

DIGEST OF THE ACTS
OF THE
GENERAL ASSEMBLY OF VIRGINIA
AT THE
2006 SESSION

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PREFACE

This Digest of the Acts has been prepared to give an overview of the legislation adopted during the 2006 Regular and Reconvened Sessions of the General Assembly of Virginia, prior to publication of the 2006 Acts of Assembly.

These brief notes are not detailed synopses of the acts, but are intended to point out the major features of new measures or the principal changes in existing law. Anyone desiring more detailed information about an act should obtain its full text.

The arrangement of the Digest parallels the title and section number organization of the Code of Virginia. Under each title heading is listed every section within that title that has been amended, added, or repealed, and a brief description of the effect of the General Assembly action.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 2006 General Assembly will become effective on July 1, 2006, 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 2006 Regular and Reconvened 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.

§ 1-510 amended. Emblems; state fish and bat. Redesignates the Brook Trout as the official fish of the Commonwealth and corrects the spelling of the name of the state bat. The Code section that recognized the Brook Trout as the official state fish was inadvertently repealed during the recodification of Title 1 last year. The Brook Trout has been the Commonwealth's official fish since 1993. HB 1011; CH. 128.

TITLE 2.2. ADMINISTRATION OF GOVERNMENT.

§§ 2.2-106 and 2.2-200 amended; § 15.2-1510.1 added. Severance benefits to state and local officials. Requires that any severance benefits provided to departing Cabinet Secretaries and agency heads at the state level, and any departing official appointed by a local governing body shall be publicly announced by the appointing authority prior to such departure. HB 476; CH. 254.

§§ 2.2-115 and 2.2-2238.1 amended. High-speed and broadband internet access in underserved areas. Adds a provision in the Governor's Development Opportunity Fund to allow grants or loans for the purpose of installing, extending, or increasing the capacity of high-speed or broadband internet access. The bill also amends § 2.2-2238.1 to require the Virginia Economic Development Partnership Authority to review and evaluate, in its program developed under the section, existing industrial sites and infrastructure that will provide broadband or high-speed internet access to rural and underserved areas of the Commonwealth. HB 400; CH. 251.

§ 2.2-115 amended. Governor's Development Opportunity Fund. Makes several changes to the Governor's Development Opportunity Fund including prohibiting awards from the Fund being used to pay or guarantee the payment for any rental, lease, license, or other contractual right to use property.

For each five fiscal-year period, the bill would provide that one-third of the moneys in the Fund would be used for economic development projects in high unemployment areas. This distribution, however, would not be required if economic development prospects in such high unemployment areas are unable to fulfill applicable minimum private investment and new jobs requirements.

The bill would require that, as a condition of an award from the Fund, the average wage of new jobs created must be no less than the prevailing average wage in the county or city of the economic development project. However, for economic development projects located in a county or city with an annual average unemployment rate greater than the statewide average unemployment rate, the average wage of the new jobs would

be required to be at least 85 percent of the prevailing average wage. In addition, the Secretary of Commerce and Trade may award a grant or loan from the Fund for projects paying less than 85 percent of the prevailing average wage that will be located in counties and cities with such unemployment rate if the Secretary makes a written finding that the economic circumstances in the area are sufficiently distressed that assistance to the county or city to attract the project is nonetheless justified.

As another condition of eligibility of an award from the Fund, the bill sets forth several elements that would have to be included in a contract between the political subdivision and the economic development prospect. These would include the fair market value of all funds that the Commonwealth commits to the project, the fair market value of all funds that the political subdivision agrees to provide to the project, and a negotiated formula for the repayment of moneys from the Fund if the economic development prospect does not create the contractually required number of new jobs or does not satisfy minimum investment requirements.

The bill would require that all proposed contracts between political subdivisions and economic development prospects be reviewed by the Attorney General prior to execution. The Attorney General would be required to review the contract (i) for enforceability as to its provisions, and (ii) to ensure that it is in appropriate, legal form. The Attorney General would have seven days to provide any written suggestions, but the suggestions would be limited to enforceability of the contract or the appropriateness of the legal form of the contract. SB 109; CH. 890.

§§ 2.2-203, 2.2-221, 2.2-2681, and 2.2-2715 amended. Department of Veterans Services and the Virginia Veterans Services Foundation. Transfers oversight of the Department of Veterans Services and the Virginia Veterans Services Foundation from the Secretary of Administration to the Secretary of Public Safety. The bill also allows the Joint Leadership Council of the Veterans Service Organizations to get reimbursed for travel and expenses. HB 1413; CH. 150.

§ 2.2-205.1 added. Economic Crisis Strike Force. Establishes the Economic Crisis Strike Force to respond as needed to economic disasters that may occur in the Commonwealth. This bill defines economic disaster. HB 1499; CH. 80 (effective 3/21/06)/SB 535; CH. 79 (effective 3/21/06).

§ 2.2-212. See § 51.5-56; HB 849/SB 558.

§ 2.2-213.2 added. Secretary of Health and Human Resources; duties. Requires the Secretary, in consultation with the Secretary of Public Safety, to establish an integrated system for coordinating the planning and provision of services for children with incarcerated parents among state, local, and non-profit agencies, and faith-based organizations in order to provide such children with services needed to continue parental relationships with the incarcerated parent, where appropriate, and encourage healthy relationships in the family and community. This bill is a recommendation of the Joint

Subcommittee Studying the Commonwealth's Program for Prisoner Reentry to Society (2005). SB 188; CH. 366.

§ 2.2-221 amended. Secretary of Public Safety. Adds the Department of Forensic Science to the agencies for which the Secretary of Public Safety is responsible. SB 556; CH. 326.

§ 2.2-229 amended. Intermodal Office. Provides more specific functions and goals for the Intermodal Office in the Office of the Secretary of Transportation. SB 412; CH. 942.

§ 2.2-302.1 added. Virginia Liaison Office; association health plans. Directs the Virginia Liaison Office to work with members of the Virginia Congressional delegation and federal executive branch agencies to develop, support, and enact legislation, such as the Small Business Health Fairness Act of 2005, that provides for the establishment and governance of group health plans sponsored by trade, industry, professional, chamber of commerce, or similar business associations, referred to as association health plans, if such plans remain subject to Virginia law. The Office is required to report annually to the Governor and the General Assembly by October 1 the status of federal legislation and activities relating to association health plans. SB 487; CH. 910.

§§ 2.2-419, 2.2-420, and 2.2-426 amended. Lobbyist registration and disclosure. Makes several amendments to registration and disclosure provisions for lobbyists including (i) raising the threshold for reporting any single entertainment event from \$50 to \$100, (ii) clarifying provisions for exempting uncompensated lobbyists from registration and disclosure requirements, and (iii) adding a definition of "fair market value." The bill is the recommendation of the HJR 186 (2004) Joint Subcommittee Studying Conflicts of Interests and Lobbyist Disclosure Filings. HB 543; CH. 843.

§§ 2.2-419, 2.2-3103, and 2.2-3117. See § 24.2-101; HB 972.

§§ 2.2-419, 2.2-3103, and 2.2-3117. See § 24.2-101; SB 141.

§ 4.1-105 amended; § 2.2-509.1 added. Investigators with Office of the Attorney General and special agents of Alcoholic Beverage Control Board; powers to enforce certain tobacco laws. Authorizes investigators with the Office of the Attorney General to seize cigarettes which are unlawfully sold, possessed, distributed, transported, imported, or otherwise held and to accompany and participate with special agents of the Alcoholic Beverage Control Board or other law-enforcement officials engaging in an enforcement action under § 3.1-336.6 or 58.1-1037. HB 1276; CH. 695.

§ 2.2-604.1 added. Governor; interests of senior citizens and adults with disabilities. Requires the head of each state agency to designate an existing employee who shall be responsible for reviewing policy and program decisions under consideration by the agency in light of the effect of such decisions on senior citizens and adults with disabilities. HB 854; CH. 345.

§ 2.2-609. See § 42.1-92; HB 210.

§ 2.2-713 amended. Public Guardianship Program; authority to make funeral arrangements. Authorizes a public guardian or conservator to make funeral, cremation, or burial arrangements if the public guardian or conservator is not aware of any person that has been otherwise designated to make the arrangements as set forth in § 54.1-2825. A public guardian or conservator may make funeral or burial arrangements if the public guardian or conservator has made a good faith effort to locate the next of kin to determine if the next of kin wishes to make the burial, cremation or funeral arrangements and the next of kin of the incapacitated person does not wish to make the arrangements. Good faith effort includes contacting the next of kin identified in the petition for appointment of a guardian or conservator. When in compliance with the law, funeral service licensees, funeral service establishments, registered crematoria, and public guardians and conservators are provided immunity from civil liability for any act, decision, or omission resulting from acceptance of any dead body for disposition, unless such acts, decisions, or omissions resulted from bad faith or malicious intent. HB 856; CH. 854.

§ 2.2-720 amended. Alzheimer's Disease and Related Disorders Commission; sunset. Changes sunset date from July 1, 2006, to July 1, 2009. HB 997; CH. 347/SB 668; CH. 381.

§ 2.2-803 amended. State agencies; collection of debts. Permits state agencies to refrain from collecting any debts owed if the administrative cost of collection likely would exceed the amount owed. The Comptroller shall develop other policies and procedures to reduce the costs of collecting debts owed to state agencies. HB 741; CH. 340.

§ 2.2-1120 amended. Department of General Services; Division of Purchases and Supply; purchases by private nonprofit institutions of higher education from certain state contracts. Allows private, nonprofit institutions of higher education chartered in Virginia to purchase directly from state contracts established by the Division of Purchases and Supply. SB 664; CH.582.

§§ 2.2-1124 and 15.2-951 amended. Disposition of surplus materials. Adds online public auctions as a permissible means by which the Commonwealth and localities thereof may dispose of surplus materials. Localities that elect to dispose of surplus materials through public sale or auction (including online public auction) are subject to the same provisions applicable to state agencies, departments, divisions, and institutions that dispose of surplus materials by public sale or auction. HB 1488; CH. 468/SB 449; CH. 493.

§ 15.2-1800 amended; § 2.2-1147.2 added. Equal access to public facilities. Prohibits state agencies and localities from denying use of certain public facilities to the Boy Scouts of America and the Girl Scouts of the USA. HB 203; CH. 57.

§§ 2.2-1201, 2.2-3707.1, 2.2-3801, 17.1-276, 22.1-70.2, 24.2-105.1, 24.2-914.1, 42.1-36.1, 58.1-609.5, and 58.1-3122.2 amended. Code of Virginia references to Internet. Simplifies and updates references to the Internet in the Code of Virginia. SB 21; CH. 474.

§§ 2.2-1401 through 2.2-1404, 2.2-1405, 2.2-3705.6, 2.2-4310, 15.2-965.1, and 18.2-213.1 amended. **Public procurement; SWAM businesses.** Includes small and women business enterprises in the certification program administered by the Department of Minority Business Enterprise. The bill provides that such certification programs shall deny certification to vendors from states that deny like certifications to Virginia-based small, women, or minority business enterprises or that provide a preference for small, women, or minority business enterprises based in that state that is not available to Virginia-based businesses. The bill requires the Department to adopt regulations that mandate certification, without any additional paperwork or fee, of any prospective state vendor already certified under any certification program that is determined to meet the minimum requirements established in the regulations of the Department. The bill also provides that a business certified by the Department shall not be required by any locality to obtain any additional certification to participate in any program designed to enhance the participation of such businesses as vendors or to remedy any documented disparity. HB 122; CH. 831/SB 662; CH. 921.

§ 2.2-1502.1 amended. **Department of Planning and Budget; school efficiency review program.** Provides that school divisions shall pay, in addition to 25 percent of the cost of a school efficiency review in the fiscal year immediately following the final school efficiency review report, beginning with reviews completed in fiscal year 2007 additional costs under certain conditions. HB 607; CH. 596.

§ 2.2-1839 amended. **Risk management plan; Meals on Wheels Association.** Provides for inclusion under the State's risk management plan any local chapter or program of the Meals on Wheels Association of America or any area agency on aging providing meal and nutritional services to persons who are elderly, homebound, or disabled. SB 98; CH. 713.

§ 2.2-2101. See § 23-14; HB 517.

§§ 2.2-2101 and 2.2-2666.1 amended; §§ 2.2-304 through 2.2-306 added. **Office of Commonwealth Preparedness.** Makes permanent the Office of Commonwealth Preparedness and provides for the appointment of a director by the Governor to serve a four-year term. The bill sets out the duties of the Office and also creates the Secure Commonwealth Panel and sets out its membership and duties. The bill contains technical amendments. HB 1004; CH. 860/SB 363; CH. 901.

