 878.

§ 38.2-3405 amended; § 54.1-2963.1 added. Physician disclosure of medical treatment options. Authorizes physicians to disclose fully all medical treatment options to patients whether or not (i) such treatment options are experimental or covered services, (ii) the treatment options include services that the health insurer will not authorize, or (iii) the costs of the treatment will be borne by the health insurer or the patient, if the physician determines that an option is in the best interest of the patient. This bill also prohibits health insurers from limiting, restricting, or prohibiting physicians from disclosing such information. Physicians who disclose such information to persons with whom they have a physician-patient relationship are immune from liability to any health insurer, in an action instituted solely on behalf of the health insurer, for any civil damages arising from the disclosure of such information. SB 224; CH. 675.

§ 54.1-2972 amended. Pronouncements of death under certain circumstances by physician assistants. Authorizes a physician assistant practicing under the supervision of a physician to pronounce death under the following circumstances: (i) the physician assistant works at (a) a home health organization, or (b) a hospice, or (c) a hospital or nursing home, including state-operated hospitals, or (d) the Department of Corrections; (ii) the physician assistant is directly involved in the care of the patient; (iii) the patient's death has occurred; (iv) the patient is under the care of a physician when his death occurs; (v) the patient's death has been anticipated; (vi) the physician is unable to be present within a reasonable period of time to determine death; and (vii) there is a valid Do Not Resuscitate Order pursuant to § 54.1-2987.1 for the patient who has died. The physician assistant must inform the patient's attending and consulting physicians of his death as soon as practicable and must inform the chief medical examiner of unexpected deaths. The physician assistant will not make a determination of the cause of death, i.e., physicians will continue to have this responsibility. The Board of Medicine's procedures, if any, will apply to these pronouncements of death, and the physician assistant is not relieved of any liability from failure to comply

with the Board's regulations. This bill provides limited authority to pronounce death to physician assistants identical to the authority registered nurses have already been granted. SB 555; CH. 92.

§ 54.1-3029. See § 23-276.1; HB 637.

§§ 54.1-3200, 54.1-3211, 54.1-3221, 54.1-3222, 54.1-3223, and 54.1-3303 amended. **Practice of optometry.** Revises the requirements for the practice and licensure of optometrists by requiring that, after June 30, 2004, every person initially licensed to practice optometry must meet the qualifications for a Therapeutic Pharmaceutical Agent (TPA)-certified optometrist, i.e., be trained to prescribed therapeutic pharmaceutical agents for treatment of diseases of the human eye and its adnexa. The bill expands the prescriptive authority of TPA-certified optometrists to include the prescribing and administering of Schedule III through VI controlled substances and devices to treat diseases of the human eye and its adnexa, within the scope of practice of optometry and as determined by the Board. Present law limits TPA-certified optometrists' prescriptive authority to Schedule III and Schedule VI. The Board of Optometry is required, pursuant to an enactment clause, to promulgate emergency regulations, i.e., within 280 days of the bill's enactment. HB 856; CH. 744 (effective - see bill).

§ 54.1-3321 amended. **Registration of pharmacy technicians in free clinics.** Requires the Board of Pharmacy to waive the initial registration fee and the first examination fee for the Board-approved examination for a pharmacy technician applicant who works as a pharmacy technician exclusively in a free clinic pharmacy. If such applicant fails the examination, he must be responsible for any subsequent fees to retake the examination. A person registered pursuant to this subsection will be issued a limited-use registration. A pharmacy technician with a limited-use registration will be prohibited from performing pharmacy technician tasks in any setting other than a free clinic pharmacy. The Board will also waive renewal fees for such limited-use registrations. A pharmacy technician with a limited-use registration may convert to an unlimited registration by paying the current renewal fee. HB 623; CH. 47.

§ 54.1-3404 amended. **Inventories of controlled substances required by the Board of Pharmacy; certain limited exceptions.** Eliminates the requirement for the Division of Forensic Science to inventory the approximately 1200 drugs maintained in very small quantities as "standards" for making comparisons with the evidence that may be submitted for analyses. In addition, no inventory for the purpose of compliance with Board of Pharmacy requirements will be required of known or suspected controlled substances that have been received as evidentiary materials for analyses by the Division of Forensic Science. This bill tracks federal law to provide limited exceptions to the state inventory requirements, a task requiring many hours of the Division's staff time. The Division's exceptions apply to standards of (i) controlled substances on hand at the time of the inventory in a quantity of less than one kilogram, other than a hallucinogenic controlled substance listed in Schedule I of the Drug Control Act; or (ii) hallucinogenic controlled substances

listed in Schedule I of the Drug Control Act, other than lysergic acid diethylamide (LSD), on hand at the time of the inventory in a quantity of less than 20 grams; or (iii) LSD on hand at the time of the inventory in a quantity of less than 0.5 grams. HB 783; CH. 51 (effective - see bill).

§ 54.1-3434.02 amended. **Filling and stocking of automated drug dispensing systems in hospital pharmacies by registered pharmacy technicians.** Clarifies that the filling and stocking of automated drug dispensing systems in hospital pharmacies may be delegated to registered pharmacy technicians. A pharmacist will remain legally responsible for the proper and accurate stocking and filling of the automated drug dispensing system, i.e., either the pharmacist who is charged with filling and stocking the device or, if a registered pharmacy technician is delegated this task, the pharmacist-in-charge. HB 690; CH. 140.

§ 54.1-3435.02 amended. **Exemptions from the requirements to be licensed as wholesale distributors.** Exempts permitted medical equipment suppliers from being licensed as wholesale distributors when engaging in wholesale distributions of small quantities of oxygen when such wholesale distributions are in compliance with federal law and such wholesale distributions do not exceed five percent of the gross annual sales of oxygen by the relevant permitted medical equipment supplier. HB 852; CH. 854.

§ 54.1-3510 amended; §§ 54.1-3511 and 54.1-3512 repealed. **Advisory Board on Rehabilitation Providers.** Abolishes the Advisory Board on Rehabilitation Providers. The advisory board was created in 1994 (i) to recommend to the Boards of Counseling; Medicine; Nursing; Psychology; and Social Work regulatory criteria for the voluntary certification of their licensees who provide rehabilitation services and for standards of conduct of licensees so certified and (ii) to recommend to the Board of Counseling regulatory criteria for certification and for standards of professional conduct of persons who provide rehabilitative services but who are exempt from licensure as professional counselors. The advisory board has not met since the development of initial regulations. The activities of the advisory board are currently subsumed within the Board of Counseling, which has the authority to form ad hoc advisory groups should the need arise for additional expertise. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 7; CH. 10.

§§ 54.1-3513 and 65.2-603 amended. **Certain vocational rehabilitation counselors.** Authorizes employees or independent contractors of the Commonwealth's agencies and sheltered workshops, who are currently exempt from obtaining Virginia certification as rehabilitation counselors unless they are providing vocational rehabilitation services through workers' compensation, to use the title "rehabilitation provider" or another similar title and to deliver vocational rehabilitation services under workers' compensation if they have obtained

certification by the Commission on Rehabilitation Counselor Certification as certified rehabilitation counselors or by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists as certified vocational evaluation specialists. At this time, there is a disconnect between the required federal standard for delivery of services under the federal Rehabilitation Act through the Department of Rehabilitative Services and the Department for the Blind and Vision Impaired and the Virginia workers' compensation program. Federal authorities recognize national or state certification and Virginia workers' compensation law presently requires state certification for reimbursement. Thus, at this time, Virginia's public employees who hold national certification and work to assist individuals with disabilities to become employed or to maintain employment, cannot provide services to workers' compensation recipients unless they hold state certification. This provision eliminates this dual requirement. HB 270; CH. 271.

§§ 54.1-3600 and 54.1-3605 amended; §§ 54.1-3609 and 54.1-3610 repealed. Advisory Committee on Certified Practices. Abolishes the Advisory Committee on Certified Practices. The advisory committee was created in 1994 to recommend to the Boards of Counseling, Medicine, Nursing, Psychology, and Social Work standards for the voluntary certification of their licensees as sex offender treatment providers and to recommend to the Board of Psychology standards for the mandatory certification of sex offender treatment providers for those professionals who are otherwise exempt from licensure. The advisory committee has not met since the development of the initial regulations. The activities of the advisory committee are currently subsumed within the Board of Psychology, which has the authority to form ad hoc advisory groups should the need arise for additional expertise. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). HB 8; CH. 11.

§ 54.1-3905. See § 6.1-363.2; HB 471.

§ 54.1-4306 added. Itinerant merchants; regulation; penalty. Provides that violations of the chapter are punishable as Class 4 misdemeanors except that any itinerant merchant improperly selling infant formula, baby formula or nonprescription drugs is guilty of a Class 3 misdemeanor. HB 283; CH. 127.

§§ 54.1-4400, 54.1-4402, 54.1-4403, 54.1-4407, 54.1-4409, 54.1-4410, 54.1-4412, 54.1-4413, and 54.1-4414 amended; §§ 54.1-4405.1 and 54.1-4413.1 added. Board of Accountancy. Establishes the Board of Accountancy Trust Account to provide the Board with a supplemental source of funding to study, research, investigate and adjudicate regulatory issues and possible violations of statutes and regulations governing certified public accountants (CPA) or CPA firms licensed in the Commonwealth. In addition, the bill (i) authorizes the use of CPA firms to perform peer reviews and clarifies that persons con-

ducting the peer review must hold a valid CPA license, (ii) deletes provisions authorizing the Board to admit graduates of Bristol College and the Benjamin Franklin School of Accountancy and Financial Administration to the CPA examination, and extends such authority for the admission of graduates with a baccalaureate degree with a major in accounting or a concentration in accounting from the National College of Business and Technology, (iii) authorizes the Board to impose monetary penalties on former licensees and other individuals and entities engaged in the unlicensed practice of public accounting or using the CPA title without a license, (iv) deletes provisions prohibiting referral and contingency fees and required disclosure provisions regarding such fees, and (v) provides for firm registrations to be renewed annually rather than biennially. The bill also contains technical amendments. SB 539; CH. 602.

TITLE 54.1. MISCELLANEOUS - PROFESSIONS AND OCCUPATIONS.

Collaborative agreements between pharmacists and practitioners of medicine, osteopathy, or podiatry. Repeals the second enactment clauses of two 1999 Acts of Assembly to avoid the sunset date of July 1, 2004, and thereby continue the authority for pharmacists involved directly in patient care to participate with practitioners of medicine, osteopathy, or podiatry in collaborative agreements that authorize cooperative procedures related to treatment using drug therapy, laboratory tests or medical devices for the purpose of improving patient outcomes. HB 851; CH. 853.

Department of Professional and Occupational Regulation and the Department of Health Professions; continuing education for certain professional licensees. Provides an extension of the expiration of any license, permit or certificate issued by certain state regulatory entities and held by a citizen of the state if the expiration is schedule to occur when the citizen is on active duty outside of the United States. Also provides that any requirements for the renewal or maintenance of the license, permit or certificate shall not have to be met by the citizen during the period of active duty outside of the United States. The extension of the expiration is limited to 60 days after the citizen returns to the United States but may not exceed five years from the date of the scheduled expiration of the license, permit or certificate. SB 573; CH. 1017.

Department of Professional and Occupational Regulation and the Board for Contractors. Directs the Director of the Department of Professional and Occupational Regulation and the Board for Contractors to establish a pilot program consisting of a cooperative agreement with at least one local governing body that authorizes the building official of such locality to assist in the investigation of complaints and the implementation of final disciplinary orders of the Board. The bill also requires the Director and the Board to submit reports to the Governor and the General Assembly on progress made

in the development and implementation of the pilot program. The bill has a sunset of July 1, 2006. HB 454; CH. 789/ SB 285; CH. 776.

TITLE 55. PROPERTY AND CONVEYANCES.

§ 55-59.1 amended. Notice of sale by trustee; instrument of appointment. Provides that the notice of sale that a trustee must give to the present lienholder, any subordinate lienholder, and other interested parties must include, in addition to the time, date and place of any proposed sale, the instrument number or deed book and page numbers of the instrument of appointment for the trustee or substitute trustee, or must contain a copy of the executed and notarized appointment of substitute trustee. HB 1264; CH. 1001.

§ 55-60 amended. Purchase money trusts. Provides that any deed of trust that secures a loan is deemed a purchase money deed of trust if the borrower uses proceeds to acquire the secured real property. SB 504; CH. 253.

§ 55-66.3 amended. Release of deed of trust or other lien. Allows a lien creditor to directly file a certificate of satisfaction with the clerk unless he receives notice from a settlement agent to deliver the certificate to such settlement agent. If the certificate is filed directly with the clerk prior to receipt of a notice from a settlement agent, the lien creditor will provide the settlement agent with a copy of the certificate. SB 505; CH. 596.

§ 55-79.81 amended. Condominium Act; insurance. Deletes the provision that requires any insurance deductible under the master casualty policy to be paid by the unit owners' association as a common expense if the cause of the damage to or destruction of any portion of the condominium originated in or through the common elements or an apparatus located within the common elements. The measure also deletes the requirement that a unit owner pay such deductible if the cause of any damage to or destruction of any portion of the condominium originated in or through a unit or any component thereof without regard to whether the unit owner was negligent. HB 555; CH. 281.

§§ 55-79.84 and 55-516 amended. Condominium Act and Property Owners' Association Acts; nonjudicial foreclosure. Clarifies that a unit or lot sold in a nonjudicial foreclosure proceeding shall be sold subject to prior liens. The bill reverses the Supreme Court holding in *Wachovia vs. Colchester Towne*, which required lienholders to be paid by the sale proceeds. The bill clarifies that these associations have the authority to serve as a unit owner's or a lot owner's statutory agent and may transfer title to the unit or lot to the purchaser at the foreclosure sale. The bill also (i) extends from 24 to 36 months the time for initiating foreclosure proceedings to enforce a lien; (ii) adds additional notice requirements to the owner of the unit or lot; (iii) provides for the appointment of a trustee to conduct the sale; (iv) allows the association to bid on the unit or lot; (v) clarifies that foreclosure sale expenses in-

clude the association's advertising costs and reasonable attorneys' fees; and (vi) requires the association to prepare an accounting to show the distribution of the sale proceeds. The bill contains technical amendments. HB 449; CH. 786/SB 463; CH. 778.

§§ 55-79.84 and 55-516 amended. Virginia Condominium Act and the Virginia Property Owners Association Act; foreclosure on liens. Clarifies that an action to foreclose any liens that has been perfected under the provisions of either Acts must be initiated within 36 months from the time the memorandum of lien was recorded. SB 503; CH. 779.

§ 55-210.12 amended. Unclaimed property; electronic filing of reports. Requires a person to electronically remit reports containing 25 or more items of funds or other property presumed abandoned in a format prescribed by the State Treasurer. The State Treasurer may waive this requirement when he determines, in his discretion, that it creates an undue hardship. Current law does not specify the format for remission. HB 276; CH. 524.

§ 55-210.18 amended. State Treasurer; sale of abandoned property. Authorizes the sale of abandoned property other than money or other certificates of ownership through the use of electronic media. Expands the forms of notice of a public sale that is to occur outside the Commonwealth to include post, print, visual, telecommunications, or electronic media or any combination of those forms. All sales through the use of electronic media are deemed to be sales outside the Commonwealth. HB 466; CH. 535.

§ 55-210.21 amended. State Treasurer; interest paid to owners of unclaimed property. Specifies the applicable rate of interest to be paid to the owner of unclaimed property if the property was interest bearing and the holder fails to report the applicable rate of interest. HB 275; CH. 523.

§§ 55-222, 55-248.4, and 55-248.37 amended; § 55-248.7:2 added. Landlord and tenant law; termination of tenancies; security deposit. Amends the Landlord Tenant Act to make it consistent with the Residential Landlord Tenant Act concerning termination of month-to-month tenancies. The bill clarifies that a landlord may purchase commercial insurance for damage coverage in lieu of all or part of a security deposit and grants the landlord the authority to purchase renter's insurance coverage for a tenant. The bill caps the amount of the security deposit and insurance premiums combined at two months' rent that can be collected from a tenant upfront. The bill also allows a landlord to include a liquidated damage penalty in the rental agreement and sets the cap for that penalty. HB 153; CH. 123.

§ 55-246.1. See § 16.1-88.03; HB 976/SB 630.

§§ 55-248.13 and 55-248.16 amended; § 55-248.11:2 added. Virginia Residential Landlord Tenant Act; disclosure of mold in dwelling unit. Provides that as part of the written report of the move-in inspection, the landlord shall disclose whether there is any visible evidence of mold in the dwelling unit. If the landlord's written disclosure states that there is no visible evidence of mold in the dwelling unit, this record shall

be deemed correct unless the tenant objects thereto in writing within five days after receiving the report. If the landlord's written disclosure states that there is visible evidence of mold in the dwelling unit, the tenant shall have the option to terminate the tenancy or to accept the dwelling unit in an "as is" condition. The bill also defines "visible evidence of mold" and puts an obligation on the landlord to use reasonable efforts to maintain the premises in such a condition as to prevent the accumulation of moisture and the growth of mold and to promptly respond to any written notices from a tenant. The bill also obliges a tenant to use reasonable efforts to maintain the dwelling unit and any other part of the premises that he occupies in such a condition as to prevent accumulation of moisture and the growth of mold and to promptly notify the landlord in writing of any moisture accumulation that occurs or of any visible evidence of mold discovered by him. The bill contains technical amendments. The bill is a recommendation of the Virginia Housing Study Commission. HB 824; CH. 226.

§ 55-248.18 amended. Virginia Residential Landlord Tenant Act; access by landlord to correct nonemergency property condition. Authorizes a landlord, upon the determination of the existence of a nonemergency property condition in a dwelling unit, to temporarily relocate the tenant from the unit in order to alleviate the condition. The total costs for making the repairs to alleviate the condition shall be at the expense of the landlord and the relocation of the tenant must be to a comparable dwelling unit, at no expense to the tenant and for a period not to exceed 30 days. In addition, the bill provides that the landlord is responsible for any damage to the tenant's property provided the tenant notifies the landlord of the damage within 10 days of returning to the dwelling unit. Under the bill, the failure of the tenant to cooperate with the temporary removal shall be deemed a breach of the rental agreement unless the tenant agrees to vacate the unit and terminate the rental agreement. HB 974; CH. 307.

§ 55-248.31 amended. Virginia Residential Landlord and Tenant Act; noncompliance of rental agreement; award of attorneys' fees. Provides that if the rental agreement provides for the payment of reasonable attorneys' fees in the event of a breach of the agreement and the tenant fails to prove by a preponderance of the evidence that the failure to pay rent or vacate the premises was due to (i) the breach of the lease by the landlord, or (ii) unlawful actions on the part of the landlord, the court shall award such reasonable attorneys' fees. HB 981; CH. 232.

§ 55-277.4:1 added. Total Return Unitrust. Allows a trustee to convert a Virginia trust that directs or permits the distribution of trust net income (an income trust) into a unitrust that distributes a percentage of the trust assets. This bill provides statutory authority that is responsive to federal regulations revising the definition of income for federal tax law purposes. Those federal regulations in turn are responsive to changes in state law, including Virginia law, that permit trusts to use a total return method of investing to promote equitable treatment of trust beneficiaries. This bill codifies in Virginia law the safe harbor provisions of the federal regulations so that Virginia has

full authority for converting an income trust to a total return trust, thus ensuring that Virginia trusts will not migrate to other states that have enacted the safe harbor provisions in state law. HB 1388; CH. 639.

§§ 55-331, 55-332, and 55-334 amended; § 55-334.1 added; § 55-333 repealed. Theft of timber; penalty. Provides that any person who cuts, removes, or severs any timber from the land of another without legal right or permission shall be liable to the rightful owner for treble damages, reforestation costs, the costs of ascertaining the value of the lumber and legal costs. Establishes criminal penalties for the theft of timber. Provides that prima facie evidence of the intent to steal timber exists where the timber was harvested or removed from property marked with readily visible paint marks in specific places on trees or posts along the property line. HB 493; CH. 615/SB 548; CH. 604.

§§ 55-362 and 55-374 amended; § 55-376.1 added. Virginia Real Estate Time-Share Act; possibility of reverter. Authorizes a time-share developer to utilize a deed of reverter in lieu of foreclosure on a time-share estate unit. The bill sets out the procedures required for the possibility of reverter to become effective, and specifies what the defaulting time-share unit owner must do to cure. HB 448; CH. 143.

§§ 55-429, 55-460, 55-462, 55-467, 55-478, 55-479, 55-484, and 55-486 amended; § 55-473.1 added. Virginia Real Estate Cooperative Act. Requires certain disclosures in the public offering statement of a cooperative relating to the assumption of debt by the association. The bill also provides that during development of a cooperative containing additional land or withdrawable land, phase lines created by the cooperative instruments shall not be considered property lines for purposes of subdivision. If the cooperative may no longer be expanded by the addition of additional land, then the owner of the land not part of the cooperative shall subdivide such land prior to its conveyance, unless such land is subject to an approved site plan, or prior to modification of such approved site plan. In the event of any conveyance of land within phase lines of the cooperative, the cooperative and any lot created by such conveyance shall be deemed to comply with the local subdivision ordinance, provided such land is subject to an approved site plan. The bill also provides for the appointment of members of the executive board and the termination of certain management contracts, and provides that unless approved by an 80 percent vote of the proprietary lessees other than the declarant (i) the association shall not assume or take subject to any debt incurred in the original acquisition, development or construction of or the conversion of the cooperative in excess of the amounts disclosed in the public offering statement pursuant to § 55-478 or § 55-479, nor shall the cooperative or any proprietary lessee's interest be encumbered by a security interest for any greater amount incurred for such purposes and (ii) the declarant may not amend the public offering statement to change the amounts disclosed after conveyance of the first unit to a proprietary lessee. In addition, no interest shall accrue on any debt to be assumed by the association until such debt has been assumed. Notwithstanding the foregoing, the amounts

disclosed shall not be subject to adjustment such that the association or the proprietary lessees are subjected to the construction or market risks of the declarant. HB 1435; CH. 242.

§ 55-510 amended. Property Owners' Association Act; access to association records. Provides that except for certain topics, draft minutes of the board of directors shall be open for inspection and copying (i) within 60 days from the conclusion of the meeting to which such minutes appertain or (ii) when such minutes are distributed to board members as part of an agenda package for the next meeting of the board of directors, whichever occurs first. HB 894; CH. 193.

§ 55-510.1 amended. Property Owners' Association Act; board of directors; access to committee and subcommittee meetings. Provides that meetings of any subcommittee or other committee of the board of directors of a property owners association shall be open to members of record of the association. SB 348; CH. 333.

TITLE 55. MISCELLANEOUS - PROPERTY AND CONVEYANCES.

Chamberlin Hotel. Gives the consent of the Commonwealth for the extension of the lease for the operation of the Chamberlin Hotel at Fort Monroe for 50 years and expands the approved uses to include a senior housing facility with an assisted living component and an adjoining parking garage. SB 602; CH. 713 (effective 4/12/04).

Property conveyance; certain real property to City of Petersburg. Authorizes the Virginia Employment Commission to convey certain real property located at 10 North Jefferson Street in the City of Petersburg to the City of Petersburg. The bill provides that such conveyance shall be approved by the Governor and made in a form approved by the Attorney General and that the appropriate officials of the Commonwealth are authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance. HB 1261; CH. 571.

Property conveyance; former Staunton Correctional Center. Authorizes the Governor to convey the former Staunton Correctional Center, upon consultation with the Attorney General, for fair market value. SB 516; CH. 705.

Property conveyance; subaqueous lands to City of Norfolk. Authorizes the Governor to convey certain subaqueous lands in the Elizabeth River at Norfolk to the City of Norfolk. The bill provides that such conveyance shall be made in a form approved by the Attorney General and that the appropriate officials of the Commonwealth are authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance. HB 949; CH. 454.

TITLE 56. PUBLIC SERVICE COMPANIES.

§§ 56-1, 56-49, and 56-265.1 amended. Public service companies; limited liability companies. Authorizes any Virginia limited liability company that is issued a certificate of public convenience and necessity by the State Corporation Commission authorizing it to furnish telecommunications services, and that seeks to construct or acquire facilities for use in providing the certificated telecommunications service, to enter upon property in order to conduct examinations and to acquire property by the exercise of eminent domain. Such powers are currently granted to public service corporations. However, any limited liability company that was certificated to provide telecommunications service prior to July 1, 2004, (i) will not have the power of eminent domain until the Commission specifically authorizes it to exercise such power, and (ii) will not be authorized to exercise the power of eminent domain with respect to any real property that is the subject of any action for trespass or related cause of action in which it is alleged that the limited liability company entered upon and damaged the property, unless the Commission finds that the proceeding has been settled or otherwise dismissed. The bill does not affect the right of any property owner to pursue actions for damages to persons or property done by a certificated limited liability company prior to July 1, 2004. HB 754; CH. 1028.

§ 56-49.01 added. Natural gas companies; right of entry upon property. Allows interstate natural gas companies to enter upon property to make examinations, tests, land auger borings, appraisals and surveys without the written consent of the owner, if the companies seek the landowner's permission to inspect and give notice of intent to enter. In addition, such companies may use motor vehicles, self-propelled machinery, and power equipment on the property after receiving the landowner's permission. A company using the right of entry is liable for any actual damages resulting from its entry upon the land. The bill does not impair any rights of natural gas companies obtained by the power of condemnation, an easement granted by the landowner or his predecessor in title, or any other agreement between the natural gas company and the landowner or his predecessor in title. SB 663; CH. 829.