§§ 2.2-2101 and 51.1-1201 amended. **Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board; membership.** Amends the membership of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board to include two members of the House of Delegates, to be appointed by the Speaker of the House, and one member of the Senate, to be appointed by the Senate Committee on Rules. This changes the membership of the Board from seven members to 10 members. HB 1579; CH. 707.

§ 2.2-2233.2. See § 23-4.3; HB 134.

§ 2.2-2233.2. See § 23-4.3; SB 259.

§ 2.2-2503. See § 30-58.1; HB 614.

§§ 2.2-2524 through 2.2-2529 added. **Community Integration Advisory Commission.** Establishes the Community Integration Advisory Commission to monitor the progress toward community integration of Virginians with disabilities by all executive branch state agencies. The Commission consists of 21 nonlegislative citizen members who have or represent persons with disabilities and service providers for such persons. The Commission is required to monitor the implementation of state and federal laws pertaining to community integration of persons with disabilities and make appropriate recommendations to the Governor relative to the community integration of Virginians with disabilities. SB 182; CH. 894.

§§ 2.2-2609, 15.2-6202, 15.2-6203, 15.2-6209, 15.2-6210, 15.2-6214, 16.1-69.6, 17.1-500, 17.1-506, 22.1-354.1, 24.2-302.1, 24.2-303.1, 24.2-303.2, 24.2-304.01, and 55-288.1 amended. **Former cities of Clifton Forge and South Boston.** Updates Code references to the former cities of Clifton Forge and South Boston to reflect their new town status. This bill deletes certain references to "Clifton Forge" or "South Boston" because the counties in which they are situated (Alleghany and Halifax, respectively) are also mentioned in the same amended sections. Except as provided herein, this bill does not amend the Code to say "Town of Clifton Forge" or "Town of South Boston" because the amended Code sections do not reference any other town in Alleghany or Halifax County. This bill, however, changes all references from "city" to "town" in §§ 15.2-6202, 15.2-6203, 15.2-6209, 15.2-6210, and 15.2-6214 to preserve the General Assembly's intent of fostering economic cooperation between the localities of Alleghany County and the former city/Town of Clifton Forge. HB 1010; CH. 861.

§ 2.2-2618. See § 16.1-300; HB 847/SB 561.

§ 2.2-2666.3 added. **Land use and eminent domain adjacent to certain jet bases; advisory council.** Provides that the governing body of any locality in which a United States Navy Master Jet Base or an auxiliary landing field used in connection with flight operations arising from such Master Jet Base is located shall (i) adopt zoning ordinances that require the governing body to consider certain Navy guidelines in deciding discretionary applications for property in noise levels 70 dB DNL or greater, (ii) undertake an evaluation of undeveloped properties located in noise zones 70 dB DNL or greater to determine the suitability of such properties for rezoning classifications that would prohibit incompatible uses, (iii) adopt such ordinances or take such other actions as may be recommended in any Joint Land Use Study that has been officially approved by the Navy and the governing body of the locality, and (iv) establish programs to purchase land or development rights from willing sellers in the corridor of land underneath the flight path between the Master Jet Base and the auxiliary landing field known as an interfacility traffic area.

Also, such localities are granted authority to exercise the limited right of eminent domain at the request of property owners

in acquisition of any lands, easements, and privileges for the purpose of protecting public safety by providing unobstructed airspace for the landing and takeoff of aircraft utilizing such Master Jet Base and preventing incompatible development within Accident Potential Zone 1 areas surrounding such Master Jet Base. This bill also creates the Oceana/Fentress Military Advisory Council as a subunit of the Virginia Military Advisory Council. The provisions of this act and all authority therein shall terminate in the event that the aircraft and activities necessary to support the operations of a Master Jet Base are designated for realignment outside the locality. HB 975; CH. 266/SB 565; CH. 328.

§§ 2.2-2669, 2.2-2670, and 2.2-2674.1 amended; §§ 2.2-435.6 and 2.2-435.7 added; §§ 2.2-435.1 through 2.2-435.5 repealed. Deputy Chief of Staff for Workforce Development. Designates the Governor as Chief Workforce Development Officer for the Commonwealth. The position will replace the Special Advisor to the Governor for Workforce Development created in 2004. The duties of the Chief Workforce Development Officer, which may be delegated to a senior staff member of the Governor's immediate staff, will include serving as lead staff to the Virginia Workforce Council and creating and implementing a strategic plan for the statewide delivery of workforce development and training programs and activities, which shall include performance measures, and evaluating performances based on these measures. The bill also requires the Governor to (i) develop a statewide strategic plan addressing the need for reforms in workforce policy, including the implementation of workforce development and training initiatives and policies by December 1, 2006, and (ii) identify and implement strategies to optimize the role of the Virginia Community College System in workforce development. Both the strategic plan and strategies are to be submitted to the Chairmen of the House Appropriations and Senate Finance Committees for review prior to final adoption or implementation. HB 1307; CH. 696/SB 494; CH. 751.

§§ 2.2-2725, 2.2-2726, and 2.2-2729 amended; § 2.2-2731 repealed. Board of Trustees of the Martin Luther King, Jr. Living History and Public Policy Center. Amends Virginia law establishing the governing structure of the Martin Luther King, Jr. Living History and Public Policy Center, an independent nonprofit corporation, to conform the statutes with § 501 (c) (3) of the Internal Revenue Code and federal and state laws governing tax exempt organizations. The Center was granted federal tax exempt status after the enactment of Senate Bill 804 by the 2005 Session of the General Assembly. A two-year transition period was granted by the Internal Revenue Service to transfer responsibility for the Center from the General Assembly to the Board of Trustees so that the Board and Center could become acclimated to functioning as an independent nonstock corporation. The transition period and the provisions of this act expire on July 1, 2007.

This bill is a recommendation of the legislative commission, the Dr. Martin Luther King, Jr. Memorial Commission. SB 107; CH. 165.

§ 2.2-2817.1 amended. State employees; alternative work schedules. Adds telecommunications connectivity (i.e., broadband Internet access, additional telephone lines, and online collaborative tools) to the list of specific budget items that the heads of state agencies must include in their report to the Secretary of Administration on telecommuting and participation in alternative work schedules by state employees. HB 1161; CH. 137.

§ 2.2-2818. See §54.1-3812; HB 300.

§ 2.2-2818.1 added. Health insurance for certain state employees; TRICARE Military Health System. Authorizes the Department of Human Resource Management to offer a voluntary supplemental health coverage program for state employees who have primary coverage under the TRICARE Military Health System. HB 311; CH. 93.

§§ 2.2-3106 and 2.2-3110 amended. State and Local Conflicts of Interest Act; exemption for faculty papers. Provides that an employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings or papers of an academic, research, or cultural value to the institution, provided the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of service, research, or education is not a prohibited contract under the State and Local Conflicts of Interest Act. The bill also provides an exemption for an officer or employee whose personal interest in a contract with the governmental agency is by reason of an ownership in the contracting firm in excess of 3 percent of the contracting firm's equity, provided that the officer or employee's ownership or other equity interest and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution and that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the governmental agency. The bill also contains technical amendments. HB 457; CH. 839.

§ 2.2-3117 amended. State and Local Government Conflict of Interests Act. Amends the statement of economic interests disclosure form by removing the requirement that the address provided be a home address. As introduced, this bill was a recommendation of the Judicial Council. SB 165; CH. 310.

§ 2.2-3202 amended; §§ 2.2-109.01 and 2.2-2831 added. Severance benefits for state employees. Restricts severance benefits for state employees to those specifically provided by law. The bill defines appointed position and covered appointee. The bill provides that any person eligible for transitional severance benefits must have been involuntarily separated due to causes other than job performance or misconduct. The bill applies to appointments made by the Governor and other appointing authorities, including VRS. The bill provides that it shall apply only to persons involuntarily separated on or after July 1, 2006. HB 15; CH. 813.

§ 2.2-3202 amended; §§ 2.2-109.01 and 2.2-2831 added. Workforce Transition Act (WTA). Provides that certain appointees shall be covered under the Act regardless of years of service prior to appointment. Under the bill every gubernatorial appointee and other persons appointed by other appointing authorities who are eligible for benefits under the Act must annually sign a statement providing that such person has read and understands the benefits for which he is eligible under the Act. The Secretary for the Commonwealth would retain the statements in its records. The bill also restricts severance benefits for state employees to those specifically provided by law, except officers or faculty of public institutions of higher education and a state officer or employee not eligible for transitional severance benefits under the WTA. Finally, the bill provides that it shall not be construed to prohibit payments for settlement of an employment dispute or payments in satisfaction of a judgment. SB 364; CH. 902.

§ 2.2-3304.1 added. Little League Baseball Challenger Week. Designates the first full week of May preceding Mother's Day of each year as Little League Baseball Challenger Week in Virginia. HB 738; CH. 109.

§ 2.2-3311 amended. Day of recognition for early childhood and day-care providers and professionals. Changes the Commonwealth's day of recognition for early childhood and day-care providers and professionals from October 22nd each year to the Friday before Mother's Day each year. HB 1602; CH. 156.

§ 2.2-3705.3. See § 22.1-19.1; HB 348.

§ 2.2-3705.3. See § 22.1-19.1; SB 39.

§ 2.2-3705.6. See § 15.2-2160; HB 1404/SB 706.

§ 2.2-3705.6 amended. Freedom of Information Act; record exemption for the Tobacco Indemnification and Community Revitalization Commission. Exempts proprietary records of the Tobacco Indemnification and Community Revitalization Commission from the mandatory disclosure requirements of the Freedom of Information Act. HB 1458; CH. 467.

§§ 2.2-3705.6, 56-573.1, and 56-575.16 amended; §§ 56-573.1:1 and 56-575.17 added. Freedom of Information Act (FOIA); disclosure of procurement records under the Public-Private Transportation Act of 1995 (PPTA) and the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA). Revises the current FOIA exemption for records submitted by a private entity to a responsible public entity under the PPTA and the PPEA and formalizes the earmarking process or the protection of trade secrets, financial records, and other records submitted by a private entity, by requiring a written request for an exclusion from disclosure by the private entity and for a written determination by the responsible public entity that such records will be protected from disclosure under certain circumstances. The bill also amends the PPTA and PPEA to require a public entity to post all accepted conceptual proposals, whether solicited or not. The required posting for responsible public entities that are state agencies, departments, and institutions, shall be on eVA (the

Department of General Service's web-based electronic procurement program) and for responsible public entities that are local public bodies, posting shall be on the responsible public entity's website or by publication, in a newspaper of general circulation in the area in which the contract is to be performed, of a summary of the proposals and the location where copies of the proposals are available for public inspection. Local public bodies may also post on eVA, in the discretion of the local responsible public entity. The bill also requires that at least one copy of the proposals shall be made available for public inspection. The bill provides that nothing shall be construed to prohibit the posting of the conceptual proposals by additional means deemed appropriate by the responsible public entity so as to provide maximum notice to the public of the opportunity to inspect the proposals. The bill also requires the responsible public entity to provide an opportunity for public comment 30 days before the execution of an interim or comprehensive agreement. The bill provides that once the process of bargaining of all phases or aspects of an interim or comprehensive agreement is complete, but before an interim or a comprehensive agreement is entered into, a responsible public entity shall post the proposed agreement. Once an interim or comprehensive agreement has been executed, all procurement records, excluding trade secrets, financial information, and cost estimates, are available to the public upon request. The bill is a recommendation of the Freedom of Information Advisory Council. SB 76; CH. 936.

§§ 2.2-3706 and 2.2-3802. See § 18.2-370.2; HB 984.

§§ 2.2-3706 and 2.2-3802. See § 18.2-48; SB 559.

§ 2.2-3707.1 amended. Freedom of Information Act; posting of minutes by state boards and commissions. Clarifies that all boards, commissions, councils, and other public bodies created in the executive branch of state government shall post minutes of their meetings on such body's website, if any, and on the Virginia Regulatory Town Hall. HB 564; CH. 595.

§ 2.2-3711 amended. Freedom of Information Act (FOIA); closed meeting exemption; Forensic Science Board and Scientific Advisory Committee. Allows the Forensic Science Board or the Scientific Advisory Committee to meet in a closed meeting when discussing or considering records relating to complaints, memoranda, correspondence, case files or reports, witness statements, and evidence relating to a criminal investigation or prosecution, which records are excluded from FOIA pursuant to subdivision F 1 of § 2.2-3706. HB 845; CH. 430/SB 557; CH. 499.

§ 2.2-3711 amended. Freedom of Information Act; open meeting exemption; Virginia Port Authority. Grants an exemption from the open meeting provisions of the Freedom of Information Act (FOIA) for discussions of proprietary information gathered by or for the Virginia Port Authority concerning rates and rate structures and shipments of coal from Virginia's ports. Currently, the Virginia Port Authority is not required to release records relating to same under FOIA. HB 1467; CH. 560.

§ 2.2-3802 amended. Government Data Collection and Dissemination Practices Act; applicability. Adds the police department of the Chesapeake Bay Bridge and Tunnel Commission to the list of agencies to which the Government Data Collection and Dissemination Practices Act is inapplicable. HB 664; CH. 196.

§ 2.2-3803. See § 58.1-3; HB 407.

§ 2.2-3803. See § 58.1-3; SB 42.

§ 2.2-3808.2. See § 17.1-279; HB 563.

§ 2.2-4002. See § 3.1-741.6; HB 982.

§ 2.2-4006. See § 54.1-3307; HB 355.

§§ 2.2-4006 and 36-100 amended. Administrative Process Act; Board for Housing and Community Development; exemption for certain regulations. Exempts from the Administrative Process Act regulations adopted by the Board for Housing and Community Development pursuant to the (i) Statewide Fire Prevention Code, (ii) Industrialized Building Safety Law, (iii) Uniform Statewide Building Code, and (iv) the construction, maintenance, operation, and inspection of amusement devices, provided that certain procedural requirements are followed by the Board. Under the bill, portions of the Act concerning public petitions and regulatory review of the Governor and General Assembly remain applicable. SB 162; CH. 719.

§ 2.2-4021 amended; § 2.2-4020.1 added. Administrative Process Act; summary case decisions. Authorizes requests for summary case decisions by persons who have (i) applied for a permit, certificate, license, or other approval from an agency or (ii) received notice of a potential violation or other deficiency from an agency. The bill sets out the requirements for making such a request and the process by which summary case decisions are to be conducted. The bill provides that in these instances the requestor waives his right to an informal fact-finding proceeding and a formal hearing or other evidentiary hearing on the issue to be decided by the summary case decision. HB 1486; CH. 702.

§ 2.2-4301 amended. Virginia Public Procurement Act; procurement of professional services; multiple awards. Provides an exception to the competitive negotiation process for the procurement of professional services where if the terms and conditions for multiple awards are included in the Request for Proposal, a public body may award contracts to more than one offeror. HB 1183; CH. 206.

§ 2.2-4303 amended. Virginia Public Procurement Act; methods of procurement; design-build by certain local public bodies. Provides that design-build or construction management projects undertaken by any local governing body when the contract is not expected to cost more than \$1 million shall be exempt from approval of the Design-Build Review Board. As a result, such local governing bodies have authority to enter into contracts on a fixed price design-build basis or construction management basis. HB 1416; CH. 464.

§§ 2.2-4303 and 2.2-4308 amended. Virginia Public Procurement Act; methods of procurement; design-build by certain local public bodies. Provides that design-build or construction management projects undertaken by any local governing body of a locality with a population in excess of 100,000 shall be exempt only from approval of the Design-Build Review Board. These localities, however, must have had a one-time determination by the Design-Build Review Board that the locality has the personnel, procedures and expertise to enter into such contracts. As a result, such local governing bodies have authority to enter into contracts on a fixed price design-build basis or construction management basis. SB 732; CH. 510.

§ 2.2-4304 amended. Virginia Public Procurement Act; cooperative procurement; professional services. Allows a public body to enter into cooperative procurements for professional services, except for architectural or engineering services, even though the public body did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. HB 458; CH. 100.

§ 2.2-4308.1 added. Virginia Public Procurement Act; purchase of certain insurance in construction projects. Allows a public body to purchase an owner-controlled insurance program in connection with any public construction contract where the amount of the contract or combination of contracts is more than \$100 million. The bill defines owner-controlled insurance program and provides that no contractor or subcontractor can be required to provide insurance coverage for a construction project if that specified coverage is included in an owner-controlled insurance program in which the contractor or subcontractor is enrolled. The bill also provides that a provider of architectural and professional engineering services cannot be required to participate in such a program, except if the public body elects to secure excess coverage. HB 994; CH. 605/SB 271; CH. 569.

§ 2.2-4321.1 amended. Virginia Public Procurement Act; prohibited contracts. Expands the prohibition on state contracts with vendors who haven't paid state income taxes. The bill provides it shall not apply to any person that has (a) entered into a payment agreement with the Department of Taxation to pay the tax and is not delinquent under the terms of the agreement or (b) appealed the assessment of the tax in accordance with law and such appeal is pending. HB 557; CH. 408.

§§ 2.2-4336 and 2.2-4337 amended. Performance and payment bonds. Increases the amount of required bid, payment, and performance bonds from \$100,000 to \$250,000 for transportation-related projects that are partially or wholly funded by the Commonwealth. For payment bonds for such projects, the amount is whatever is satisfactory to the public body. HB 64; CH. 925.

§ 2.2-4337 amended. Virginia Public Procurement Act; performance and payment bonds. Adds a provision that for the award of any construction contract exceeding \$100,000 in

which the performance of labor or the furnishing of materials will be paid with public funds, the contractor must furnish to the public body performance and payment bonds. In addition, the bill provides that performance and payment bonds are required for construction contracts exceeding \$100,000 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures, or other improvements to real property leased by a public body. HB 1259; CH. 694.

§ 2.2-4343. See § 37.2-512; HB 774.

§ 2.2-5211.1. See § 37.2-408; HB 577.

§ 2.2-5510 amended. Strategic plan; impact of aging population. Adds to the strategic plan that each state agency is required to prepare an examination of how the aging of the population will affect the agency's ability to deliver services and a description of how it is responding to these changes. Requires each agency to report by October 1 of each year to the Governor and the General Assembly its progress in addressing the impact of aging in the population in at least five specific actions. HB 110; CH. 54.

TITLE 2.2. MISCELLANEOUS - ADMINISTRATION OF GOVERNMENT.

Department of General Services. Requires the Department of General Services, in cooperation with the Virginia Information Technologies Agency, to establish and publish in the vendor's manual a procedure for refunding the relevant eVa transaction fees in the event of a change order or cancellation of a contract by a vendor. HB 930; CH. 124.

Department of General Services; Old City Hall. Authorizes the Director of the Department of General Services to record a declaration of historic preservation covenants and agreements relating to the Old City Hall located in Richmond, Virginia. HB 949; CH. 439.

Veterans care center; construction in Hampton Roads. Authorizes the Governor to request federal funds to construct a new veterans care center in the Hampton Roads area, and requires the State Treasurer to issue a short-term treasury loan in the amount of \$14.6 million for the state share of construction costs, once the United States Department of Veterans Affairs has determined that federal funds will be allocated for the new center. HB 1383; CH. 614.

Department of Veterans Services. Authorizes the Department of Veterans Services to accept donated property in the southwestern region of Virginia for the purpose of constructing the Southwest Virginia Veterans Cemetery. The bill also provides for (i) the Director of the Department of Planning and Budget to establish a capital project for the purpose of cemetery construction, and (ii) the Treasurer to provide the Department of Veterans Services a short-term, interest free treasury loan for

the purpose of matching such federal funds if such funds become available HB 1465; CH. 293/SB 359; CH. 315.

TITLE 3.1. AGRICULTURE, HORTICULTURE AND FOOD.

§ 3.1-18.6 amended. Plans to preserve farmland and forestland. Directs agencies that prepare plans for the implementation of policies to preserve important farmland and forestland to submit those plans to the Secretary of Agriculture and Forestry and the Secretary of Natural Resources annually. Presently, plans are submitted to the Secretary of Commerce and Trade and the Secretary of Natural Resources. SB 419; CH. 490.

§§ 3.1-22.8, 15.2-6501, and 62.1-67 amended. Legislative appointees on certain boards. Designates legislative appointing authorities to appoint legislators who serve on the Tourist Train Development Authority, the Chippokes Plantation Farm Foundation Board, and the Potomac River Basin Commission. Currently, the Governor makes these appointments, although it is usually customary for the legislature to appoint its own members. One additional House member is added to the Tourist Train Development Authority so that both houses have representation on the Authority. The bill also provides that the nonlegislative citizen member appointed to the Potomac River Basin Authority will be appointed at large and that alternate members must reside within the Potomac River drainage basin. This bill is a recommendation of the Joint Subcommittee to Study the Balance of Powers Between the Legislative and Executive Branches pursuant to HJR 707 (2005). HB 1186; CH. 556/SB 330; CH. 516.

§§ 3.1-336.3, 3.1-336.8, and 3.1-336.10 amended; § 3.1-336.9:1 added. Escrow payments on sale of certain tobacco products. Requires the Attorney General to provide nonparticipating tobacco product manufacturers with information regarding the sale of their cigarettes in the Commonwealth in order to facilitate full and accurate escrow payments by such manufacturers. It also requires quarterly escrow payments, rather than annual, by nonparticipating tobacco product manufacturers that (i) are new to the market, (ii) default on any Master Settlement Agreement provisions, or (iii) as determined by the Attorney General, pose a risk of not making their escrow payments in the future. HB 980; CH. 674.

§§ 3.1-336.4 and 3.1-336.8. See § 58.1-3; HB 1277.

§ 3.1-336.8. See § 58.1-1000; SB 729.

§ 3.1-396.1. See § 18.2-236; HB 153/SB 349.

§ 2.2-4002 amended; § 3.1-741.6 added. Control of avian influenza; penalty. Allows the Commissioner of Agriculture and Consumer Services to adopt regulations to prevent and control avian influenza in commercial and noncommercial poultry, including regulations that affect the live-bird market-

ing system, and authorizes the Commissioner to participate in the federal Live Bird Marketing Program of the United States Department of Agriculture. The Commissioner's regulatory authority is exempted from the Administrative Process Act. Failure to comply with promulgated regulations may result in a civil penalty not to exceed \$2,500. HB 982; CH. 442.

§ 3.1-741.6 added. Compensation for animals destroyed to control animal disease outbreak. Allows the Commissioner of Agriculture and Consumer Services, with the approval of the Governor and the Secretary of Agriculture and Forestry, to pay to the appropriate persons, from funds so appropriated, a portion of the difference between the appraised value of each animal or animal product destroyed and the total of the value of the salvage thereof and any compensation made for each animal or animal product by the federal government. This applies to animals destroyed at the direction of the State Veterinarian for the control or eradication of an animal disease outbreak. HB 983; CH. 443.

§ 3.1-796.70 amended. Gifting of unweaned or certain immature animals. Prohibits the giving away as pets or novelties any living chicks, ducklings, or other fowl under two months old in quantities of less than six or any unweaned mammalian companion animal or any dog under the age of seven weeks without its dam, or any cat under the age of seven weeks without its queen. Current law prohibits the sale or use as inducement or prize but does not address gifts. SB 574; CH. 503.

§§ 3.1-796.86 through 3.1-796.90 and 3.1-796.97 amended; § 3.1-796.87:1 added. Licensing of dogs and cats. Requires licensed veterinarians to forward to the local treasurer vaccination information for dogs. The local treasurer shall, upon receipt of the vaccination information, bill the owners of unlicensed dogs for a pet license. The duration of a dog or cat license may be equal to and run concurrent with the effective period of the rabies vaccination. HB 339; CH. 836 (effective 7/1/07).

§ 3.1-796.93:1 amended; § 3.1-796.93:3 added; § 3.1-796.117 repealed. Control of dangerous and vicious dogs; registry; penalty. Requires the control of dangerous dogs within a statewide mandated framework. The bill imposes criminal penalties ranging from a Class 2 misdemeanor to a Class 6 felony for violations that result in injury to a person or death to a cat or dog. The bill expands the authority to petition a court to find a dog dangerous to any law-enforcement officer and makes that petition mandatory. It allows localities to adopt an ordinance paralleling the statute but clarifies that a locality cannot impose a felony pursuant to its ordinance. A Virginia Dangerous Dog Registry is created to be maintained by the State Veterinarian; any change in the status of a dangerous dog is to be promptly submitted in writing. Surrender of a dog that is subject of a pending action to animal control shall not be in lieu of prosecution. The bill also (i) narrows the definition of "dangerous dogs" to include dogs that inflict injury to another cat or dog requiring the animal to be euthanized while also broadening safe harbor provisions; (ii) requires that a dog that

has been found to be dangerous or vicious shall be spayed or neutered; and (iii) requires liability insurance in the amount of \$100,000 to be purchased by the owner of a dangerous dog, or in lieu of the insurance policy, the owner may obtain a surety bond. HB 340; CH. 837/HB 1039; CH. 864/SB 200; CH. 898.