§ 56-235.5:1 added. Telecommunications; competition policy. Directs the State Corporation Commission, in resolving issues and cases concerning local exchange telephone service under the federal Telecommunications Act or state law to consider it in the public interest, as appropriate, to treat all providers of local exchange telephone services in an equitable fashion and without undue discrimination and, to the greatest extent possible, apply the same rules to all providers of local exchange telephone services. The Commission is also required to consider it in the public interest, as appropriate, to promote competitive product offerings, investments, and innovations from all providers of such services in all areas of the Commonwealth and to reduce or eliminate any requirement to price retail and wholesale products and services at levels that do not

permit providers of such services to recover their costs of those products and services. HB 938; CH. 151.

§§ 56-249.6, 56-577, 56-580, 56-582, 56-583, 56-585, 56-589, and 56-594 amended. Electric Utility Restructuring Act; extension of rate caps and fuel factors; electrical generating facility certificates; municipal and state aggregation; minimum stay requirements; wires charges; net metering. Extends until December 31, 2010, the rate caps currently in place for incumbent electric utilities, unless the rate caps are terminated sooner by the State Corporation Commission (SCC) upon a finding of an effectively competitive market for generation services in the service territory of an incumbent utility. After January 1, 2004, an incumbent electric utility not, as of July 1, 1999, bound by a rate case settlement adopted by the SCC that extended in its application beyond January 1, 2002, may petition the SCC for approval of a one-time change in its rates. If capped rates are continued after July 1, 2007, such an incumbent electric utility may at any time after July 1, 2007, again petition the SCC for approval of a one-time change in its rates, except such a utility that has not retained ownership of its generation may petition only for a change in the nongeneration components of its capped rates. Such a utility is also entitled to an adjustment in its capped rates not more than once in any 12-month period for the timely recovery of its incremental costs for transmission or distribution system reliability and compliance with environmental laws to the extent such costs are prudently incurred on and after July 1, 2004. The bill provides for an extension of the fuel costs recovery tariff provisions (fuel factors) in effect on January 1, 2004, for any electric utility that purchases fuel for the generation of electricity and that was, as of July 1, 1999, bound by a rate case settlement adopted by the SCC that extended in its application beyond January 1, 2002. The fuel factors shall remain in effect until the earlier of (i) July 1, 2007; (ii) the termination of capped rates; or (iii) the establishment of tariff provisions as directed by the SCC. The incumbent electric utilities that have transferred all of their generation assets to an affiliate prior to January 1, 2002, are allowed to recover increases in purchased power costs through fuel factor adjustments on and after July 1, 2007, and otherwise such utilities' capped rates may be changed in accordance with the terms of the SCC's order approving their divestiture of generation assets. The bill extends by two years the expiration date of certain certificates granted by the SCC to construct and operate electrical generating facilities. Only those certificates for which applications were filed with the SCC prior to July 1, 2002, will receive an extension. The bill provides that a municipality or other political subdivision may aggregate the electric energy load of residential, commercial, and industrial retail customers within its boundaries on either an opt-in or opt-out basis, eliminates the requirement that customers must opt in to select such aggregation, and eliminates the requirement that such municipality or other political subdivision may not earn a profit from such aggregation. The bill also authorizes any large industrial or commercial customer that is returning to its incumbent electric utility or default provider after purchasing power from a competitive supplier to elect to accept market-based pricing as an

alternative to being bound by the minimum stay period (currently 12 months unless otherwise authorized) prescribed by the SCC. Customers exempted from minimum stay periods will not thereafter be entitled to purchase retail electric energy from their incumbent electric utilities at the capped rates unless such customers agree to satisfy any minimum stay period then applicable. This bill also authorizes industrial and commercial customers, as well as aggregated customers in all rate classes, to switch to a competitive service provider without paying a wires charge if they agree to pay market-based prices if they ever return to the incumbent electric utility. However, the program is limited for each utility to customers totalling not more than 1,000 or eight percent of the utility's prior year Virginia adjusted peak load within 18 months after the commencement date of the wires charge exemption program. Customers who make this commitment and obtain power from suppliers without paying wires charges are not entitled to obtain power from their incumbent utility at its capped rates. The bill increases from 25 kilowatts to 500 kilowatts the amount of electric generating capacity a nonresidential customer-generator's facility can produce and still qualify to participate in the net metering program. Finally, the bill authorizes any investor-owned distributor that has been designated a default service provider to petition the SCC for approval to construct a coal-fired generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth, in order to meet its native load and default service obligations. A distributor that builds such a facility shall have the right to recover the costs of the facility, plus a fair rate of return, through its default service rates. The construction of such a facility is declared to be in the public interest. SB 651; CH. 827.

§ 56-265.1 amended. Natural gas; access by certain public schools. Authorizes a company or its affiliate to make a first or direct sale, ancillary transmission, or delivery service of natural or manufactured gas to certain public schools in the Commonwealth when the schools are not located in a territory for which a certificate to provide gas service has been issued by the State Corporation Commission. Such sale, transmission, or delivery to public schools in the Counties of Dickinson, Wise, Russell, and Buchanan, and the City of Norton, may be made without regard to the number of schools involved and such schools shall not count in determining whether the company is providing sales or transmission or delivery services to fewer than 35 customers. HB 920; CH. 748.

§§ 56-484.7:5 and 56-484.7:6 added. Telecommunications; telephonic reading services. Authorizes funding for the operation of telephonic reading services through the assessments already being received for the telecommunications relay service. "Telephonic reading services" means audio information provided by telephone to the blind and visually impaired through a nationally available, multi-state service center to registered readers in all parts of the Commonwealth, including the interstate acquisition and distribution of daily newspapers and other information. Enactment of this bill is contingent upon future general fund appropriations. HB 798; CH. 849.

§ 56-484.17 amended. Telecommunications; Wireless E-911 Fund; Fund payments. Eliminates the requirement that the Wireless E-911 Board make qualifying payments to eligible operators and providers in four equal payments at the beginning of each calendar quarter, and authorizes the Board to make the payments on an alternate schedule approved by the Board. SB 171; CH. 167.

§ 56-575.4. See § 2.2-3703; SB 352.

§§ 56-575.9 and 56-575.16 amended. Public-Private Education Facilities and Infrastructure Act of 2002. Amends the Public-Private Education Facilities and Infrastructure Act of 2002 by requiring local public entities to have independent design professionals or other professionals to provide independent analysis of the project prior to proceeding under the Act. The bill also requires all public entities to post the notice of a private entity's request for the approval of a qualifying project on the Commonwealth's electronic procurement website. HB 148; CH. 986.

§ 56-580 amended. Electric utility restructuring; electrical generating facility certificates. Extends by two years the expiration date of certificates granted by the State Corporation Commission to construct and operate electrical generating facilities for which applications were filed with the Commission prior to July 1, 2002. HB 59; CH. 262.

TITLE 57. RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES.

§ 57-3 amended. Appropriation of glebe lands and church property. Authorizes Northampton County to appropriate moneys from the Glebe Fund for improvements to the courthouse and related facilities provided such funds are used exclusively for compliance with the Americans with Disabilities Acts (ADA) at the courthouse or related facilities. The bill limits, prospectively, the use of such funds for ADA compliance. Currently the Counties of Essex, Middlesex and Lancaster are authorized to make appropriations for such uses. SB 447; CH. 595.

§ 57-27.1 amended. Access to private or family cemeteries. Allows members of a deceased's family, cemetery plot owners, or persons engaged in genealogy research to enter upon the land of a private or family cemetery where such deceased is interred after notice to the property owner. The bill grants certain rights to the property owner to set frequency and duration of access. The bill also limits a property owner's liability for any claim that may arise out of the access except willful conduct or gross negligence. HB 162; CH. 831.

§ 57-27.3. See § 54.1-2313; SB 303.

§ 57-60. See § 6.1-363.2; HB 471.

§ 57-60 amended. Exemption from consumer affairs registration requirements for regional emergency medical

services councils. Provides an exemption for regional emergency medical services councils from the registration requirements that charitable organizations that solicit contributions must satisfy. Such organizations will still be subject to the remaining provisions concerning solicitation found in Chapter 5 of Title 57 of the Code of Virginia. SB 61; CH. 580.

TITLE 57. MISCELLANEOUS - RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES.

Lovettsville Union Cemetery Company. Updates the 1879 Act of Assembly that incorporated the cemetery company. HB 1432; CH. 642.

TITLE 58.1. TAXATION.

§§ 58.1-3, 58.1-609.10, and 58.1-609.11 amended. Sales and use tax; nonprofit entities. Modifies the process for exempting nonprofit entities from sales and use tax as such process was designed by the 2003 General Assembly to go into effect on July 1, 2004, by: (i) permitting churches to continue self-renewal exemptions; (ii) grandfathering and creating a new category of the types of organizations that are exempt from collecting sales and use tax on fund-raising sales of tangible personal property; and (iii) making several technical amendments. HB 515; CH. 536/SB 585; CH. 515.

§ 58.1-3 amended. Taxation; secrecy of information. Allows the Tax Commissioner to provide tax information about employers and employees to the Commissioner of Labor and Industry to facilitate the collection of unpaid wages. The information would be used solely for satisfying the wage claims made under the payment of wage law and would be subject to agreement between Labor and Industry and Taxation. SB 165; CH. 166.

§ 58.1-3 amended. Taxation; secrecy of information. Allows the Tax Commissioner to provide to the Department of the Treasury for its confidential use the tax information needed to locate the holders of unclaimed property. SB 166; CH. 582.

§ 58.1-3 amended. Taxation; secrecy of information. Allows the Tax Commissioner to provide earnings information to the director of the Department of Human Resource Management to assist in collecting overpayments resulting from the failure of injured workers to report income. SB 403; CH. 594.

§ 58.1-9 amended. Individual income tax preparers; electronic filing; penalty. Requires income tax return preparers who prepared at least 100 individual income tax returns for any taxable year beginning on January 1, 2004, (200 returns for taxable years beginning January 1, 2003) to file tax returns for

all subsequent taxable years using electronic means or software that produces a two-dimensional barcode using two-dimensional-technology reflecting information. HB 1159; CH. 562.

§ 58.1-301 amended. Income tax; the Commonwealth's system of taxation and conformity of terms. Changes the date that Virginia conforms with the provisions of the Internal Revenue Code from December 31, 2002, to December 31, 2003. SB 526; CH. 512 (effective 4/12/04).

§§ 58.1-302, 58.1-321, 58.1-322, 58.1-339.8, 58.1-391, 58.1-392, 58.1-402, 58.1-441, 58.1-603, 58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-609.3, 58.1-611.1, 58.1-614, 58.1-626, 58.1-638, 58.1-639, 58.1-801, 58.1-803, 58.1-807, 58.1-808, 58.1-1001, 58.1-1009, 58.1-1018, 58.1-1206, and 58.1-3833 amended; §§ 32.1-366, 32.1-367, 58.1-390.1, 58.1-390.2, 58.1-393.1, 58.1-394.1, 58.1-394.2, 58.1-395, 58.1-628.2, 58.1-638.1, and 58.1-1021.01 through 58.1-1021.05 added; §§ 58.1-390, 58.1-394, 58.1-627, and 58.1-628 repealed. Omnibus Tax Bill. Makes several changes to the cigarette, recordation, income and sales taxes as follows:

Sales tax on food: Reduces the state sales tax on food by one-half cent effective July 1, 2005, an additional one-half cent effective July 1, 2006, and an additional one-half cent effective July 1, 2007.

Income tax: Increases the personal exemption amount from \$800 to \$900, effective January 1, 2006.

Increases the standard deduction for married individuals from \$5,000 to \$6,000, effective January 1, 2005.

Raises the filing threshold from \$5,000 to \$7,000 for individuals and from \$8,000 to \$14,000 for married couples, effective January 1, 2005.

Maintains the age deduction as it currently exists for taxpayers aged 65 and older as of January 1, 2004. Taxpayers who are currently 62 through 64 as of such date will continue to receive their current deduction, but once they reach 65, they will be subject to a means test. Those taxpayers who currently are younger than 62 as of January 1, 2004, will not receive the \$6,000 deduction for age and will be subject to a means test once they turn 65 for their \$12,000 deduction. These changes are effective January 1, 2004.

The bill allows low-income taxpayers to claim an income tax credit based upon the federal earned income tax credit in lieu of the current low-income tax credit beginning January 1, 2006.

Requires additions to federal taxable income for certain deductions for intangible and interest expense, but provides certain safe-harbors related to Delaware holding companies, effective January 1, 2004.