§§ 3.1-796.137, 3.1-796.138, and 3.1-796.139 added. Agri-tourism activity liability. Limits the liability of persons engaged in the business of providing agritourism activities, which include activities carried out on a farm, ranch, or winery that allow members of the public to view or enjoy rural activities or natural activities and attractions. The immunity from liability applies only if the agritourism provider has posted a warning notice. Liability is not limited if the agritourism provider acts with negligence or willful or wanton disregard for the safety of the participant, has actual or imputed knowledge of a dangerous condition used in the activity and does not make the danger known to the participant, or intentionally injures the participant. In addition, the provider is required to plead the affirmative defense of assumption of risk of agritourism activity by the participant. SB 38; CH. 710.

§§ 3.1-1108 and 10.1-1018 amended. Secretary of Agriculture and Forestry; Tobacco Indemnification and Community Revitalization Commission; Virginia Land Conservation Board of Trustees; membership. Adds the Secretary of Agriculture and Forestry to the membership of the Tobacco Indemnification and Community Revitalization Commission and the Virginia Land Conservation Board of Trustees. The bill also removes the Commissioner of Agriculture and Consumer Services from the Tobacco Indemnification and Community Revitalization Commission. SB 537; CH. 45.

TITLE 4.1. ALCOHOLIC BEVERAGE CONTROL ACT.

§§ 4.1-100 and 4.1-324 amended; § 4.1-302.1 added. Alcoholic beverage control; alcohol vaporizing devices prohibited; penalty. Prohibits any person from purchasing, offering for sale, selling or using or offering for use any vaporized form of an alcoholic beverage produced by an alcohol vaporizing device, including licensees of the Alcoholic Beverage Control Board. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor. The bill defines alcohol vaporizing device as any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation. SB 100; CH. 714.

§ 4.1-105. See § 2.2-509.1; HB 1276.

§§ 4.1-112.1, 4.1-207, 4.1-208, 4.1-209, and 4.1-231 amended. Alcoholic beverage control; state license taxes for wholesale wine licensees. Creates a separate state license tax category for wholesale wine licensees selling 30,000 gallons of wine or less per year. As a result the state license tax for

all wholesale wine licensees is broken down as follows: \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year. The bill also removes language held to be unconstitutional, including the privilege of self-delivery for certain retail licensees and certain privileges for brewery licensees. HB 601; CH. 845.

§§ 4.1-119 and 4.1-201 amended. Alcoholic beverage control; operation of government stores by agents of the Alcoholic Beverage Control Board. Authorizes the ABC Board to appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits manufactured by the licensee at government stores established by the Board upon the distiller's licensed premises. Such agents shall sell the spirits in accordance with ABC law, Board regulations, and the terms of the agency agreement between the Board and the distiller. The bill also requires the distiller to have grown at least 51 percent of the agricultural products used for the manufacture of the spirits. HB 648; CH. 106.

§ 4.1-126 amended. Alcoholic beverage control; authority of Alcoholic Beverage Control Board; issuance of mixed beverage licenses. Clarifies an ambiguity in the law concerning the issuance of mixed beverage licenses to establishments on property developed by an industrial development authority. SB 496; CH. 752.

§§ 4.1-132, 4.1-201, 4.1-206, 4.1-209, 4.1-212, 4.1-221.1, 4.1-325, and 4.1-325.2 amended; § 4.1-201.1 added. Alcoholic beverage control; permissible conduct by manufacturers and wine or beer wholesalers; tastings; service items and novelties. Authorizes manufacturers of alcoholic beverages and wine or beer wholesalers or their authorized representatives to conduct tastings under certain conditions as part of the privileges of their respective licenses. The bill requires a permit for the authorized representatives. The bill also authorizes (i) any manufacturer to sell service items bearing alcoholic beverage brand references to on-premises retail licensees, (ii) any employee of any alcoholic beverage manufacturer or wholesaler to distribute to retail licensees and their employees novelties and specialties valued at \$10 or less and that bear alcoholic beverage advertising, (iii) any retail on-premises wine or beer licensee, his employee or agent to offer for sale or sell for one price a flight of wines or beers of no more than five different wines or beers, and (iv) any retail on-premises beer, wine or beer, or mixed beverage licensee, or their agents or employees to give samples of alcoholic beverages they are licensed to sell under certain circumstances. The bill also increases the samples of wine or beer a gourmet shop licensee may give from one to two ounces of wine and from two to four ounces of beer. SB 685; CH. 826.

§ 4.1-200 amended. Alcohol beverage control; home exemption. Requires a guest to be 21 years of age or older or to be accompanied by his parent, guardian, or spouse in order to

be served alcohol in the home of another. HB 1208; CH. 274/SB 396; CH. 740.

§§ 4.1-206, 4.1-231, and 4.1-233 amended. Alcoholic beverage control; motor car sporting event license. Allows the Virginia Alcoholic Beverage Control Board to grant motor car sporting event licenses to allow for the consumption of lawfully acquired alcoholic beverages on the premises of the licensee during such events. Alcoholic beverages shall not be sold or charged for in any way by the licensee. This bill also provides for a \$130 state tax and a \$10 local tax for such license. SB 386; CH. 737.

§ 4.1-209 amended. Alcoholic beverage control; wine and beer licenses; limited service hotel. Provides that with regard to a hotel classified by the Alcoholic Beverage Control Board as a limited service hotel, the ABC Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. HB 321; CH. 94.

§§ 4.1-209, 4.1-325, and 4.1-325.2 amended. Alcoholic beverage control; wine and beer licenses; tastings. Provides that persons granted on-premises and on-and off-premises wine and beer licenses may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the product being tasted. Additionally wine and beer wholesalers, farm wineries, wineries, and breweries may participate in the tastings held by the licensee, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person. The bill contains technical amendments. HB 512; CH. 256.

§ 4.1-209 amended. Alcoholic beverage control; wine and beer licenses; certain restaurant licenses. Provides that for facilities registered with the State Corporation Commission as continuing care communities that are also licensed by the Board, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. HB 1448; CH. 153 (effective 3/23/06).

§ 4.1-210 amended. Alcoholic beverage control; mixed beverage restaurant licenses. Provides that "other designated areas" where a mixed beverage restaurant licensee may sell and serve mixed beverages includes outdoor dining areas, whether or not contiguous to the licensed premises, provided such areas are under the control of the licensee and approved by the Board. Currently other designated areas must be on the premises of the restaurant. SB 327; CH. 731.

§ 4.1-305 amended. Alcohol beverage control; underage purchase or possession. Makes it a mandatory six-month suspension of the person's driver's license for a person age 18 or older to whom an alcoholic beverage may not lawfully be sold to purchase, consume or possess alcohol in violation of § 4.1-304. HB 1210; CH. 207.

§ 4.1-306 amended. Alcoholic beverage control; purchasing alcoholic beverages for one to whom they may not be sold; suspension of driver's license. Provides that any person found guilty of purchasing alcoholic beverages for one to whom they may not be sold (i.e., a person intoxicated, interdicted or underage) shall have his license to operate a motor vehicle suspended for a period of not more than one year. Currently, suspension of a driver's license in these instances is discretionary. HB 113; CH. 87.

TITLE 6.1. BANKING AND FINANCE.

§ 6.1-2.27:1 added. CRESPA; confidentiality of documents. Establishes protections for the confidentiality of documents and other materials obtained by the State Corporation Commission pursuant to an investigation of a title insurance company or agent in the course of an investigation under the Consumer Real Estate Settlement Protection Act. SB 255; CH. 312.

§ 6.1-6.1 amended. Bankers' banks. Authorizes bankers' banks to accept deposits from and make loans to (i) a bank in organization that has applied for insurance of deposits by a federal agency, (ii) officers, directors, and employees of such a bank in organization, (iii) persons referred to a bankers' bank by a financial institution or by a bank in organization that has applied for insurance of deposits by a federal agency, and (iv) other persons with the prior approval of the Commissioner of Financial Institutions and subject to such conditions as the Commissioner may impose. HB 360; CH.633.

§§ 6.1-58.3 and 6.1-409 amended. Mortgage brokers; dual compensation; penalties. Provides that a state bank or mortgage lender that, pursuant to an executed originating agreement with the Virginia Housing Development Authority (VHDA), acts as an originating agent of the VHDA in connection with a mortgage loan shall not be deemed to be acting as a mortgage broker with respect to such mortgage loan. HB 698; CH. 422.

§ 6.1-61. See § 13.1-1002; SB 547.

§ 6.1-64 amended. Construction loans by banks. Removes an obsolete reference to the maximum 40-year and two-month amortization period for loans secured by real estate. The requirement for minimum amortization periods in real estate loans was repealed in 2005. HB 1077; CH. 273.

§ 6.1-225.20 amended. Credit union offices. Provides that a credit union's notice to the Commissioner of Financial Institutions of its participation in a credit union service organization (CUSO) satisfies the requirement that notice be given of the establishment of an office at a shared service facility, if the

CUSO has notified the Commissioner of the establishment of the shared service facility. SB 530; CH.754.

§ 6.1-225.45 amended. Credit unions; minors' accounts. Authorizes credit unions to take actions with respect to share accounts of a minor on the order of the minor. The minor's parent or guardian will not have the power to withdraw or transfer shares in such an account unless the minor has notified the credit union to accept the signature of the parent or guardian. SB 531; CH. 755.

§§ 6.1-232.2 and 6.1-232.3 added. Industrial loan companies. Prohibits a foreign industrial loan company from establishing or maintaining an office in Virginia on the premises or property of the company's affiliate if the affiliate engages in retail commercial activities. The measure also prohibits a Virginia-chartered industrial loan association from having an affiliate that engages in retail commercial activities; however, the prohibition does not apply to an industrial loan association with an affiliate engaged in commercial activities as of January 1, 2006. HB 195; CH. 815.

§ 6.1-330.64 amended. Credit unions; charges on loans. Authorizes credit unions to impose finance charges and other charges and fees on open-end credit plans at such rates and in such amounts and manner as the credit union and the borrower may agree when payment is not timely received. SB 529; CH. 753.

§ 59.1-200 amended; §§ 6.1-474 through 6.1-479 added. Tax refund anticipation loans. Requires persons who facilitate tax refund anticipation loans to post their fees and related information and to provide a disclosure form. Borrowers are allowed to rescind such loans before the close of the next day of business following the date of the loan. Facilitators are prohibited from requiring customers to enter into a loan arrangement. Violations are prohibited practices under the Virginia Consumer Protection Act. HB 324; CH. 399 (effective 1/1/07).

TITLE 8.01. CIVIL REMEDIES AND PROCEDURE.

§ 8.01-44.7 added. Diversion of utility service; remedies. Specifies that a provider of utility services that have been tampered with or diverted may seek injunctive and equitable relief, and an award of damages, including reasonable attorney fees and costs. In addition, the aggrieved party may recover an award of actual damages or \$500, whichever is greater for each action. HB 1081; CH. 350.

§ 8.01-156. See § 55-237.1; HB 1025.

§ 8.01-226.7 amended. Civil remedies; immunity from lead-based paint poisoning. Defines "lead-based paint maintenance" under the immunity from liability statute for lead-based paint poisoning. The bill grants immunity to the

owner or agent of residential property if the owner or agent who is responsible for lead-based paint maintenance discloses to the lessee the presence of any known lead-based paint and/or lead-based paint hazards about which the owner has actual knowledge. Such disclosure requirements continue through the tenancy if new information arises. Prior to the case in chief, the bill allows a hearing on responsive pleadings that assert such immunity. HB 889; CH. 855.

§ 8.01-226.11 added. Civil immunity; victim notification program. Provides that the Virginia Sheriffs' Association and the Virginia Community Policing Institute, and the directors, managers, members, officers and employees of such entities are immune from civil liability for their acts or omissions relating to the establishment and operation of an automated victim notification system unless such act or omission was the result of gross negligence or willful misconduct. HB 986; CH. 267.

§ 8.01-232 amended. Effect of promise not to plead statute of limitations. Makes all written promises to not plead the statute of limitations valid when (i) it is made to avoid or defer litigation, (ii) it is not made contemporaneously with any other contract, and (iii) it is made for an additional term not longer than the applicable limitations period. HB 1267; CH. 278.

§ 8.01-277 amended. Failure to serve process. Provides that a defendant who has not been served within one year of the filing of a suit may file a motion to dismiss and if the court finds that the plaintiff did not exercise due diligence to have timely service, may dismiss the suit with prejudice. The bill also preserves the plaintiff's right to a non-suit prior to the entry of an order to dismiss. These provisions shall not pertain to cases involving asbestos. HB 1424; CH. 151.

§§ 8.01-343 and 17.1-105 amended. Courts; certain matters to be entered on the civil order book. Makes technical amendments clarifying that the former common-law order book is now known as the civil order book. SB 114; CH. 306.

§ 8.01-375 amended. Child and spousal support proceedings. Provides that in civil proceedings for the determination of child or spousal support, the court may allow one expert witness for each party to remain in the courtroom throughout the hearing upon the request of any party. SB 543; CH. 757.

§ 8.01-391.1 added. Check 21 Evidence Act. Creates the Check Clearing for the 21st Century Evidence Act, which allows any check created pursuant to the federal Check Clearing for the 21st Century Evidence Act (provides for an official copy of a check) to be admissible in evidence to the same extent as the original check would be. HB 1009; CH. 127.

§ 8.01-419.1 amended. Evidence of motor vehicle value. Provides that any vehicle valuation service regularly used and recognized in the automobile industry may be used as evidence of a vehicle's value and not just the National Automobile Dealers' Association "black" or "yellow" book. HB 436; CH. 402.

§ 8.01-471. See §55-248.9:1; HB 907.

§§ 8.01-501 and 8.01-514 amended. Garnishment liens. Allows a writ of fieri facias to be applicable to newly acquired

property for the same period of time that a wage garnishment is valid. In 2003 the return date for a wage garnishment was extended to 180 days but no change was made to allow a fieri facias to be extended from 90 to 180 days. Rule 3:2 of the Rules of Supreme Court provides that a writ is not returnable more than 90 days after its date unless a longer period is authorized by statute. SB 402; CH. 575.

§§ 8.01-511 and 8.01-512.3 amended. Garnishment forms and summonses. Requires that garnishment summonses and forms contain language declaring if the garnishment is of wages, salary, or other compensation or if the garnishment is of some other property of the judgment debtor. HB 115; CH. 55.

§ 8.01-513. See § 13.1-1002; SB 547.

§§ 8.01-581.1, 8.01-581.13, 38.2-602, and 38.2-3412.1 amended. Marriage and family therapists; professional counselors. Adds marriage and family therapists to the definition of "health care provider" under medical malpractice provisions, specifies that such therapists be licensed to receive immunity as a member of a substance abuse intervention team for health professionals and to give treatment under substance abuse insurance coverage provisions, and adds licensed marriage and family therapists and licensed professional counselors to the definition of "medical professional" for insurance information and privacy protection provisions. HB 443; CH. 638.

§§ 8.01-581.13, 8.01-581.16, 8.01-581.17, and 8.01-581.19. See § 32.1-111.3; HB 610.

Privileged communications. Provides that any document prepared in the pursuit of compliance with requirements or standards of an accreditation or certification body, including the Joint Commission on Accreditation of Healthcare Organizations, is privileged. HB 1023; CH. 678.

§ 8.01-581.18 amended; § 8.01-581.18:1 added. Immunity of physicians for laboratory results and examinations. Creates a new Code section that provides that a physician is not liable for failure to review or act on results of laboratory tests or examinations that he did not request or authorize unless the physician is provided the report with a request for consultation, the physician assumes responsibility for the report, or the physician has reason to know that the report result is needed. The physician must additionally prove one of the following in order to be immune: (i) no physician-patient relationship existed; (ii) the physician received the results without a request for consultation; (iii) the results were not part of the physician's management of the patient; or (iv) interpreting the results would exceed the physician's scope of practice. HB 1110; CH. 684.

§ 8.01-581.18 amended. Laboratory results; physician immunity. Adds podiatry to the definition of physician under this section. HB 1352; CH. 877.

§ 8.01-695 amended; §§ 8.01-696 and 8.01-697 added. Prisoner civil litigation; subpoenas; summary judgment; access to records. Requires that any subpoena for witnesses or docu-

ments be specifically authorized by a judge of the court in which the case is filed. The bill requires the court to exercise its discretion in determining the scope of the subpoena and allows the court to condition the subpoena on such terms as the court finds appropriate considering the burden placed on the object of the subpoena in relation to the needs of the case, the amount in controversy, and the importance of the issues at stake in the litigation. The bill also provides that a summary judgment motion may be made by any party after the commencement of a pro se civil action by a prisoner. The bill allows access to all records maintained by the Department of Corrections in the name of individual prisoners to counsel for the Commonwealth, an agency of the Commonwealth, a Commonwealth employee, or a private contractor providing services to the Department of Corrections in a pro se civil action brought by prisoner. HB 888; CH. 435.

TITLE 8.3A. COMMERCIAL CODE/ NEGOTIABLE INSTRUMENTS.

§ 8.3A-311 amended; § 8.3A-118.1 added. Negotiable instruments; enforcement and satisfaction. Establishes the date from which the six-year limitations period on actions to enforce a right under a deposit account or a certificate of deposit starts to toll. The measure will become effective on January 1, 2007, and will be effective retroactively. However, a person with a cause of action that accrued after January 1, 1997, shall have until January 1, 2013, or until the end of the six-year period specified in the measure, whichever is longer, to bring an action to enforce the bank's obligations. The measure also provides that a person does not act in good faith when tendering a check in full satisfaction of an obligation under a loan if the check is for less than the full amount due and the check is tendered to a person without knowledge of a dispute concerning the loan. HB 193; CH. 624.

TITLE 9.1. COMMONWEALTH PUBLIC SAFETY.

§ 9.1-102 amended. Campus safety. Requires the Department of Criminal Justice Services to develop training standards for campus security officers and to provide technical support and assistance to campus police departments and campus security departments. The bill has an effective date of July 1, 2007. HB 1036; CH. 203/SB 560; CH. 233.

§§ 9.1-102, 9.1-902 through 9.1-910, 9.1-913, 9.1-914, 9.1-918, and 9.1-921. See § 18.2-370.3; HB 984.

§§ 9.1-102, 9.1-902 through 9.1-910, 9.1-913, 9.1-914, 9.1-918, and 9.1-921. See § 18.2-48; SB 559.

§§ 9.1-116.1 and 16.1-69.48:1 amended. Domestic violence victim fund; name change; funding. Changes the name of the fund to Sexual & Domestic Violence Victim Fund. HB 1409; CH. 288.

§ 9.1-174. See § 19.2-303.3; HB 1526.

§ 9.1-177.1 amended. Confidentiality of presentencing investigation reports. Provides that presentencing investigation reports compiled by local probation officers for general district courts are to remain confidential and are exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). HB 1417; CH. 289.

§§ 9.1-202 and 38.2-401 amended. Fire Services Board; payment of per diem. Provides that members of the Fire Services Board shall receive compensation for the performance of their duties. Funding for the compensation and costs of expenses of the members is to be provided from the Fire Programs Fund established pursuant to § 38.2-401. HB 208; CH. 58.

§ 9.1-400 amended. Line of Duty Act; disabled state employees. Extends the Act's benefits to any state public safety employee whose disability occurred on or after January 1, 1966. SB 515; CH. 824.

§ 9.1-402 amended. Line of Duty Act; payment of benefits. Increases from \$75,000 to \$100,000 the amount for which a beneficiary of a deceased person whose death occurred while in the line of duty as the direct or proximate result of the performance of his duty is eligible to receive. HB 1418; CH. 878.

§ 9.1-407 added. Line of Duty Act; mandatory training. Requires the Secretary of Public Safety to develop training guidelines to be distributed to agencies and localities with employees covered by the Line of Duty Act. Each agency or locality shall be required to provide training concerning the Act to its eligible law-enforcement and public safety officers. The training will not count towards in-service credit requirements for law-enforcement officers. HB 255; CH. 535.

§§ 9.1-902 and 18.2-472.1 amended. Sex Offender Registry; penalties. Adds first offense child pornography possession and burglary with the intent to commit certain felony sex offenses as new Registry offenses if committed after July 1, 2006. Criminal homicide in conjunction with contributing to the delinquency of a child or child abuse is also added as a new Registry offense. The bill modifies the registration of a person convicted of murdering a child so that registration will be required if the victim is under 15 years of age and if the minor victim is 15 or older and the murder is related to a registrable sex offense. The bill adds burglary with the intent to commit certain felony sex offenses to the list of offenses, if committed twice, that are deemed sexually violent offenses. The bill places murder on an equal footing with sexually violent offenses for purposes of registration. Persons convicted of sex offenses in a foreign country will be required to register. The bill makes a second or subsequent conviction for failing to register as a sex offender a Class 6 felony and a second or

subsequent conviction of failing to register as a violent sex offender a Class 5 felony. HB 1333; CH. 931.

§ 9.1-902. See § 18.2-67.5:1; HB 1339.

§§ 9.1-1101 and 9.1-1110 amended. **Department of Forensic Science; powers and duties.** Shifts certain powers and duties from the Forensic Science Board to the Department of Forensic Science, including the receipt, administration and use of funds. HB 848; CH. /SB 563; CH. 327.

TITLE 10.1. CONSERVATION.

§ 10.1-418.2 added. **Scenic river.** Designates the 37-mile segment of the Meherrin River that lies within Brunswick County a state scenic river. HB 104; CH. 4/SB 527; CH. 44.

§§ 10.1-560, 10.1-561, 10.1-603.2, and 10.1-603.4 amended. **Erosion control and stormwater definitions.** Provides definitions of terms in the Erosion and Sediment Control and Stormwater Management Acts that clarify what are acceptable flow rates from storm runoff at sites where land development projects are occurring. HB 684; CH. 21.

§ 10.1-563 amended. **Wetlands mitigation banks.** Allows any person who has created and operates an approved wetlands mitigation bank in multiple jurisdictions to annually file erosion and sediment control specifications for wetlands mitigation projects with the Virginia Soil and Water Conservation Board. The Board has 60 days to approve the specifications. If no action is taken within 60 days the specifications are deemed approved. Projects that are not covered by general specifications will have to comply with the local erosion and sediment control program. This bill will not become effective unless a specific appropriation has been approved in the general appropriation act to support this activity. HB 1454; CH. 466.

§§ 10.1-603.2, 10.1-603.2:1, 10.1-603.2:2, 10.1-603.3, and 10.1-603.14 amended. **Stormwater management; civil penalty.** Requires localities located in Tidewater and those that are classified as an MS4 under the federal Clean Water Act to adopt a local stormwater management program in accordance with a schedule established by the Virginia Soil and Water Conservation Board. The locality is to adopt its stormwater program between 12 and 18 months after the effective date of the Board's regulation that establishes local program criteria and delegation procedures. Under current law these localities are to adopt a program by July 1, 2006. Any locality that isn't in Tidewater or classified as an MS4 can choose to administer its own program (seek delegation) within six months following the effective date of the regulation. The bill also increases the maximum fine for violation of the provisions of the stormwater law from a civil penalty of \$25,000 to \$32,500. SB 274; CH. 171.

§§ 10.1-603.16 through 10.1-603.20, 10.1-603.23, 10.1-606.1, 38.2-401.1, 58.1-2508, and 62.1-203 amended;

§§ 10.1-603.18:1, 10.1-603.18:2, and 10.1-603.22:1 through 10.1-603.22:4 added; §§ 10.1-603.21 and 10.1-603.22 repealed. **Dam and flood assistance fund.** Reconstitutes the current Flood Prevention and Protection Assistance Fund into the new Dam Safety, Flood Prevention and Protection Assistance Fund. The new fund will be used to make loans and grants to local governments and loans to private entities to finance the cost of implementing projects to prevent, reduce, or mitigate damages caused by flooding, to upgrade dams or impounding structures, and to fund flood prevention studies. The Virginia Resources Authority would administer and manage the fund, determining the interest rate and terms and conditions of any loan from the Fund in accordance with a memorandum of understanding with the Director of the Department of Conservation and Recreation. The language establishing the Fund is modeled after language creating the Virginia Resources Authority, the Virginia Water Facilities Revolving Fund, and the Virginia Water Supply Revolving Fund. HB 596; CH. 648 / SB 624; CH. 765.

§§ 10.1-604, 10.1-606.1, 10.1-609, and 10.1-613 amended; §§ 10.1-605.1, 10.1-607.1, 10.1-609.2, 10.1-610.1, 10.1-612.1, and 10.1-613.1 through 10.1-613.5 added. **Dam safety; penalties.** Provides the Virginia Soil and Water Conservation Board and the Department of Conservation with the enforcement tools needed to ensure the safety of Virginia's dams, and includes due process procedures to protect dam owners. The Department is given the authority to monitor and inspect any alteration or construction of the dam. The bill imposes a Class 3 misdemeanor penalty on an owner who knowingly (i) operates, constructs, or alters a dam without the approval of the Department, or (ii) obstructs, hinders, or prevents the Virginia Soil and Water Conservation Board, or its agents from performing their dam safety duties. The Board also has the option of imposing civil penalties, not to exceed \$25,000, for violations of the Dam Safety Act. The moneys collected from the imposition of civil penalties will be deposited in the Flood Prevention and Protection Assistance Fund. HB 597; CH. 30.