Pass-through entities: Requires pass-through entities' information returns to be filed with the Tax Department, effective for taxable years beginning on and after January 1, 2004.

Cigarette tax: Increases the state cigarette tax from 2.5 cents to 20 cents per pack. Beginning July 1, 2005, the rate increases to 30 cents per pack. The bill also establishes a cigarette wholesaler tax at the rate of 10% beginning March 1, 2005.

Recordation tax: Increases the state recordation tax from 15 cents to 25 cents per \$100.

Sales tax: Increases the state sales and use tax one-half percent from 3.5 percent to 4 percent, which when combined with the local 1% sales tax will raise the combined rate from 4.5% to 5%, effective August 1, 2004.

Eliminates sales tax exemptions for certain public service corporations. HB 5018; CH. __, 2004 Special Session.

§§ 58.1-305 and 58.1-306 amended. Income tax; filing returns with the commissioner of the revenue and the Department of Taxation. Clarifies that taxpayers may file their individual and fiduciary income tax returns with the Department of Taxation as well as the local commissioners of the revenue. HB 902; CH. 544.

§ 58.1-306 amended. Income tax returns. Allows the Department of Taxation to include the mailing addresses of the Department and the local commissioners of the revenue with the appropriate income tax forms and filing instructions. HB 104; CH. 521.

§ 58.1-339.4 amended. Income tax; qualified equity and subordinated debt investment tax credit. Reduces the annual revenue level required for a company to qualify for the credit from \$5 million to \$3 million; excludes companies from participating in the credit that have already successfully raised more than \$3 million in total investment capital; eliminates the availability of the credit to professional/institutional investors such as larger venture capital funds; and adjusts the tax penalties under the credit so they do not create disincentives to investment, and are in line with counterparts in competitive states. The provisions of this bill shall be effective for taxable years beginning on or after January 1, 2005. HB 282; CH. 614.

§§ 30-19.1:10 and 58.1-344.3 added. Voluntary contributions of tax refunds to certain organizations. Provides requirements for adding new and removing current organizations that are recipients of voluntary contributions of tax refunds. The bill limits the number of organizations who may receive such voluntary contributions to a list of 25 organizations and designates the next two additions to such list in the event another organization is removed. HB 1486; CH. 649.

§ 58.1-439 amended. Income tax; major business facility job tax credit. Lowers the threshold amount of jobs from 100 to 25 that must be created in order to take the major business facility job tax credit in severely economically distressed areas that have an unemployment rate of at least twice the average statewide unemployment rate and applies only to taxable years 2004 and 2005. The total amount of credit permitted annually in such areas is limited to \$100,000 in the aggregate. HB 615; CH. 619.

§ 58.1-439 amended. Taxation; major business facility job tax credit. Extends the sunset date for the major business facility job tax credit from January 1, 2005, to January 1, 2010. SB 231; CH. 170.

§ 58.1-439.7 amended. Corporate income taxes; tax credit for machinery and equipment used to produce property from recyclable materials. Extends the sunset date from December 31, 2003, to December 31, 2006, for a corporate income tax credit for machinery and equipment used to produce personal property from recyclable materials. SB 690; CH. 611.

§ 58.1-439.12:01. See Budget Bill; HB 5001.

§ 58.1-513 amended. Land preservation income tax credits. Permits any pass-through entity that allocates or transfers land preservation income tax credits among taxpayers to designate with the Tax Commissioner a general partner, member/manager, or shareholder of the entity as the individual that the Tax Commissioner must first proceed against for the collection of taxes in the event any portion of the credit is disallowed in the future. HB 1185; CH. 635.

§ 58.1-602 amended. Sales and use tax; telephone calling cards. Makes telephone calling cards subject to the state sales and use tax and exempts them from all other state and local utility taxes. HB 246; CH. 60.

§ 58.1-608.3 amended. Sales tax revenues; allocation. Adds Newport News to the cities that are permitted to keep a portion of the state sales tax collected in certain public facilities for which bonds have been issued. HB 1208; CH. 566.

§ 58.1-608.3 amended. Entitlement to certain sales tax revenues. Entitles the City of Salem (described by population) to all sales tax revenues generated by transactions taking place in certain public facilities to pay the cost of bonds issued to pay for such public facilities. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 30 years, and all such sales tax revenues shall be applied to repayment of the bonds. HB 1243; CH. 568.

§ 58.1-608.3 amended. Sales tax; revenues generated from transactions in certain public facilities in Newport News. Entitles the City of Newport News to sales tax revenues generated from public facilities constructed or substantially renovated from the proceeds of bonds issued by the City between July 1, 2004, and July 1, 2007. SB 398; CH. 506.

§ 58.1-609.5 amended. Sales and use tax exemption for software and content delivered electronically. Expressly exempts the electronic delivery of software, data, content and other information services via the Internet from the Commonwealth's sales and use tax. This bill clarifies existing law by codifying a long line of State Tax Commissioner Rulings (97-405 and 02-111). SB 632; CH. 607.

§ 58.1-609.6 amended. Sales tax; exemption for textbooks and other educational materials for free distribution. Extends the sunset date from July 1, 2004, to July 1, 2008, for textbooks and other educational materials withdrawn from in-

ventory at book-publishing distribution facilities for free distribution to professors. HB 1084; CH. 63/SB 347; CH. 590.

§ 58.1-609.6 amended. Sales and use tax exemption; advertising businesses. Extends the sunset date from July 1, 2004, to July 1, 2008, for the exemption from sales and use tax for the purchase of printing materials by advertising businesses when the printed material is distributed outside the Commonwealth. SB 533; CH. 821.

§ 58.1-609.6 amended. Sales tax exemption for film, video, and audio. Extends the expiration date for the exemption of sales tax for film, video, and audio from July 1, 2004, to July 1, 2009. HB 1262; CH. 101/SB 571; CH. 606.

§ 58.1-615 amended. Sales and use tax; dealers filing returns. Allows a dealer to deliver sales tax returns to his local commissioner of the revenue or local treasurer instead of the State Tax Commissioner. HB 1241; CH. 567.

§ 58.1-807 amended. Recordation tax; leases. Provides that the tax on the recordation of leases of oil and gas rights and of outdoor advertising signs owned by a person in the business of outdoor advertising shall equal \$25. The bill sets a tax of \$50 on the recordation of leases of coal and other mineral rights. Under current law, the tax on the recordation of leases of oil and gas rights and of outdoor advertising signs may not exceed \$25, and the tax on the recordation of leases of coal and other mineral rights may not exceed \$50.

The bill also provides that the tax on the recordation of a lease of a communications tower or a communications tower site shall be \$75. The tax on the recordation of each lease to affix communications equipment or antenna to any such tower or other structure shall be at a rate of \$15. SB 399; CH. 974.

§ 58.1-811 amended. State recordation taxes; exemptions. Exempts the recordation of contracts related to real or personal property to the same extent as deeds are exempt, and exempts conveyances from the United States from the grantor's tax. HB 975; CH. 626.

§§ 58.1-811 and 58.1-3606 amended. Churches; recordation taxes on incorporated churches or religious bodies. The bill exempts from state and local recordation taxes deeds conveying real estate to an incorporated church or religious body, deeds of trust or mortgages given by an incorporated church or religious body, and deeds conveying real estate from an incorporated church or religious body. SB 73; CH. 492 (effective 1/1/04).

§ 58.1-812 amended; § 58.1-817 added. Deed recordation fee for open-space preservation. Imposes a \$1 fee on every deed admitted to record as of July 1, 2004, in those jurisdictions where open-space easements are held by the Virginia Outdoors Foundation. The bill requires the State Comptroller to distribute on a monthly basis the revenue from such collected fees to the Virginia Outdoors Foundation. The Foundation, established to promote the preservation of open-space lands and to encourage private gifts of money, securities, land or other property to preserve the natural, scenic,

historic, scientific, open-space and recreational areas of the Commonwealth, shall hold and administer these funds in accordance with its statutory purpose and powers. HB 549; CH. 990.

§§ 58.1-1000, 58.1-1003 through 58.1-3005, 58.1-1009 through 58.1-1011, 58.1-1013, and 58.1-1014. See § 3.1-336.2; HB 862.

§ 58.1-1017. See § 18.2-511; HB 1123/SB 320.

§ 58.1-1803 amended. Taxation; collection of delinquent state taxes by local government treasurers. Allows the Department of Taxation to appoint local government treasurers to collect delinquent state taxes in the same manner as they collect delinquent local taxes. HB 924; CH. 546.

§§ 58.1-2201, 58.1-2204, 58.1-2216, 58.1-2237, 58.1-2266, 58.1-2271, and 58.1-2283 amended. Fuels tax. Makes several technical corrections, adds new civil penalties for persons failing to submit reports and data required under the fuels tax laws, and allows a jeopardy assessment against any licensed distributor or importer who fails to pay the tax due the supplier. HB 17; CH. 340.

§§ 58.1-2402 and 58.1-2425 amended. Bonds; Virginia Public Building Authority. Authorizes the Virginia Public Building Authority to issue bonds in the amount of \$159,300,000 to finance the undertaking, development, acquisition and construction of the first phase of the Statewide Agencies Radio System and establishes a fee at the rate of two percent of the amount charged for daily rental vehicles, which revenues from such fee are dedicated for debt service payments on such bonds. HB 106; CH. 522.

§ 58.1-2501. See § 38.2-100; SB 156.

§ 58.1-2606 amended. Taxation of certain electric suppliers' real and personal property. Clarifies that localities may tax certain electric suppliers' generating equipment at a rate less than the local real estate tax rate. SB 366; CH. 504.

§ 58.1-2628 amended. Annual report filing by utilities. Provides that the real and tangible personal property in the Commonwealth leased and operated by each electric supplier and corporation in the business of furnishing heat, light and power by means of electricity includes only those assets directly associated with production facilities and shall not mean real estate or vehicles. The provisions apply for tax years beginning on or after January 1, 2004. SB 120; CH. 661 (effective 4/12/04).

§§ 58.1-2628 and 58.1-2674.1 amended; § 58.1-400.3 added. Taxation; minimum tax on certain electric suppliers. Requires certain electric suppliers to pay a minimum tax rather than the corporate income tax for any year their minimum tax liability is greater than their corporate income tax liability. The minimum tax is equal to 1.45 percent of the electric supplier's gross receipts minus the state's portion of the electric utility consumption tax billed to consumers. For electric cooperatives that are exempt from federal taxation under § 501 of the Internal Revenue Code, the minimum tax is equal to 1.45 percent of

the cooperative's gross receipts from sales to nonmembers minus the consumption tax collected from nonmembers. Also included are provisions dealing with electric suppliers that file consolidated or combined returns. The bill will be effective for taxable years beginning on or after January 1, 2004. SB 681; CH. 716 (effective 4/12/04).

§§ 58.1-3103 and 58.1-3983.1 amended. Local taxes; appeals. Permits any taxpayer who is aggrieved by the assessment of any tangible personal property tax on airplanes, boats, campers, recreational vehicles or trailers to appeal such assessment to the State Tax Commissioner for a determination of the issue. Either party may appeal the determination of the State Tax Commissioner to the circuit court. The bill requires the Department of Taxation to develop and publish guidelines for such appeals no later than November 1, 2004, and exempts the development of the guidelines from the Administrative Process Act. HB 464; CH. 534 (effective - see bill).

§ 58.1-3172.1 amended. Remote access fees; treasurers. Allows local treasurers who provide electronic access to public records to charge a fee to cover operational expenses. The fee goes into a special nonreverting local fund. HB 465; CH. 223.

§ 58.1-3211 amended. Real property tax exemption; elderly and disabled. Changes the financial criteria that localities may use in determining eligibility for real estate exemptions or deferrals for the elderly or disabled by: (i) increasing from \$8,500 to \$10,000 the amount of income of a nonspouse relative living with an elderly or disabled person; (ii) increasing from \$5,000 to \$10,000 the maximum amount of assets that an elderly or disabled person needing live-in assistance from a relative and enjoying a real estate tax exemption may transfer without adequate consideration, and still exclude the relative's income for purposes of determining maximum income for the tax exemption; (iii) increasing from \$100,000 to \$200,000 the maximum financial work cap; and (iv) increasing from \$7,500 to \$10,000 the maximum amount a locality may exclude from the income of a totally disabled person in calculating maximum income allowed. HB 94; CH. 77.

§ 58.1-3211 amended. Real property tax exemption; elderly and disabled. Increases from one to 10 the maximum number of acres a locality may exclude in calculating maximum financial worth of the elderly or disabled for real estate tax exemptions. HB 97; CH. 78.

§ 58.1-3211 amended. Real estate tax exemptions for the elderly and disabled. Adds Charlottesville to certain specified cities and counties that are authorized to have higher caps on total income and total financial worth than other cities and counties in determining real estate tax exemptions for the elderly and disabled. HB 154; CH. 5.

§ 58.1-3211 amended. Real property tax; exemptions for elderly and handicapped. Permits Goochland County to increase the income and financial worth limitations used to determine whether certain elderly or handicapped persons are eligible for exemption from or deferral of real property tax. HB 403; CH. 6/SB 122; CH. 494.

§ 58.1-3211 amended. Real property tax; exemptions for elderly and handicapped. Permits Northern Virginia localities to increase the income and financial worth limitations (from \$62,000 to \$72,000 and from \$240,000 to \$340,000) used to determine whether certain elderly or handicapped persons are eligible for exemption from or deferral of real property tax. SB 361; CH. 503.

§ 58.1-3274 amended. Real Estate Assessments. Allows Powhatan County to establish its own real estate assessment department. HB 1461; CH. 576.

§§ 58.1-3400 and 58.1-3651 amended. Property tax exemptions. Clarifies the process localities must follow to exempt from real or personal property taxes the property of certain charitable and other related organizations. HB 1076; CH. 557 (effective 4/12/04).

§§ 58.1-3505 and 58.1-3506 amended. Tangible personal property classifications for taxation. Specifies that localities may exempt from personal property, in whole or in part, or set a different tax rate for trailers primarily used by farmers to transport farm animals or other farm products. HB 1030; CH. 556.

§§ 3.1-1111, 30-133, 58.1-3506, 58.1-3506.1, 58.1-3523, 58.1-3524, and 58.1-3912 amended; §§ 58.1-3525 through 58.1-3533, 58.1-3536, and 58.1-3916.01 repealed. Personal property tax relief. Modifies the Personal Property Tax Relief Act of 1998 by setting the total statewide reimbursement amount at \$950 million for tax years 2006 and thereafter. Each county's, city's, or town's share of the \$950 million for each such tax year shall be determined pro rata based upon the actual payments to such county, city, or town for tax year 2005 as compared to the actual payments to all counties, cities, and towns for tax year 2005. SB 5005; CH. ___, 2004 Special Session.

§ 58.1-3506 amended. Taxation; special classification of certain motor vehicles for local taxation. Increases from one to two the number of specially classified motor vehicles in households containing both a member and an auxiliary member of a volunteer rescue squad or a volunteer fire department. Such special classifications are used for local taxation of certain personal property. HB 143; CH. 4/SB 349; CH. 591.

§ 58.1-3528 amended. Personal Property Tax Relief Act of 1998. Permits treasurers not to collect de minimus personal property tax balances on a taxpayer's qualifying vehicle of \$5 or less without affecting the locality's reimbursement from the state for the qualifying vehicle. HB 926; CH. 547.

§ 58.1-3713 amended. Coal and gas road improvement tax; distribution of revenues to local public service authority. Provides that any revenues generated by the coal and gas road improvement tax and designated for local water projects shall be distributed to the local public service authority rather than the local governing body. HB 1426; CH. 871.

§§ 58.1-3713 and 58.1-3713.01 amended. Coal and gas road improvement tax; water/sewer projects. Adds sewer systems

and lines to water projects as an option for localities to use a portion of the coal and gas road improvement tax revenues. The bill also provides that any revenues generated by the coal and gas road improvement tax and designated for local water or sewer projects shall be distributed to the local public service authority rather than the local governing body. SB 642; CH. 893.

§ 58.1-3724. See § 9.1-102; HB 1057.

§ 58.1-3812 amended. Local telecommunication tax; the Towns of Herndon and Vienna. Authorizes the Towns of Herndon and Vienna to impose the local tax on the purchase of telecommunication service and prohibits Fairfax County from simultaneously imposing such a tax within such towns. Under current law, such towns would have had to impose such tax on or before January 1, 2000, to continue to impose such tax in the manner provided. HB 372; CH. 43.

§ 58.1-3812 amended. Local consumer utility tax. Allows the local governing body of the Town of Iron Gate to impose the local consumer utility tax on mobile phones by adopting a local ordinance on or after July 1, 2004. While such town ordinance remains in effect, Alleghany County shall not impose the tax within the limits of the town. SB 14; CH. 489.

§ 58.1-3812 amended. Local consumer utility tax. Allows the local governing bodies of the Towns of Herndon and Vienna to impose the local consumer utility tax on mobile phones by adopting a local ordinance on or after July 1, 2004. Each town may adopt such ordinance. While the town ordinance remains in effect, Fairfax County shall not impose the tax within the limits of the respective town that has adopted the ordinance. SB 316; CH. 172.

§ 58.1-3812 amended. Local consumer utility tax. Allows the local governing body of the Towns of Vienna and Clifton to impose the local consumer utility tax on mobile phones by adopting a local ordinance on or after July 1, 2004. While the town ordinance remains in effect, Fairfax County shall not impose the tax within the limits of such town. SB 627; CH. 516.

§§ 58.1-3814 and 58.1-3816.2 amended. Local consumer utility tax; exemption for churches. Broadens the permissive exemption from the consumer utility tax that localities may provide to certain churches or religious bodies. HB 743; CH. 8.

§§ 58.1-3814 and 58.1-3816.2 amended. Local consumer utility tax; exemption for churches. Allows any county, city or town to exempt from the consumer utility tax utilities consumed on property of churches or nonprofit associations that are exempt from the local property taxes. SB 71; CH. 159.

§ 58.1-3819 amended. Transient occupancy tax. Authorizes Floyd County to levy a transient occupancy tax at the rate of five percent. Any revenues attributable to the portion of the tax greater than two percent shall be spent for promoting tourism, travel or business that generates tourism or travel in the County. HB 739; CH. 7.

§§ 58.1-3819, 58.1-3822, 58.1-3823, 58.1-3833, and

§ 58.1-3842 amended. Transient occupancy taxes and food and beverage taxes. Makes technical changes to the transient occupancy taxes and the food and beverage taxes for counties by replacing indirect references to specific counties with the names of the counties. SB 684; CH. 610.

§ 58.1-3823 amended. Transient occupancy tax. Permits the Counties of Chesterfield, Hanover, and Henrico to impose a transient occupancy tax at the rate of one percent with additional revenues designated and spent for the development and improvement of the Virginia Performing Arts Foundations' facilities in Richmond, for promoting the use of the Richmond Centre, and for promoting tourism, travel or business that generates tourism and travel in the Richmond metropolitan area. HB 741; CH. 50.

§ 58.1-3823 amended. Transient occupancy tax; additional amount for overnight accommodations in greater Williamsburg area. Allows the Counties of James City and York to impose an additional transient occupancy tax of up to \$2 for overnight accommodations. The revenues collected from the additional tax must be used for advertising the Historic Triangle area (City of Williamsburg, Counties of James City and York) as an overnight destination. The additional tax expires January 1, 2008, unless any one of the governing bodies of the City of Williamsburg and the Counties of James City and York fails to adopt an ordinance by August 1, 2004, imposing the tax, in which event the additional tax will expire on such date. Establishes the Williamsburg Area Destination Marketing Committee of the Williamsburg Area Convention and Visitors Bureau to direct such advertising. SB 652; CH. 828.

§ 58.1-3824 added. Transient occupancy tax; Fairfax County. Provides for an additional two percent transient occupancy tax in Fairfax County beginning July 1, 2004, and ending June 30, 2008, subject to the board of supervisors of the County appropriating the revenues from such tax to a nonprofit convention and visitor's bureau and to the Fairfax County Economic Development Authority. No more than 75 percent of the revenues from such tax shall be designated for and appropriated to the Fairfax County Economic Development Authority to be spent for tourism promotion and no less than 25 percent of the revenues from such tax shall be designated for and appropriated to a nonprofit convention and visitor's bureau located in Fairfax County. HB 1001; CH. 9.

§ 58.1-3824 added. Transient occupancy tax; Rockbridge County and the Cities of Lexington and Buena Vista. Authorizes an additional two percent transient occupancy tax to be imposed by the governing bodies in the County of Rockbridge and the Cities of Lexington and Buena Vista. Revenues collected from the tax shall be appropriated for the payment of principal and interest on promissory notes executed by the Virginia Horse Center Foundation or the Virginia Equine Center Foundation prior to January 1, 2004, that were part of an agreement for the Rockbridge Industrial Development Authority to issue bonds on behalf of or for improvements at the Virginia Horse Center Foundation, Virginia Equine Center Foundation, or the Virginia Equine Center. The tax may no longer be im-

posed after the final payment of principal and interest on all such notes. SB 517; CH. 598.

§ 58.1-3916.02 added. Real property taxes; alternative due dates for Prince William County seniors. Allows Prince William County to provide alternative due dates for payment of real property taxes to taxpayers aged 65 or older, without penalty or interest. HB 928; CH. 548.

§§ 58.1-3965 and 58.1-3970.1. See § 15.2-906; HB 1456.

§ 58.1-3967 amended. Delinquent real estate taxes; actions to collect; necessary parties. Provides that anyone who acquires an interest in real estate that is the subject of an action to collect delinquent taxes after filing of suit and a lis pendens shall not be deemed a necessary party, but shall be permitted to intervene in the proceedings to file his claim. Failure to file such a claim shall bar any such claim. HB 1453; CH. 645.

§ 58.1-3975 added. Taxation; nonjudicial sale of tax delinquent property. Allows unimproved real property that is assessed at less than \$10,000 with taxes that have been delinquent at least five years and is either less than 4,000 square feet or has been determined by the local zoning administrator to be unsuitable for building to be sold by the local treasurer or other officer responsible for collecting taxes. Notice of the sale must be mailed to the registered owner and anyone having an interest in the property, and notice shall be posted at the circuit courthouse of the locality and on the property if it fronts on a street. HB 925; CH. 100.

§ 58.1-3983.1 amended. Local business taxes; written opinions of State Tax Commissioner. Authorizes the State Tax Commissioner to issue written opinions regarding machinery and tools tax, business tangible personal property tax, and merchant's capital tax and the administration of such taxes prior to the filing of an appeal. HB 295; CH. 527.

§ 58.1-3994 added. Local taxes; offers in compromise. Authorizes (i) the commissioner of the revenue or other tax assessment official to compromise and settle certain tax assessments prior to the exhaustion of all administrative and judicial review, upon a determination that there is substantial doubt under applicable law as to the taxpayer's liability; and (ii) the treasurer or other tax collection official to compromise and settle the tax amount due and payable upon a determination that collection of the entire amount is in substantial doubt and the best interests of the locality will be served by such compromise. HB 293; CH. 526.

§ 58.1-3994 added. Local taxation; effect of application for correction of assessment or appeal upon applications for local permits and licenses. Prohibits localities from denying permits and licenses to persons who have failed to pay taxes, penalties and interest pending correction of an assessment; appeal by locality of an assessment correction; application for correcting or an appeal of a local business tax; or correction or equalization of an assessment of real property. However, localities do not have to issue licenses or permits if the unpaid taxes, penalties and interest would be jeopardized by delay and the issuance of the licenses or permits would prejudice or impede

collection efforts. Also, there is no requirement to issue a local vehicle license or a vehicle registration or renewal of registration that is withheld pursuant to § 46.2-752. HB 298; CH. 902.

§§ 58.1-4004, 58.1-4006, 58.1-4007, 58.1-4010, 58.1-4014, and 58.1-4020.1 amended. Lottery. Modifies several provisions of the Virginia Lottery Law, generally granting to the Department and Director greater latitude and authority in which to operate the lottery. Among the changes: (i) monthly meetings of the Board are reduced to a minimum of quarterly meetings, (ii) flexibility is given to the Board to determine the types of games qualifying as a lottery, (iii) clarification is made that the Department is not subject to the Virginia Public Procurement Act, (iv) theft of a lottery ticket or prize is established as a crime, and (v) certain notice and venue requirements for assignment of lottery prizes are established. HB 1027; CH. 630.

§§ 58.1-4008 and 58.1-4009 amended. Lottery. Modifies for board members and officers and employees of lottery vendors, the process for criminal background checks, including the taking of fingerprints. HB 1028; CH. 555.

TITLE 58.1. MISCELLANEOUS - TAXATION.

Telecommunications taxation. Proposes changes in the way telecommunications are taxed that would repeal several state and local taxes and replace them with a yet-to-be-named tax and E-911 fee and tax. Following the 2004 General Assembly Session, the working group of industry and local government representatives that has been assisting the Joint Subcommittee Studying the State and Local Taxation of the Entire Telecommunications Industry and Its Customers within the Commonwealth (HJR 651, 2003; HJR 209, 2002) with its work would continue to meet and work on remaining issues. The working group would report its recommendations to the chairmen of the House and Senate Finance Committees no later than November 15, 2004. The proposal is for legislation to be introduced during the 2005 General Assembly that would actually contain the provisions necessary to carry out this intent. This method is similar to the manner used for developing the changes needed for electric utility deregulation. HB 1174; CH. 634.