§ 10.1-1018. See § 3.1-1108; SB 537.

§ 10.1-1020 amended. **Purchase of development rights.** Authorizes the Virginia Land Conservation Foundation to award moneys from the Virginia Land Conservation Fund for purchase of development rights programs. SB 409; CH. 227.

§ 10.1-1142 amended. **Prescribed burning.** Extends the period in which prescribed burns of woods, brush, leaves, or other flammable material can occur. Currently, a prescribed burn can occur between February 15 and March 1. This bill will allow a prescribed burn to occur from February 15 through April 30. SB 415; CH. 228.

§ 10.1-1152 amended. **Hunting or trapping in state forests.** Increases the fees to obtain a hunting permit or a trapping permit in a state forest from \$10 to \$15. HB 260; CH. 13.

§ 10.1-1308 amended. **Air quality regulations.** Allows retailers to sell existing inventories of consumer products that become the subject of restrictive regulation. HB 1133; CH. 71.

§§ 10.1-1327 and 10.1-1328 added. Air emission controls. Establishes a phased schedule for electric generating units in Virginia to reduce their emissions of sulfur dioxide, nitrogen oxide, and mercury. The Air Pollution Control Board is charged with promulgating the regulations that require specific numerical reductions in each pollutant. The bill allows regulated facilities to participate in the EPA-administered cap and trade system; however, the Board can prohibit facilities in non-attainment areas from purchasing allowances in order to meet their NO_x and SO₂ obligations. The bill also requires the Board to adopt the federal Clean Air Mercury Rule as well as adopt a state-specific rule for mercury. Under the state-specific rule, smaller electric generating units would be able to participate in the trading program. The medium size systems (American Electric Power) would not be able to demonstrate compliance under the state-specific rule by purchasing credits, but would be (i) allowed to obtain credits from facilities within their system and within 200 km of the Virginia border and (ii) able to sell excess credits. Although large systems (Dominion Resources) would not be able to demonstrate compliance under the state-specific rule by purchasing credits, they would be able to sell excess credits and would be able to use credits from Virginia facilities within their system to demonstrate compliance. Dominion Resources would be required to demonstrate early reductions in NO_x during 2007 and 2008, and these reductions can be banked or sold and used to demonstrate compliance in 2009. The Board is prohibited from imposing anything more stringent than the federal Maximum Achievable Control Technology rule for coke ovens for air toxics and steel smelters that accept scrap metal from automobile recycling subject to the mercury switch recycling program. Under the bill, the Department of Environmental Quality is required to conduct a detailed assessment of mercury deposition in Virginia to determine whether there is justification to undertake additional measures to control mercury emissions in Virginia. The Department's findings and recommendations are to be reported to the committees of oversight no later than October 15, 2008. HB 1055; CH. 867/SB 651; CH. 920.

§§ 10.1-1402 and 46.2-635 amended. Mercury switches in motor vehicles. Requires the removal of mercury switches in certain motor vehicles prior to their demolition. The bill authorizes the Virginia Solid Waste Management Board to adopt regulations concerning the criteria and standards for removal of mercury switches. HB 447; CH. 16/SB 88; CH. 163.

§ 10.1-1408.1 amended. Solid waste management; permits-by-rule. Requires that permits for proposed solid waste management facilities or facility expansions be subject to analysis by the Director of the potential human health, environmental, transportation infrastructure, and transportation safety impacts and needs and an evaluation of comments by the host local government, other local governments and interested persons. The application for such permit must include certification from the locality that the new or expanded facility is consistent with the regional solid waste management plan or that the plan is in the process of being revised. Additionally, the bill requires that applications for permits-by-rule include a

certification by the locality that the facility is consistent with the regional and local solid waste management plans. HB 421; CH. 62.

§ 10.1-1410.3 added. Burn pits. Requires the Department of Environmental Quality to develop the policies and procedures necessary to allow the burning of vegetative waste at landfills that have ceased accepting waste but have not been released from postclosure care requirements. The policies and procedures are to include measures that will protect public health and the environment. HB 554; CH. 19.

§ 10.1-1411 amended. Solid waste management plans. Establishes a new regimen for credits that can be used in meeting a solid waste planning unit's recycling rate. Currently, a credit of one ton for each ton of recycling residue generated and deposited in a landfill, not to exceed one-fifth of the 25 percent requirement, is allowed in calculating the planning unit's recycling rate. This bill would not change the credit for recycling residue but, in addition, would extend a two percentage point credit for source reduction programs implemented within the planning unit, a ton-for-ton credit for solid waste material that is reused, and a ton-for-ton credit for any nonmunicipal solid waste material that is recycled. The current requirement that a planning unit maintain a minimum 25 percent recycling rate is reduced for less densely populated planning units or those with high unemployment rates. The bill stipulates that a planning unit not meeting its mandated recycling rate cannot be the sole reason for the denial of a permit or permit amendment for a new sanitary landfill, incinerator, or waste-to-energy facility. HB 647; CH. 7/SB 57; CH. 40.

§§ 10.1-1422, 10.1-1422.01, 10.1-1422.03, 10.1-1422.05, and 58.1-1709 amended. Litter control and recycling grants. Changes the formula for allocating litter control and recycling grants. The bill would increase the percentage of grants awarded to localities from the current 75 percent to 90 percent. The 20 percent of grants allocated to statewide and regional litter prevention recycling educational programs will be reduced to 5 percent and will be awarded to localities and nonprofits for litter prevention and recycling. Up to 5 percent of the litter prevention and recycling grants will be allocated for administrative expenses. HB 448; CH. 6.

§ 10.1-1454.1 amended. Solid waste containers. Establishes specifications for the structural integrity of containers carrying nonhazardous solid waste on vessels operating in Virginia waters. The bill contains a specific water tightness test that these containers will have to meet. SB 82; CH. 477.

§ 10.1-1602 amended. Virginia Recreational Facilities Authority quorum. Reduces the number of members that constitutes a quorum for the Virginia Recreational Facilities Authority from 10 to seven. HB 804; CH. 22.

§§ 10.1-2117, 10.1-2128, 10.1-2129, and 10.1-2131 amended. Water Quality Improvement Fund disbursements. Allows new or expanding publicly owned treatment works that are not defined as significant dischargers, but are subject to the State Water Control Board's new nutrient control requirements and

will have to install nutrient removal technology, similar to the significant dischargers, to apply for matching grant moneys from the Water Quality Improvement Fund. Currently, only those plants that are defined as significant dischargers are eligible to receive grants from the Fund. The bill also authorizes the Department of Environmental Quality to utilize the Fund for design and installation of nutrient removal technologies. Currently, grants to sewage treatment facilities are allocated for two uses, with the larger portion used for biological nutrient removal facilities and other appropriate nutrient removal technologies, and the smaller portion being used for only state-of-the-art facilities. The bill would remove this state-of-the-art restriction on the smaller portion. SB 644; CH. 236.

§§ 10.1-2202, 10.1-2204, 10.1-2205, 10.1-2206.1, and 10.1-2206.2 amended. Historic landmarks. Clarifies that anything listed on the Virginia Landmarks Register is by definition a landmark. Thus, when used in reference to properties that have been registered, the term "landmark" includes a wide range of resources such as historic buildings, structures, objects, sites, and districts. HB 1291; CH. 32.

§ 10.1-2202.3 added. Preservation of state-owned properties. Requires the Department of Historic Resources to develop a biennial report on the stewardship of state-owned properties. The report is to include a priority list of the Commonwealth's most significant state-owned properties, which are threatened with the loss of historic integrity or function, that are on or eligible for the Virginia Landmarks Register. The report is to be disseminated to affected state agencies. Each agency that owns property included in the report is required to consult with the Department within 60 days of receiving the report and decide on the possible designation of unlisted properties as well as determine the feasibility of upgrading threatened historic properties. SB 462; CH. 747.

§ 10.1-2211 amended. Confederate cemeteries and graves. Increases the number of graves cared for by the Stonewall Confederate Memorial Association from 180 to 2,112. HB 341; CH. 630.

§ 10.1-2211 amended. Department of Historic Resources; care of Confederate cemeteries and graves; Sons of Confederate Veterans - Virginia Division. Replaces the Oakwood Confederate Cemetery Trust, Inc. with the Sons of Confederate Veterans - Virginia Division, as the organization to receive funds from the Department of Historic Resources for the care of Confederate graves in Oakwood Cemetery, located in Richmond, Virginia. SB 401; CH. 489.

TITLE 10.1. MISCELLANEOUS - CONSERVATION.

Douthat State Park pilot program. Repeals Chapter 45 of the Acts of Assembly of 1992 which authorized the Department of

Conservation and Recreation to develop a pilot program keeping Douthat State Park open throughout the year and evaluate such a program for other state parks. This Act is no longer necessary as all Virginia state parks that are open are open throughout the year. Repeal of this Act is recommended by the Virginia Code Commission. HB 47; CH. 3.

Lease for Occoneechee State Park. Amends the 2004 Acts of Assembly to provide a two-year extension (until July 1, 2008) 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 facilities, not to be operated by the Department, at Occoneechee State Park in Mecklenburg County. SB 52; CH. 39.

TITLE 11. CONTRACTS.

§ 11-4.5 added. Motor carrier transportation contracts; indemnification clauses. Declares that clauses in motor carrier transportation contracts that purport to indemnify or hold harmless either party from or against liability for loss or damage resulting from the negligence or intentional acts or omissions of the other party are against public policy, void, and unenforceable. Such contracts do not include the Uniform Intermodal Interchange and Facilities Access Agreement or other agreements providing for the interchange, use or possession of intermodal chassis, containers or other intermodal equipment. HB 701; CH. 423/SB 669; CH. 237.

TITLE 12.1. STATE CORPORATION COMMISSION.

§§ 12.1-6 and 65.2-200 amended. Election and terms of members of the State Corporation Commission (SCC) and the Workers' Compensation Commission. Adds flexibility into the schedule for the election of members of the SCC and Worker's Compensation Commission so that the members do not have to be elected by February 1. SCC members would begin their term whenever they are elected and serve for the unexpired term. Workers' Compensation Commission members would begin their term that would start whenever they are elected as is the case for judges elected by the General Assembly. HB 432; CH. 838.

§ 12.1-21.2 amended. State Corporation Commission; fees. Establishes a charge of \$0.50 per page for copies of records furnished by the State Corporation Commission. Currently the charge is \$1 for the first two pages and \$0.50 per each additional page. HB 538; CH. 192.

TITLE 13.1. CORPORATIONS.

§§ 13.1-543, 13.1-544, 13.1-549, 13.1-549.1, 13.1-550, and 54.1-4412 amended. **Professional corporations; employee stock ownership plans.** Authorizes a professional corporation to issue shares of its stock to, and authorizes its shareholders to transfer shares to, the trustees of an eligible employee stock ownership plan. An eligible employee stock ownership plan is a plan with trustees who are licensed to render the professional service for which the corporation is organized and that prohibits an individual not licensed to render the professional service from owning, or being issued, shares in the professional corporation. However, professional corporations rendering the services of certified public accountants, architects, engineers, land surveyors, certified landscape architects or certified interior designers may have employee stock ownership plans that permit individuals who are not duly licensed to render such service or legally authorized to use such title, as appropriate, to render these services to participate in the plan if the minimum percentages of equity interest required for stock ownership generally are satisfied. HB 952; CH. 672/ SB 108; CH. 715.

§ 13.1-553 amended. **Professional corporations; directors.** Clarifies that if a professional corporation's board of directors is eliminated or its make-up or manner of selection is modified by agreement, only individuals or entities licensed or otherwise authorized to render such professional services shall supervise and direct the provision of the professional services rendered by the corporation. However, the supervision and direction of a professional corporation of architects, professional engineers, or land surveyors may be provided by individuals employed by the corporation who are not duly licensed to render such professional service if two-thirds of the persons providing the supervision and direction are duly licensed to render the professional service. A similar exception applies to corporations rendering the services of certified landscape architects. HB 609; CH. 649.