TITLE 59.1. TRADE AND COMMERCE.

§§ 59.1-148.1 and 59.1-148.2 repealed. Sales and purchases of firearms in contiguous states. Repeals provisions regulating sales of firearms to residents of contiguous states and purchase of firearms by Virginia residents in contiguous states. HB 1302; CH. 929.

§ 59.1-148.3 amended. Firearms; purchase of handguns of certain officers. Permits the Department of Conservation and Recreation and the Department of Forestry to allow its retiring officers to purchase their handguns. HB 503; CH. 136.

§ 59.1-148.4. See § 19.2-386.1; HB 1058.

§§ 59.1-198 and 59.1-204 amended. Virginia Consumer Protection Act; admissibility of cure offers. Permits a supplier to introduce a cure offer into evidence in a proceeding for damages under the Consumer Protection Act if the cure offer is delivered prior to the filing of the supplier's initial responsive pleading. If the damages awarded in the proceeding do not exceed the value of the cure offer, the supplier will not be liable for the person's attorneys' fees and court costs. A cure offer is an offer to remedy a loss claimed to be suffered as a result of a consumer transaction, which includes an additional amount of at least 10 percent or \$500, whichever is greater; however, the minimum additional amount need not exceed \$4,000. HB 231; CH. 41/SB 324; CH. 90.

§§ 59.1-200 and 59.1-441.1 through 59.1-441.6. See § 38.2-1800; HB 363.

§ 59.1-200. See § 6.1-363.2; HB 471.

§ 59.1-200 amended; §§ 59.1-525 through 59.1-529 added. Price gouging. Prohibits suppliers from selling, leasing, or licensing necessary goods and services during times of disaster at an unconscionable price. To determine whether a price increase is unconscionable, the court must consider, among other factors, whether the price charged by the supplier during the time of disaster grossly exceeded the price at which the same or similar goods or services were readily obtainable in the trade area during the 10 days prior to the time of disaster. A violation constitutes a prohibited practice under the Virginia Consumer Protection Act, though aggrieved persons will not be able to bring a private cause of action. HB 686; CH. 798/SB 242; CH. 817.

§§ 59.1-284.7 through 59.1-284.12 and 59.1-284.16 through 59.1-284.19. See § 2.2-2238; SB 3.

§§ 59.1-297, 59.1-298, and 59.1-310.4. See § 32.1-46; HB 855.

§ 59.1-306 amended. Virginia Health Spa Act; requirement for bond or letter of credit. Provides that a health spa contract with a term that exceeds 13 months is to be counted as multiple contracts for purposes of determining the amount of the bond or letter of credit that the health spa is required to post. However, a contract with a term that exceeds 13 months will not be counted as multiple contracts if it is payable on a monthly basis and the initiation fee does not exceed \$250. This provision does not apply if the number of multi-year contracts that a health spa has in effect is fewer than 10 percent of all of its contracts. The measure also increases, from \$75 to \$125, the amount of an initiation fee that a health spa may collect without triggering the requirement that the health spa post a bond or letter of credit. This measure applies to health spa

contracts entered into on or after January 1, 2005. HB 390; CH. 988.

§ 59.1-369 amended. Virginia Racing Commission; satellite facilities. Increases the number of satellite facilities that the Virginia Racing Commission may authorize from six to 10. SB 167; CH. 774.

§§ 59.1-443 and 59.1-444 amended; § 59.1-443.1 added. Personal Information Privacy Act; date of birth on checks. Prohibits a person who accepts checks in the transaction of business from recording, or requesting or requiring a person to record, a date of birth upon the check as a condition of accepting the check. The section does not affect collection of a birth date for reasons unrelated to accepting the check, nor does it block a requirement that the payor provide his year of birth. HB 1424; CH. 241.

§§ 59.1-501.2, 59.1-501.3, 59.1-501.5, 59.1-501.6, 59.1-501.12, 59.1-502.7, 59.1-502.9, 59.1-503.7, 59.1-504.1, 59.1-504.4 and 59.1-504.5 amended; §§ 59.1-501.4:1, 59.1-501.13:1, 59.1-501.14:1, 59.1-501.15, 59.1-501.16, 59.1-501.17, and 59.1-504.10 added; §§ 59.1-501.4, 59.1-501.13, 59.1-501.14, 59.1-502.11, and 59.1-503.8 repealed. Uniform Computer Information Transactions Act (UCITA). Amends UCITA to incorporate changes adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL). The bill clarifies that (i) insurance services transactions are not covered by UCITA even if computers are used; (ii) the consumer protection law that would have governed in the absence of UCITA still governs; (iii) end-user licenses cannot prohibit or limit lawful public discussion; and (iv) the laws of fraud, misrepresentation, and unfair and deceptive trade practices, as they deal with failure to disclose defects, still apply. The bill also (a) deletes the default rules for license duration and the number of permitted users when the contract is silent and returns the defaults to the common law; (b) provides that there is no implied warranty with respect to subjective characteristics; and (c) provides that the implied warranties and obligations concerning noninterference, noninfringement and merchantability do not apply to free software. Finally, the bill makes certain technical amendments that reorganize a few sections of UCITA to make it easier to read and more consistent with NCCUSL's final version of the uniform law. This bill is a recommendation of the Joint Commission on Technology and Science. HB 548; CH. 794.

§§ 59.1-510, 59.1-511, 59.1-513, and 59.1-514 amended; § 59.1-513.1 added. Virginia Telephone Privacy Protection Act; telephone solicitation. Expands the definition of a "telephone solicitation call" to include solicitation calls made to any wireless telephone with a Virginia area code. A telephone solicitor is prohibited from calling a telephone number that has been placed on the federal Do Not Call Registry. The bill provides that the use of a version of the federal Do Not Call Registry obtained no more than three months prior to the date of the telephone solicitation is an affirmative defense to an action alleging a violation of the Telephone Privacy Protection Act. The bill requires telephone solicitors to play a prerecorded

identification message that states the name and telephone number of the person on whose behalf the telephone solicitation call was being made, whenever a live person is not available within two seconds of completing the greeting. HB 689; CH. 224/SB 344; CH. 202.

TITLE 60.2. UNEMPLOYMENT COMPENSATION.

§ 60.2-113. See § 2.2-212; HB 22.

§ 60.2-113 amended. Virginia Employment Commission workforce plan. Eliminates the Virginia Employment Commission's requirement to develop a workforce plan to be implemented during times of economic recession, natural disaster or military mobilization whereby necessary workers can be provided. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities. SB 9; CH. 154.

§ 60.2-113. See § 2.2-2407; SB 363.

§§ 60.2-219, 60.2-528, and 60.2-618 amended. Unemployment compensation; definition of employment services. Excludes from the definition of "employment services," for the purposes of unemployment compensation benefits, work performed by an inmate of a custodial or penal institution for the institution or while in the Diversion Center Incarceration Program. In a conforming amendment, the bill eliminates the exemption of employers with regard to such inmates from responsibility for benefit charging. HB 529; CH. 977.

§§ 60.2-318 through 60.2-322. See § 2.2-2238; SB 3.

§ 60.2-513 amended. Unemployment compensation; penalties for late filing. Increases the penalty assessed against employers for filing a late report from \$30 to \$75. The penalty may be avoided by a showing of good cause for the employer's failure to file. SB 130; CH. 495.

§ 60.2-528 amended. Unemployment compensation; benefit charges. Provides that an employer shall not be responsible for benefit charges due to unemployment resulting from a temporary work closure forced by a disaster for which the Governor has declared a state of emergency. The benefit charges, not to exceed four weeks, will be pool costs. SB 179; CH. 583.

§ 60.2-612 amended. Unemployment compensation benefits; termination before resignation. Provides that where an employee gives notice of resignation, and the employer subsequently terminates him effective prior to the date specified in the resignation notice, the employer shall be liable for a maximum of two weeks of benefits (absent a finding of good cause for the employee's resignation or misconduct). Under current law, if an employer does not terminate an employee immediately after the employee gives notice of his resignation, but

eventually terminates him prior to the specified resignation date, the employer is fully liable for payment of unemployment compensation benefits. The measure permits an employee to obtain up to two weeks of benefits if he gives a two-week notice of resignation, is terminated on that basis, and faces a two-week delay in starting his new employment. SB 194; CH. 496.

§ 60.2-618 amended. Unemployment compensation; disqualification for benefits. Provides that misconduct, for purposes of disqualification for unemployment compensation benefits, includes a willful and deliberate violation of a standard or regulation of the Commonwealth, by an employee of an employer licensed by the Commonwealth, which violation would cause the employer to be sanctioned or have its license suspended by the Commonwealth. The Unemployment Compensation Commission may consider mitigating circumstances in determining whether misconduct occurred. HB 288; CH. 525.

TITLE 62.1. WATERS OF THE STATE, PORTS AND HARBORS.

§ 62.1-44.5. See § 10.1-603.2; HB 1177.

§ 62.1-44.15. See § 10.1-561; HB 445.

§ 62.1-44.15:5 amended. Virginia Water Protection Permit. Requires the State Water Control Board to review the application for a Virginia Water Protection general permit for completeness within 15 days of receiving the application. It is stipulated in the bill that certifying the completeness of the application does not mean the Board will issue the permit, only that it contain sufficient information to process the application. HB 685; CH. 293.

§ 62.1-44.15:5 amended. Wetlands mitigation. Allows an island in the Potomac adjacent to Virginia to be used as a mitigation bank. The bill also authorizes the State Water Control Board to inspect the property that is to be used as part of a mitigation bank. SB 629; CH. 94.

§§ 62.1-44.17:1 and 62.1-44.17:1.1 amended. Confined animal feeding operations. Clarifies that any civil penalty imposed for violating a confined animal feeding operation permit shall not exceed \$2,500 for any confined animal feeding operation that is covered by a Virginia Pollution Abatement permit. HB 955; CH. 455.

§ 62.1-44.33 amended. No discharge zones. Directs the State Water Control Board to adopt certain regulations for no discharge zones to control the discharge of sewage from boats and vessels and to require marinas to notify boat patrons of the no discharge restrictions. HB 603; CH. 287.

§ 62.1-44.34:11 amended. Petroleum Storage Tank Fund. Limits the exposure of the Virginia Petroleum Storage Tank Fund to third-party claims against the Fund. The Fund is used

to reimburse owners of petroleum storage tanks for the costs of cleaning up oil releases from the tanks. It is also used to meet federal requirements that owners of underground storage tanks have insurance or the financial capacity to clean up any release. This bill would clarify that the Fund can be used to reimburse tank owners for costs they incur relating to third party damages only in the amount that is reasonable and necessary based upon the actual damage caused by the release. HB 1450; CH. 485.

§§ 62.1-44.34:15 and 62.1-44.34:16 amended. Oil discharge plans. Provides operators of tank vessels with options regarding the types of oil discharge contingency plans and financial responsibility mechanisms that have to be submitted to operate in Virginia waters. Under current law, an oil discharge contingency plan has to be filed and approved by the State Water Control Board and the operator of the tank vessel has to also deposit, with the Board, cash or its equivalent in the amount of \$500 per gross ton of such vessel to assure against any environmental damage. This bill would allow the operator the option of submitting a U.S Coast Guard-approved vessel response plan in place of the state-required contingency plan, and meet the financial assurance requirement by having a U.S. Coast Guard-approved Certificate of Financial Responsibility. HB 440; CH. 276.

§§ 62.1-44.40 and 62.1-139. See § 2.2-608; SB 6.

§§ 62.1-69.26, 62.1-69.29, and 62.1-69.30 amended; §§ 62.1-69.33:1 and 62.1-69.33:2 added. Rappahannock River Basin Commission. Provides that the Rappahannock River Basin Commission is created as an independent local entity without political subdivision status. This bill provides further that the membership of the Commission shall be based on House and Senatorial districts with representation from certain local governing bodies. To facilitate the conduct of business, 12 or one-third of the members of the Commission constitutes a quorum. Reducing the number of members required for a quorum addresses the problem of obtaining a sufficient number of members at meetings due to vast size of the Commission. Members of the Commission are not eligible to receive compensation or reimbursement for their expenses incurred in the performance of their duties. The bill also contains several technical amendments to streamline and conform the relevant sections pertaining to the Commission to the Joint Rules Committee's legislative guidelines for collegial bodies. This bill is a recommendation of the Joint Rules Committee. HB 1227; CH. 471.

§ 62.1-69.34 amended. Roanoke River Basin Advisory Commission membership. This bill changes the method for appointing nonlegislative citizen members and adds two nonlegislative citizens at large, one appointed by the Senate Committee on Rules and one appointed by the Speaker of the House of Delegates. As originally introduced, the legislation establishing the Commission empowered the six legislative members to appoint the citizen members from nominations submitted by the planning district commissions (PDCs) within the basin. During the 2003 session, the power to appoint the

citizen members nominated by PDCs was given to the Speaker of the House of Delegates and the Senate Committee on Privileges and Elections. This bill returns appointive power to the legislative members of the Commission. SB 406; CH. 403.

§§ 62.1-69.45 through 62.1-69.52 added. The Rivanna River Basin Commission. Establishes the Rivanna River Basin Commission to provide guidance for the stewardship and enhancement of the water and natural resources of the Rivanna River Basin. The Commission is to provide a forum in which local governments and citizens can discuss issues affecting the Basin's water quality and quantity and other natural resources. The Commission shall consist of 14 members, including eight officials from local governing bodies, two members from soil and water conservation districts, and four citizens at large. SB 267; CH. 394.

TITLE 62.1. MISCELLANEOUS - WATERS OF THE STATE, PORTS AND HARBORS.

Water supply plan regulations. Delays the effective date of water supply plan regulations one year. Under the bill passed in 2003, the State Water Control Board was prohibited from finalizing the water supply plan regulations prior to July 1, 2004. Because the Technical Advisory Committee has not completed its drafting of these regulations, the date on which the regulations can become effective has been delayed until after July 1, 2005. SB 110; CH. 244.

TITLE 63.2. WELFARE (SOCIAL SERVICES).

§ 63.2-100. See § 16.1-228; HB 1041.

§ 63.2-100. See § 16.1-228; SB 114.

§ 63.2-100 amended; § 63.2-905.1 added. Independent living services. Provides local departments of social services with statutory authorization to provide independent living services to persons between 18 and 21 years of age in order to help them transition from foster care to self-sufficiency. Currently, there is no state or federal law against providing such services, and this bill serves to codify the existing policy of allowing local departments to do so, if they choose. Consistent with this intent, the bill adds the provision of independent living services to persons between 18 and 21 years of age who are transitioning out of foster care to the services that may be provided by a children's residential facility. HB 1109; CH. 196.

§ 63.2-100 amended; § 63.2-913 added. Subsidized custody of children living with relative caregivers. Directs the Department of Social Services to establish a subsidized custody program for the benefit of children in the custody of a local board of social services on or after July 1, 2004, who are living

with relative caregivers and for whom reunification with their natural parents and adoption by relatives are ruled out as placement options. A relative caregiver means a person, other than a natural parent, to whom the child is related by blood, marriage, or adoption. A relative caregiver shall obtain legal custody over such child. Within the limitations of federal funding and the subsidized custody appropriation to the Department, the subsidized custody program shall include (i) a one-time special-need payment, which shall be a lump sum payment for expenses resulting from the assumption of care of the child, (ii) services for the child, including but not limited to, short-term casework, information and referral, and crisis intervention, and (iii) a maintenance subsidy that shall be payable monthly to the relative caregiver equal to the prevailing foster care rate. The Department may establish an asset test for eligibility under the program. The subsidized custody payment shall be made pursuant to a subsidized custody agreement entered into between the local board and the relative caregiver. The relative caregiver receiving a custody subsidy shall submit annually to the local department a sworn statement that the child is still living with and receiving support from the relative. The parent of any child receiving assistance through the subsidized custody program shall remain liable for the support of the child. The bill requires the State Board of Social Services to promulgate emergency regulations and the Department to seek all federal waivers. The final enactment clause states the act shall not become effective unless federal funds are made available through a federal Title IV-E waiver and an appropriation of funds effectuating the purposes of the act is included in the biennial budget passed by the 2004 General Assembly and signed into law by the Governor. SB 35; CH. 814.

§§ 63.2-100 and 63.2-900 amended. Kinship care. Defines the practice of kinship care as the full-time care, nurturing, and protection of children by relatives. The bill requires a local board of social services to seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care, if it is in the child's best interest. SB 78; CH. 70.

§§ 63.2-105 and 63.2-1503 amended. Child abuse and neglect; multidisciplinary investigation teams. Enables local social services departments to develop multidisciplinary teams to provide consultation to the local department during the investigation of selected cases involving child abuse or neglect and make recommendations regarding the prosecution of such cases. The teams may include members of the medical, mental health, legal and law-enforcement professions, including the attorney for the Commonwealth or his designee, a local child-protective services representative, and the guardian ad litem or other court-appointed advocate for the child. The bill also contains provisions regarding the confidentiality of information exchanged during such consultation. HB 420; CH. 220/SB 429; CH. 114

§ 63.2-219 amended. Grievance procedures of state and local social services employees. Changes the law by requiring the application of locally adopted grievance procedures to local social services employees. Currently, the state grievance pro-

cedures apply to state and local social services employees, unless a locality chooses to apply local procedures. SB 595; CH. 208.

§ 63.2-405 amended. Medical assistance services; application. Provides that an application for medical assistance services for a person admitted to a State Veteran's Care Center located in the Commonwealth may be filed and processed in the jurisdiction where such Care Center is located. HB 907; CH. 305.

§§ 63.2-903, 63.2-1200, 63.2-1221, 63.2-1222, and 63.2-1817 amended. Adoption; child-placing agencies outside the Commonwealth. Requires any child-placing agency outside the Commonwealth, or its agent, that executes an entrustment agreement in the Commonwealth with a birth parent for the termination of all parental rights and responsibilities with respect to a child to comply with the Commonwealth's laws regarding entrustment agreements, revocations of entrustment agreements and birth parent counseling. Any entrustment agreement that fails to follow such requirements shall be void. The bill adds the requirement that an entrustment agreement for the termination of all parental rights and responsibilities shall be executed in writing and notarized. SB 62; CH. 815.

§ 63.2-1502. See § 16.1-253.2; HB 1233/ SB 236.

§ 63.2-1502 amended; § 63.2-1516.01 added. Child protective services; training and investigation procedures. Requires the Department of Social Services Child Protective Services Unit to include standards of training regarding the legal duties of child protective services workers in order to protect the constitutional and statutory rights and safety of children and families from the initial time of contact during investigation through treatment. The bill also requires local departments of social services, at the initial time of contact with the person subject to a child abuse and neglect investigation, to advise the person of the complaints or allegations made against the person, in a manner that is consistent with laws protecting the rights of the person making the report or complaint. HB 1135; CH. 233/SB 584; CH.93.

§ 63.2-1503 amended. Child protective services; notification of parent. Requires the local department of social services to notify the custodial parent and make reasonable efforts to notify the noncustodial parent of a report of suspected abuse or neglect concerning a child who is the subject of an investigation or receiving family assessment, in those cases in which such custodial or noncustodial parent is not the subject of the investigation. SB 409; CH. 886.

§ 63.2-1515 amended. Central registry of founded complaints; checks for certain volunteer organizations. Adds any Virginia affiliate of Childhelp USA®; to the list of organizations whose volunteer applicants shall be subject to a search of the central registry of founded complaints by the Department of Social Services for no cost. The central registry contains information obtained by the Department regarding a founded case of child abuse or neglect. Childhelp USA®; is a not-for-profit entity organized to meet the physical, emotional,

educational, and spiritual needs of abused and neglected children, primarily through treatment, prevention, and research. Other organizations that receive free central registry checks include Virginia affiliates of Big Brother/Big Sisters of America and Compeer, volunteer fire companies or rescue squads, and court-appointed special advocates. SB 185; CH. 74.

§ 63.2-1527 amended. Out-of-Family Investigations Advisory Committee. Establishes a set membership of 15 members for the Out-Of-Family Investigations Advisory Committee. Currently, the membership has no limit, but the committee must consist of at least nine members. Other changes to the makeup and operations of the committee conform to the Joint Rules Committee legislative guidelines for collegial bodies. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). SB 1; CH. 103.

§ 63.2-1528 amended. Duties of the Advisory Board on Child Abuse and Neglect. Adds to the general duties of the advisory board the duty of providing advice on child abuse and neglect issues identified by the Commissioner of the Department of Social Services. The additional duty will give the advisory board specific direction in fulfilling its broad mandate of providing advice on all programs concerning programs for the prevention and treatment of abused and neglected children and their families. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). SB 50; CH. 69.

§§ 63.2-1603 through 63.2-1606, 63.2-1608, 63.2-1609, and 63.2-1610 amended; § 63.2-1607 repealed. Adult Protective Services; reporting and investigation procedures; adult fatality review teams; penalties. Revises and adds new provisions to existing adult protective services law, including reporting and investigation procedures. The bill requires local departments of social services to initiate investigations of suspected adult abuse, neglect or exploitation within 24 hours of receiving a valid report, and requires them to notify the appropriate law-enforcement agency when in receipt of reports involving sexual abuse, serious bodily injury or disease believed to be the result of abuse or neglect, or criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm. When denied access to an adult in need of protective services, local departments are given authority to seek a court order, upon a showing of good cause, permitting such access.

The bill adds guardians, conservators and emergency medical services personnel to the list of persons who, acting in their official capacities, are required to report suspected cases of adult abuse, neglect or exploitation, and clarifies other mandated reporter provisions. Mandated reporters are required to report such matters to local departments or to the hotline immediately, and employers of mandated reporters must notify them

of this requirement upon hiring. The bill adds employees of accounting firms to the financial personnel listed under the voluntary reporter provisions.

Anyone 14 years of age or older who knowingly makes a false report of adult abuse is guilty of a Class 4 misdemeanor, and a Class 2 misdemeanor for subsequent false reports. The bill also increases the initial time period in which involuntary adult protective services may be provided through an appropriate court order from five to 15 days.

Enactment clauses require (i) the Department of Social Services to develop a plan to educate newly mandated reporters on adult abuse, neglect and exploitation, and the delay of penalty provisions on newly mandated reporters until the delivery of such training; and (ii) the Secretary, in consultation with the Departments of Social Services and Health and other state and local entities, to establish procedures and cost estimates for the operation of adult fatality review teams to review suspicious deaths of vulnerable adults. HB 952; CH. 749/SB 318; CH. 1011.

§ 63.2-1716 amended. Child day centers; religious exemption from licensure. Clarifies that a child day center, including a child day center that is a child welfare agency, operated or conducted under the auspices of a religious institution shall be exempt from licensure requirements. SB 417; CH. 113.

§ 63.2-1721 amended. Criminal background check; foster parents. Provides that a child-placing agency may approve as a foster parent an applicant convicted of statutory burglary for breaking and entering to commit larceny, who has had his civil rights restored by the Governor, provided 25 years have elapsed following the conviction. SB 612; CH. 714.

§ 63.2-1732 amended. Emergency electrical systems. Directs the State Board of Social Services to promulgate regulations for assisted living facilities with six or more residents to be able to connect by July 1, 2007, to a temporary emergency electrical power source for the provision of electricity during an interruption of the normal electric power supply. The installation shall be in compliance with the Uniform Statewide Building Code. SB 181; CH. 673.

§ 63.2-1800. See § 32.1-126; HB 891.

§ 63.2-1805. See § 32.1-127.1:03; HB 633.

§ 63.2-1808. See § 32.1-46; HB 855.

§ 63.2-1809. See § 18.2-186.3; HB 872.

§ 63.2-1916. See § 20-74; SB 497.

§ 63.2-2002 amended. Income tax; Neighborhood Assistance Act tax credit. Extends the sunset date for the tax credits allowed under the Neighborhood Assistance Act from the close of fiscal year 2004 to the close of fiscal year 2009. HB 237; CH. 216.

§ 63.2-2002 amended. Neighborhood Assistance Act; sunset extension and tax credit increase. Extends the sunset for the

Neighborhood Assistance Act from 2004 to 2009. SB 436; CH. 699.

§ 63.2-2004 amended. Neighborhood Assistance Act; donation of professional services; tax credit. Stipulates that the tax credit available to certain health care professionals who donate services shall be available if the organization that operates the clinic where the services are donated has received an allocation of tax credits from the Commissioner of the Department of Social Services. Currently, the law provides such credit only if the clinic itself has received such allocation. HB 239; CH. 183.

§ 63.2-2004 amended. Donations of health care services by certain professionals; tax credit. Stipulates that physicians, dentists, nurses, nurse practitioners, physician assistants, optometrists, dental hygienists, professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, physical therapists, and pharmacists licensed pursuant to Title 54.1 who provide health care services within the scope of their licensure, without charge, to patients of certain free and not-for-profit clinics, shall be eligible for the income tax credit under the Neighborhood Assistance Act, regardless of where the services are delivered. Currently, the Act requires that such services be provided at the free or not-for-profit clinic in order for these health care professionals to be eligible for the tax credit. HB 285; CH. 725.