§§ 13.1-603, 13.1-609, 13.1-716, 13.1-718, 13.1-754, 13.1-766.1, 13.1-809, 13.1-916, and 13.1-928.1 amended. **Mergers and reinstatements of corporations.** Provides exceptions to the requirements for (i) the filing of an authenticated copy of an instrument of merger on behalf of a qualified foreign corporation when the merger includes a Virginia entity for which articles of merger are filed and (ii) the approval of a merger by the shareholders of a survivor whose shares do not vary by more than 20 percent. These exceptions were removed in 2005. A corporation shall not be deemed to be in good standing if, among other criteria, an order of reinstatement prohibiting a domestic corporation from engaging in business until it changes its corporate name is issued and in effect. Other provisions clarify that the term "articles of incorporation" includes articles of consolidation, serial designation, reduction, and correction; provide that a certificate of good standing will not be issued to a reinstated Virginia corporation that is required to change its name before transacting

business; and make several technical amendments. HB 887; CH. 663.

§§ 13.1-615, 13.1-815, 13.1-1065, 13.1-1255, and 50-73.70 amended. **Business entities; post-assessment filings.** Allows the State Corporation Commission to file or issue a document or certificate with respect to a domestic and foreign stock and nonstock corporation, limited liability company, business trust, or limited partnership, notwithstanding the entity's failure to pay all fees, fines, penalties, and interest due to the Commission, if the entity's obligation is the payment of an annual registration fee and the document or certificate is to be issued or filed with an effective date that is prior to the registration fee's due date. The measure also includes technical amendments. HB 860; CH. 659.

§§ 13.1-639, 13.1-675, and 13.1-706 amended; § 13.1-690.1 added. **Corporations; registered investment companies.** Authorizes the board of directors of an open-end management investment company to classify unissued shares into classes or into series within a class or to reclassify unissued shares of a class into one or more classes or series within one or more classes. Registered investment companies are exempted from provisions that limit the authority of a corporation's board of directors to increase or decrease the number of directors. Directors of open-end management investment companies who are not defined as an "interested person" under the Investment Company Act are deemed to be independent and disinterested when taking any action as a director. The directors of an open-end management company registered under the Investment Company Act are authorized, unless the articles of incorporation provide otherwise, to amend the articles to increase or decrease the aggregate number of shares or classes or series of shares without shareholder action. SB 592; CH. 330.

§§ 13.1-718 and 13.1-720 amended; § 13.1-719.1 added. **Virginia Stock Corporation Act; short form mergers to form holding companies.** Establishes a procedure by which a constituent corporation may merge an indirect subsidiary into itself, or merge itself into an indirect subsidiary, to form a holding company. The process may be accomplished without approval of shareholders of the constituent corporation or the directors or shareholders of the indirect subsidiary if specified conditions are met. SB 78; CH. 363.

§§ 13.1-830, 13.1-1013, 13.1-1215, and 50-73.3 amended. **Renewal of reservation of name.** Requires that an application to renew a reservation of the name of a nonstock corporation, limited liability company, business trust, or limited partnership be filed within the 45-day period preceding the expiration of reservation. SB 587; CH. 505.

§§ 6.1-61, 8.01-513, 13.1-1002, 13.1-1005, 13.1-1009, 13.1-1010.1, 13.1-1010.3, 13.1-1014, 13.1-1014.1, 13.1-1019, 13.1-1038, 13.1-1038.1, 13.1-1039, 13.1-1040.2, 13.1-1041.1, 13.1-1057, 13.1-1067, 15.2-5800 50-73.46:1, 50-73.79, 50-73.108, 50-73.117, 56-1, and 58.1-2201 amended; §§ 13.1-1049.2 and 13.1-1049.3, 13.1-1074 through 13.1-1080, 50-73.52:2, 50-73.52:3, 50-73.137:3, and

50-73.137:4 added. Limited liability companies and limited partnerships; domestication. Establishes a procedure by which a foreign limited liability company may become a domestic limited liability company. The provisions establishing the procedure for domestication of a foreign limited liability company become effective on November 1, 2006. The measure also provides procedures for publishing notice of the dissolution of a limited liability company or limited partnership, and for serving a summons upon a limited liability company. The measure revises numerous provisions to update references to business entities and give limited liability companies the same rights as are provided to other forms of business entities. SB 547; CH. 912 (effective - see bill).

§§ 13.1-1003, 13.1-1005, 13.1-1010, 13.1-1011, 13.1-1011.1, 13.1-1014, 13.1-1014.1, 13.1-1038.1, 13.1-1048, 13.1-1050, and 13.1-1062 amended. Limited liability companies. Provides for the issuance of a certificate of organization upon the filing of articles of organization. The measure also provides for (i) the execution of documents by an organizer when there are no members or managers and (ii) the filing by a domestic limited liability company of articles of cancellation and the Commission's issuance of a certificate of cancellation. The due date for the payment of the annual registration fee is extended from September 1 to October 1, after which the notice of impending cancellation will be issued. Other changes are technical amendments intended to clarify statutory provisions applicable to limited liability companies. SB 477; CH. 748.

TITLE 15.2. COUNTIES, CITIES AND TOWNS.

§§ 22.1-32 and 22.1-47.4 amended; §§ 15.2-702.1 and 15.2-1414.4 repealed. Salary procedure for members of Arlington County Board and School Board. Provides that the procedure for determining the salary, reimbursements, and expenses allowed to each member of the Arlington County Board shall be the same procedure that exists for other counties in the Commonwealth. In addition, the bill provides the procedures by which the elected Arlington County School Board may set its members' salaries and grant itself fringe benefits, expenses, and reimbursements and sets a maximum salary of \$25,000. HB 1002; CH. 126.

§ 15.2-735.1 added. Arlington County Affordable Dwelling Unit ordinance; permitting certain densities in the comprehensive plan. Authorizes Arlington County to provide in its comprehensive plan for the physical development within the County for densities of development ranging between a floor area ratio (FAR) of 1.0 (1.0 FAR) and a floor area ratio of 10.0 (10.0 FAR) or greater in some or all parts of the county. The bill authorizes the County to establish affordable housing contributions from developers as a condition of the governing body's approval of a special exception application for residential, commercial, or mixed-use projects with a density equal to

or greater than 1.0 FAR. Under the bill, the provisions of the ordinance would allow the developer to provide on-site Affordable Dwelling Units, off-site Affordable Dwelling Units, or a cash contribution to the County's affordable housing fund in lieu of providing the units. SB 273; CH. 481.

§ 15.2-851.1 added. Optional provisions of a subdivision ordinance; Fairfax County. Provides that if an owner or developer has not met all previous land development obligations in accordance with all development agreements with the locality as determined by the governing body or its designated administrative agency for the previous seven years, then (i) a personal, corporate, or property bond may be disallowed by the governing body as security for such facilities, and in such event, security for such facilities shall be restricted to a certified check, cash escrow, or a letter of credit that meets certain requirements; and (ii) the governing body may require that the allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities be greater than 25 percent of the estimated construction costs, but not exceed 50 percent of the estimated construction costs. Furthermore, the bill provides that if the subdivider or developer has not met all previous land development obligations in accordance with all development agreements with the locality as determined by the governing body or its designated administrative agency for the previous seven years prior to a written request for partial release, the cumulative amount released may be equal to no less than 80 percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken. SB 371; CH. 736.

§ 15.2-852 amended. Disclosures in land use proceedings. Provides an exception to the disclosure requirements in land use proceedings where the board of supervisors is the applicant and the application property involves more than 10 parcels under different ownership. The bill also clarifies that with respect to amendments of a zoning ordinance, the disclosure requirements apply only to zoning map amendments. HB 1372; CH. 287.

§§ 15.2-852 and 15.2-2289. See § 55-79.43; HB 128/SB 430.

§ 15.2-901 amended. High grass and weeds; civil penalty. Permits the City of Williamsburg to require that owners of occupied property cut grass, weeds and other foreign growth on the property and if a property owner, after reasonable notice, fails to do so the City may cut such grass, weeds or other foreign growth and the cost and expenses thereof shall be chargeable to and paid by the owner of the property. HB 1214; CH. 275.

§ 15.2-903 amended. Vacant and abandoned buildings. Provides that the City of Newport News may, by ordinance, require screening for certain vacant or abandoned retail or commercial properties. HB 915; CH. 669/SB 199; CH. 722.

§ 15.2-906 amended. Buildings that significantly threaten public safety. Provides that localities may take action to prevent unauthorized access to buildings that significantly

threaten public safety within seven days of reasonable written notice. HB 1326; CH. 460.

§ 15.2-912.2. See § 18.2-340.15; HB 525.

§ 15.2-915.3. See § 18.2-308; HB 1577.

§ 15.2-917 amended. **Condemnation; sport shooting ranges.** Provides that any sport shooting range operating or approved for construction in the Commonwealth, which upon condemnation relocates to another site in the same locality, shall not be subject to any noise control standard more stringent than those in effect when the sport shooting range was originally approved for construction or began operating, whichever was earlier. Also provides that a locality cannot subject a sport shooting range to noise control standards that are more stringent than the standards existing at the time the range was originally approved for construction or began operating, whichever was earlier. HB 1537; CH. 704.

§ 15.2-919. See § 46.2-100; HB 366/SB 712.

§ 15.2-928 amended. **Waste disposal; civil penalty.** Allows the City of Roanoke to impose a civil penalty without further notice for the non-removal of waste containers after the third notice for violation, provided that the third notice included an opportunity for the owner to be heard. HB 709; CH. 847.

§ 15.2-934 amended. **Displacement of private waste companies.** Adds requirements to the procedures localities must follow before displacing private companies providing garbage, trash, or refuse collection services. Such requirements include making a written finding of at least one of the following: (i) adequate or sufficient privately-owned refuse collection and disposal services are not available; (ii) the use of privately-owned and operated services has substantially endangered the public health or created a public nuisance; (iii) privately-owned services, although available, are not able to provide needed services in a reasonable and cost-efficient manner; or (iv) displacement is necessary to provide for the development or operation of a regional system of refuse collection or disposal for two or more localities. HB 456; CH. 74.

§ 15.2-951. See § 2.2-1124; HB 1488/SB 449.

§ 15.2-953 amended. **Donations by libraries.** Allows local public libraries to make donations of materials that are to be discarded from their collections to nonprofit organizations. HB 822; CH. 118.

§ 15.2-965.1. See § 2.2-1401; HB 122/SB 662.

§ 15.2-1127 amended. **Vacant building registration.** Allows the Town of Pulaski, in conservation and rehabilitation districts, to require the owner of a building that has been vacant for a continuous period of 12 months to register such building and charge a fee not to exceed \$25. Failure to register may result in a civil penalty. The current provisions apply only to cities. HB 1525; CH. 299.

§ 15.2-1129.1 amended. **Arts and cultural districts.** Adds the Town of Chincoteague to those localities that may by ordinance establish within their boundaries an arts and cultural

district for the purpose of increasing awareness and support for the arts and culture in the locality. Each locality may provide incentives for the support and creation of arts and cultural venues in the district. SB 283; CH. 482.

§ 15.2-1215 amended. **Authority to cut grass.** Adds Hanover County to the list of counties with authority to require that the owner of occupied residential real property cut the grass or lawn area of less than one-half acre on such property when growth of the grass or lawn area exceeds 12 inches in height. Hanover County may, after reasonable notice, have the grass or lawn area cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of the property and may be collected by the county as taxes and levies are collected. HB 1396; CH. 700.

§ 15.2-1510.1. See § 2.2-106; HB 476.

§§ 15.2-1512.4 and 15.2-2511.2 added. **Rights of residents and employees to contact elected officials.** Provides that every local government employee has the right to express opinions to state or local elected officials on matters of public concern. Retaliation based upon a local government employee's exercise of such right is unlawful. This measure tracks the language in § 2.2-2902.1 that is applicable to state employees. In addition, the bill provides that certain local auditors shall be responsible for administering a telephone hotline, and a website, if cost-effective, through which local employees and residents may report incidences of fraud, waste, or abuse in the administration of local government. Accordingly, auditors are authorized to inform local employees of the hotline through a variety of measures. Furthermore, the auditors are required to investigate authentic allegations of fraud, waste, or abuse. HB 781; CH. 597.

§ 15.2-1716 amended. **Expenses incurred in responding to DUI or other traffic incidents.** Authorizes a locality to provide, by ordinance, that a person convicted of violating a DUI or other traffic statute shall be liable for restitution at the time of sentencing to the locality, or a responding law enforcement or volunteer fire or rescue squad, for reasonable expenses incurred by such locality, or responding law enforcement or volunteer fire or rescue squad when providing an appropriate emergency response to any accident or incident related to such violation. Currently, the Code authorizes a locality to provide that a person convicted of violating a DUI or other traffic statute shall be liable in a separate civil action for such reasonable expenses incurred. HB 1027; CH. 679.

§ 15.2-1736 amended. **Mutual aid agreements.** Allows all sheriffs to enter into mutual aid agreements. Current provisions apply only to sheriffs with primary law-enforcement authority. HB 1356; CH. 286.