§ 63.2-2004 amended. Donations of health care services by certain professionals; tax credit. Stipulates that physicians, chiropractors, dentists, nurses, nurse practitioners, physician assistants, optometrists, dental hygienists, professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, physical therapists, and pharmacists licensed pursuant to Title 54.1 who provide health care services within the scope of their licensure, without charge, to patients of certain free and not-for-profit clinics, shall be eligible for the income tax credit under the Neighborhood Assistance Act, regardless of where the services are delivered. Currently, the Act requires that such services be provided at the free or not-for-profit clinic in order for these health care professionals to be eligible for the tax credit. SB 81; CH. 657.

TITLE 63.2. MISCELLANEOUS - WELFARE (SOCIAL SERVICES).

Exception to regulation for assisted living facilities. Authorizes an exception to the regulatory requirement for assisted living facilities with special Alzheimer's care units that at least two direct care staff members be awake and on duty at all times who shall be responsible for the care and supervision of the residents under very limited circumstances. The exception will only be granted when the facility (i) offers a safe, secure environment in a freestanding self-contained unit for residents who have been assessed by an independent clinical psychologist or a licensed physician as having a serious cognitive impairment

due to a primary psychiatric diagnosis of dementia; (ii) has an individual facility capacity that does not exceed five residents; (iii) is located in a converted single-family dwelling where the bedrooms, living space and common areas are located on the first level of the dwelling and such facility is located in an established residential neighborhood in any county having a population of no less than 259,000 and no greater than 263,000; (iv) has at least one direct care staff member in such facility at all times that residents are present who shall be responsible for the care and supervision of the residents; (v) has established written emergency procedures that provide for prompt assistance to the direct caregiver by other staff members who may be located at locations other than the facility where the assistance is requested, including a requirement that the direct caregiver have on his person a mobile electronic device that may be used to signal for emergency assistance; (vi) has established written criteria and procedures, in consultation with a licensed physician, to periodically review the appropriateness of each resident's continued residence in such facility and to provide for the transfer of any resident to another facility that has staffing of two or more direct care staff members whenever warranted by a change in a resident's condition; (vii) is operated by a limited liability company initially organized or authorized to transact business in Virginia before January 1, 1997, that operates at least three but no more than nine such facilities; (viii) has provided written notice to any current resident and his legally authorized representative within 30 days after the effective date of this act and, thereafter, to any new resident and his legally authorized resident at the time of admission that one direct care staff member rather than two is present at all times. HB 635; CH. 910.

TITLE 64.1. WILLS AND DECEDENTS' ESTATES.

§ 64.1-145 amended. Legal malpractice; negligence concerning an irrevocable trust. Clarifies that a grantor, or, after his death, his personal representative or trustee, may maintain an action for damages, including tax liability, resulting from legal malpractice associated with an irrevocable trust. The action shall survive the grantor's death, shall accrue upon completion of the representation in which the malpractice occurred, and shall be brought within five years (written contract for legal services) or three years (unwritten contract). No action may be maintained where damages reasonably may be avoided or result from a change of law subsequent to the representation in which the damages were sustained. The bill contains a clause stating that it is declaratory of existing law.

The bill modifies the result in the Supreme Court's decision in *Charles Rutter, Executor of the Estate of Mildred Duncan v. Jones, Blechman, Woltz & Kelly, PC, et al.*, 264 Va. 310, 568 S.E.2d 693 (2002). In *Rutter*, plaintiff executor sought to assert a claim of legal malpractice concerning a revocable trust on the grounds that negligent drafting cost the estate more than

\$600,000 in tax liability. The Supreme Court held that no cause of action could have accrued during decedent's lifetime because damages were not sustained until her death triggered the tax liability. Because no cause of action existed during decedent's life, § 8.01-25 directed that no cause of action survived her death. This bill ensures that *Rutter* is not extended to cases involving irrevocable trusts. HB 1063; CH. 368.

TITLE 65.2. WORKERS' COMPENSATION.

§ 65.2-101 amended. Workers' compensation; electoral board members. Clarifies that electoral board members are considered county and city employees who are defined as "employees" for purposes of eligibility for workers' compensation benefits. The measure is stated to be declaratory of existing law. HB 1267; CH. 928.

§§ 65.2-101, 65.2-500, 65.2-502, and 65.2-512 amended. Workers' compensation; AmeriCorps members and Food Stamp Employment and Training Program participants. Provides that members of AmeriCorps and food stamp recipients participating in the work experience component of the Food Stamp Employment and Training Program shall be deemed to be employees of the Commonwealth for purposes of the Workers' Compensation Act. Such persons shall be eligible for reimbursement for medical costs from covered injuries, but shall not be eligible to receive weekly compensation. SB 547; CH. 888 (effective 4/15/04).

§ 65.2-201 amended. Workers' Compensation Commission; powers. Provides that with respect to all matters within its jurisdiction, the Commission shall have the power of a court of record to administer oaths, to compel the attendance of witnesses and the production of documents, to punish for contempt, to appoint guardians and to enforce compliance with its lawful orders and awards. SB 597; CH. 178.

§§ 65.2-309 through 65.2-311 amended. Workers' compensation; lien by employer on settlement or verdict. Provides that an employer's payment of workers' compensation benefits creates not only a subrogation interest, but an actual lien against any proceeds obtained by verdict or settlement from a third party or recovered pursuant to the uninsured or underinsured motorist provisions of a motor vehicle insurance policy carried by the employer. Under current law, the employer has a subrogation interest in a recovery by the employee against a third party that it must enforce independently or perfect prior to verdict. The bill also provides that where the employer must sue to recover on its lien, it is not required to bear any share of the reasonable expenses and reasonable attorney's fees associated with that portion of its lien that is not preserved. HB 864; CH. 914/SB 558; CH. 941.

§ 65.2-603. See § 54.1-3513; HB 270.

§ 65.2-801 amended. Workers' Compensation Insurance; self-insurers; deposit to secure payment. Authorizes the

Workers' Compensation Commission to accept certificates of deposit, U.S. government bonds, letters of credit, and cash as instruments that will secure the payment of workers' compensation liabilities of self-insured employers. Currently, such employers may be required to deposit an acceptable security, indemnity, or bond. HB 474; CH. 44/SB 323; CH. 173.

TITLE 66. JUVENILE JUSTICE.

§ 66-3.2 added. Department of Juvenile Justice; additional duties of the Director. Provides for the Director of the Department of Juvenile Justice to coordinate with the Department of Corrections the development and submission of requests for compensation from the United States Department of Justice State Criminal Alien Assistance Program for costs associated with incarcerating undocumented aliens. HB 234; CH. 126.

APPROPRIATIONS AND BONDS

Budget bill. Amends Appropriation Act of 2003, Chapter 1042. HB 29; CH. 943

Budget bill. Appropriates the public revenue for the two years ending respectively on the thirtieth day of June, 2005, and the thirtieth day of June, 2006. HB 5001; CH. __, 2004 Special Session.

Part 5 of the 2004 Appropriation Act makes the following changes to the Code of Virginia:

§§ 4.1-230 and 4.1-231 amended. Increases the fee for applying for licenses and permits from the Alcoholic Beverage Control Board from \$15 to \$20 for each license application and for each application for a permit the fee increase varies depending upon the type of permit.

The license fee charged for the privilege of selling alcoholic beverages is also increased.

§ 16.1-69.6:1 amended. Provides for an additional Juvenile and Domestic Relations District Court judge in the Fifteenth and Twenty-seventh judicial districts.

§ 17.1-507 amended. Provides for an additional circuit court judge in the First, Fifteenth, Twenty-second, and Twenty-ninth judicial circuits.

§ 19.2-163.2 amended. Establishes public defender offices for the following regions: (i) the County of Arlington and the City of Falls Church; (ii) the City of Newport News; (iii) the City of Chesapeake; and (iv) the City of Hampton.

§ 58.1-439.12:01 added. Provides up to \$6 million in each fiscal year in total tax credits against the Virginia corporate income tax for cigarettes manufactured in Virginia, which cigarettes are also exported by the manufacturer. In cases where

the number of cigarettes exported in a taxable year is 50 percent or more of the number exported in 2004, the credit for the relevant taxable year will range from \$.20 per 1,000 cigarettes exported up to \$.40 per 1,000 cigarettes exported. In no case shall the credit available to a corporation for the taxable year exceed the lesser of \$6 million or 50 percent of the corporation's income tax liability to the Commonwealth for the taxable year. The credit may be taken for taxable years beginning on and after January 1, 2006, but before January 1, 2016.

Bond bill; Commonwealth of Virginia Higher Educational Institutions Bond Bill of 2004. Authorizes the issuance of 9 (c) bonds in a principal amount not to exceed \$255,316,600 for the financing of revenue-producing capital projects at institutions of higher education in the Commonwealth. Of the total amount of bonds authorized, \$137,700,600 is allocated for previously authorized projects and \$117,616,000 is allocated for new projects. HB 31; CH. 2/ SB 31; CH. 813.

Bonds; Virginia Public Building Authority. Authorizes the Virginia Public Building Authority to issue bonds in the amount not to exceed \$159,300,000 to finance the undertaking, development, acquisition and construction of the first phase of the Statewide Agencies Radio System. SB 39; CH. 491.

Commonwealth of Virginia Parking Facilities Bond Bill of 2004. Authorizes the issuance of 9 (c) bonds in a principal amount not to exceed \$5,700,000 for acquisition of the Virginia Retirement System parking deck. HB 32; CH. 3/ SB 32; CH. 490.

CLAIMS.

Ruffin, Julius Earl. Provides relief for Julius Earl Ruffin who was incarcerated between 1982 and 2003 for a crime that scientific evidence later revealed he did not commit. Governor Warner granted him an absolute pardon on March 19, 2003. Under the bill, the Commonwealth will provide a lump-sum payment to Mr. Ruffin of \$325,000 to be paid by August 1, 2004, and an annuity for the primary benefit of Mr. Ruffin providing for equal monthly payments for a period certain of 30 years commencing on September 1, 2004, in the cumulative amount of \$900,000. The bill provides that the annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages, but shall contain beneficiary provisions providing for the annuity's continued disbursement in the event of the death of Mr. Ruffin to his children and his spouse. The bill also provides that Mr. Ruffin shall be entitled, until 2009, to receive career and technical training within the Virginia community college system free of tuition charges, up to a maximum of \$10,000. HB 848; CH. 852/SB 234; CH. 880.

CONSTITUTIONAL AMENDMENTS.

Constitutional amendment (voter referendum); succession to the office of Governor. Provides for a referendum at the November 2004 election on approval of an amendment to revise provisions concerning succession to the office of Governor. The amendment expands the list of successors to the office of Governor that presently includes the Lieutenant Governor, Attorney General, and Speaker of the House of Delegates, in case of an emergency or enemy attack that prevents the House of Delegates from meeting to elect a governor. The additional successors would include successor speakers, the President pro tempore of the Senate, and the majority leader of the Senate. The successor would be Acting Governor until the House of Delegates convened to elect a Governor. The amendment also includes authority for the General Assembly, by law, to provide for a waiver of certain eligibility requirements for the Attorney General and Speaker to succeed to the office of Governor in the event of an emergency or enemy attack upon the soil of Virginia. (See also HJ 9; CH. 982, companion resolution). HB 37; CH. 17.

Constitutional amendment (voter referendum); effective dates of decennial redistricting measures; vacancies. Provides for a referendum at the November 2004 election on approval of a proposed constitutional amendment to revise provisions concerning the effective date and implementation of decennial redistricting measures. The proposed amendment continues the requirement that decennial reapportionment or redistricting measures shall be enacted in the first year after the decennial census (2011, etc.). It spells out that the new lines will be implemented for the first November general election held just prior to the expiration of the term being served in the year of the redistricting. The new language, in effect, continues the existing practice and understanding that there will be regular November elections from new districts in 2011 for the House of Delegates and Senate, in 2012 for the United States House of Representatives, in 2021 for the House of Delegates, in 2022 for the House of Representatives, in 2023 for the Senate, and so forth. It further provides explicitly that the members in office when a decennial reapportionment law is enacted shall complete their terms of office and continue to represent the districts from which they were elected for the duration of those terms of office.

Another new provision specifies that any vacancy occurring during such terms will be filled from the preexisting district, i.e., the same district that elected the member whose vacancy is being filled.

The proposed amendment continues the present provision that reapportionment laws take effect "immediately" without being subject to the usual requirement for a four-fifths vote in each house of the General Assembly to approve an emergency measure. This exception to the emergency vote requirement remains necessary. There is usually only a short time available to draw new lines after the release of census redistricting data

early in the year following the census, and before the nomination and election timetable begins for that year's November election.

If approved by the voters, the amendment will take effect January 1, 2005. (See also SJR 6; CH. 981, companion resolution). SB 18; CH. 873.

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