§ 15.2-1800. See § 2.2-1147.2; HB 203.

§ 15.2-1903 amended. **Initiating condemnation.** Requires localities to hold a public hearing prior to adopting an ordinance or resolution initiating a condemnation. Other political subdivisions are also required to hold a public hearing prior to initiating a condemnation. HB 771; CH. 927.

§§ 15.2-2001 and 33.1-12 amended. Highway user fees. Provides that, when the capacity of any system of state highways or a portion thereof is expanded by construction or reconstruction, the Commonwealth Transportation Commissioner may enter into agreements with localities, authorities, and transportation districts to establish highway user fees for highways that the localities, authorities, and transportation districts maintain. The bill also allows any locality to establish highway user fees for highways that are not part of any system of state highways when such highway's capacity is expanded by construction or reconstruction. SB 720; CH. 924.

§ 15.2-2114 amended. Stormwater regulation. Provides that income derived from stormwater control program service charges shall be dedicated special revenue and may be used only to pay or recover costs for specified purposes, including the improvement or maintenance of dams, whether publicly or privately owned, that serve to control stormwater. HB 148; CH. 11.

§ 15.2-2118 amended. Water and sewer liens. Adds Manassas Park to those localities that have authority to provide that charges for water or sewer service may be a lien on the real estate served. HB 535; CH. 645/SB 479; CH. 749.

§ 15.2-2159 amended. Fees for solid waste disposal by counties. Adds Highland County to the list of counties that have the authority to (i) levy penalty and interest on the fee for solid waste disposal and (ii) provide discounts for older and disabled persons on the fee for solid waste disposal. HB 550; CH. 102/SB 407; CH. 743.

§§ 2.2-3705.6, 15.2-2160, 56-265.4:4, 56-466.1, and 56-502 amended; §§ 15.2-2108.19 through 15.2-2108.31 added; § 15.2-2108 repealed. Licensing and regulation of cable television systems. Establishes a new procedure by which cable operators may obtain authorization to operate cable systems in localities. The new procedure provides for localities to grant ordinance cable franchises as an alternative to negotiated cable franchises. Ordinance cable franchises may be requested by certificated providers of telecommunications services with previous consent to use a locality's rights-of-way, after requesting to negotiate a cable franchise agreement. Upon receipt of an application for an ordinance cable franchise, the locality shall adopt necessary ordinances within 120 days. A locality granting an ordinance franchise may, if it currently has fewer than three public, educational or governmental (PEG) channels, obtain up to three PEG channels from all cable operators. A locality that has approved a cable franchise in the 12 months preceding July 1, 2006, is exempted from provisions of this measure until an existing franchise expires. HB 1404; CH. 76/SB 706; CH. 73.

§ 15.2-2209 amended. Violations of zoning ordinance; penalties. Raises the maximum civil penalty for an initial summons from \$100 to \$200. The maximum civil penalty for second and subsequent violations of the zoning ordinance rises from \$250 to \$500. HB 308; CH. 248.

§§ 15.2-2212, 15.2-4904, and 28.2-1303 amended. Removal of certain local board and commission members. Provides that a local governing body may remove, without limitation, any member of a local industrial development authority, planning commission, or wetlands board who misses any three meetings in a row, or any four meetings in any 12-month period HB 1171; CH. 687.

§ 15.2-2223 amended; § 15.2-2222.1 added. Coordination of state and local transportation planning. Provides that prior to adoption of any comprehensive plan or amendment the locality shall submit such plan or amendment to the Department of Transportation for review and comment. The Department shall provide written comment on the proposed plan or amendment within 90 days of receipt thereof. Also, upon submission to a locality of an application for rezoning, the locality shall submit such application to the Department of Transportation within 10 business days of receipt thereof. Such application shall include a traffic impact statement if required by the locality by ordinance. Within 45 days of its receipt of such application, the Department shall either (i) provide written comment on the rezoning application, or (ii) schedule a meeting, to be held within 60 days of its receipt of the application, with the local planning commission or other agent and the applicant to discuss potential modifications to the application to address any concerns or deficiencies. Furthermore, upon submission to a locality of a subdivision plat or a site plan or plan of development, the locality shall submit such plat or plan to the Department of Transportation in accordance with § 15.2-2260 within 10 business days of receipt of the plat or plan. The bill also provides that a local comprehensive plan may include the designation of new and expanded transportation facilities and recommendations that support the planned development of the territory covered by the plan. HB 1513; CH. 563 (effective - see bill)/SB 699; CH. 527 (effective - see bill).

§§ 15.2-2223 and 15.2-2224 amended. Comprehensive plans and official maps; road improvements. Requires that the comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each road and transportation improvement shown on the plan. The bill also requires that the comprehensive plan include an official map that shall show road and transportation improvements, including the cost of such road and transportation improvements, which are sufficient to meet the current and future needs of residents in the locality while considering the current and future needs of the planning district within which the locality is situated. The bill further provides that the comprehensive plan may include, but need not be limited to, the designation of a system of community service facilities such as sports playing fields and the designation of areas for various types of public and private development and use such as active and passive recreation. In addition, the local planning commission shall, in the preparation of a comprehensive plan, survey and study road and transportation improvements and the costs thereof. Furthermore, the comprehensive plan shall recommend methods of implementation, which may include, but

need not be limited to, a recreation and sports resource map. HB 1521; CH. 564.

§ 15.2-2239 amended. Capital improvement programs. Provides that a capital improvement program shall include estimates of cost of each road and transportation improvement adopted as an amendment to a locality's comprehensive plan. HB 1528; CH. 565.

§ 15.2-2241 amended. Subdivision ordinance; easements. Modifies the timing for transfer of easements from a developer to a franchised cable television operator or telephone service provider. Existing language that refers to conveyance by reference on the final plat is amended to require conveyance within 30 days after a written request by the cable operator. HB 919; CH. 670.

§§ 15.2-2242, 15.2-2286, and 55-519 amended. Subdivision and zoning ordinances; environmental site assessments. Allows localities to include in their subdivision or zoning ordinances provisions for requiring and considering Phase I environmental site assessments based on the anticipated use of the property proposed for the subdivision or development and Phase II environmental site assessments, if the locality deems such to be reasonably necessary, based on findings in the Phase I assessment. A reasonable fee may be charged for the review of such environmental assessments. Such ordinances may also include provisions for requiring disclosure and remediation of contamination and other adverse environmental conditions of the property prior to approval of subdivision and development plans. The bill also provides that the residential property disclosure statement provided by the owner of residential real property to a purchaser include disclosure of adverse environmental site conditions. HB 93; CH. 533/SB 224; CH. 514.

§ 15.2-2242 amended. Sidewalks. Allows localities to include in their subdivision ordinances provisions requiring the dedication for public use of a right-of-way for, and the construction of, a sidewalk on certain lots that are adjacent to an existing sidewalk. HB 686; CH. 421.

§§ 15.2-2242, 15.2-2286, and 36-98 amended; § 15.2-2286.1 added. Clustering of single-family dwellings. Deletes certain optional provisions regarding the clustering of single-family housing and reinserts those provisions as mandatory provisions of zoning or subdivision ordinances for counties and cities that had a population growth rate of 10 percent or more from the next-to-latest to latest decennial census year. Such localities shall provide in their zoning or subdivision ordinances, applicable to a minimum of 40 percent of the unimproved land contained in residential and agricultural zoning district classifications, standards, conditions, and criteria for the clustering of single-family dwellings and the preservation of open space developments. In establishing such standards, conditions, and criteria, the localities may include any provisions they determine appropriate to ensure quality development, preservation of open space, and compliance with their comprehensive plan and land use ordinances. SB 374; CH. 903 (effective 7/1/07).

§ 15.2-2244.1 added. Additional method for subdivision of a lot for conveyance to a family member. Allows a locality to include in its subdivision ordinance provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, if (i) the property has been owned for at least 15 consecutive years by the current owner or member of the immediate family and (ii) the property owner agrees to place a restrictive covenant on the subdivided property that would prohibit the transfer of the property to a nonmember of the immediate family for a period of 15 years. The locality may require that the subdivided lot is no more than one acre and otherwise meets any other express requirement contained in the Code of Virginia or imposed by the local governing body. HB 1144; CH. 456.

§ 15.2-2260 amended. Preliminary plats. Requires certain preliminary plats to be forwarded to the appropriate state agency for review within 10 business days of receipt by the locality. HB 1375; CH. 461.

§ 15.2-2286 amended. Cluster development. Exempts property located in an Air Installation Compatible Use Zone from a requirement for administrative approval by a locality of certain types of cluster development. SB 95; CH. 304.

§ 15.2-2288.2 added. Special use permit; certain temporary structures. Authorizes, without requiring a special use permit, the erection of certain tents intended to serve as temporary structures for a period of three days or less and that will be used primarily for private or family-related events. HB 336; CH. 249.

§ 15.2-2288.2 added. Zoning; agricultural districts; farm wineries. Provides that localities may not require that a special exception or special use permit be obtained for the processing of wine by licensed farm wineries. Also, no locality may adopt any requirements for special exceptions or special use permits relating to licensed farm wineries that would be more restrictive than its requirements in effect as of January 1, 2006. Further, any special exception or special use permit in effect as of January 1, 2006, shall remain in effect until July 1, 2007, unless such exception or permit is either no longer required by the locality or is amended to be less restrictive. Other provisions are also included that are generally intended to temporarily preserve the status quo while the Secretary of Agriculture and Forestry undertakes a study of issues surrounding the farm winery industry. The results of such study are to be reported to the 2007 Session of the General Assembly. HB 1435; CH. 794.

§§ 15.2-2297, 15.2-2298, and 15.2-2303 amended. Conditional zoning. Provides that localities may accept proffered conditions once a public hearing has begun if the amended proffers do not materially affect the overall proposal. HB 1073; CH. 450.

§§ 15.2-2298 and 15.2-2303.2 amended. Proffered cash payments. Provides that a locality may accept proffered conditions if such locality has had population growth of five percent or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of

the Census. In addition, the bill provides that a zoning ordinance may include and provide for the voluntary proffering in writing, by the owner, of reasonable conditions, including the payment of cash for any off-site road or transportation improvement that is adopted as an amendment to the required comprehensive plan and incorporated into the capital improvements program. The bill further provides that a locality may utilize any cash payments proffered for any road or transportation improvement that is incorporated into the capital improvements program as its matching contribution under the present revenue-sharing fund program for highway systems in certain counties. HB 1506; CH. 882.

§ 15.2-2303.2 amended. Cash proffers; road improvements. Allows localities to award a contract to certain entities that are willing to construct a more extensive road improvement by utilizing cash proffers of others as well as other available funds, upon a written determination by the governing body stating the basis for awarding one construction contract to extend the limits of the road improvement. This bill contains an emergency clause. HB 1192; CH. 872 (effective 4/19/06).

§ 15.2-2303.2 amended. Cash proffers; road improvements. Allows localities to award a contract to certain entities that are willing to construct a more extensive road improvement utilizing cash proffers of others as well as other available funds, upon a written determination by the governing body stating the basis for awarding one construction contract to extend the limits of the road improvement. SB 681; CH. 583.

§ 15.2-2307 amended. Reconstruction and restoration of certain damaged or destroyed nonconformities. Provides that if a building is damaged or destroyed by a natural disaster, the zoning ordinance may require that such building be repaired, rebuilt or replaced to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance. If such building cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. HB 78; CH. 244.

§ 15.2-2309 amended. Board of zoning appeals; variances. Provides that the property upon which a property owner has been granted a variance shall be treated as conforming; however, the use or the structure permitted by the variance may not be expanded. HB 918; CH. 264.

§ 15.2-2314 amended. Board of zoning appeals decisions. Provides that the findings and conclusions of the board of zoning appeals on questions of fact are presumptively correct. The bill also directs the circuit court to hear any arguments on questions of law de novo. HB 1021; CH. 446.

§§ 15.2-2316.1 and 15.2-2316.2 added. Transfer of development rights. Allows localities to provide for the transfer of development rights from a parcel of property located in the locality to another parcel of property located elsewhere in the locality. SB 373; CH. 573.

§ 15.2-2317 amended. Impact fees for transportation. Adds Fauquier, Frederick, and Spotsylvania Counties to those locali-

ties authorized to impose impact fees for transportation and inserts a reference to the 1990 Census so as to narrow the potential application of that clause to Stafford County only. Also, an outdated provision is deleted. HB 141; CH. 832.

§ 15.2-2403 amended. Powers of service districts. Powers of service districts. Provides that a locality creating a service district may contribute, from its general fund, an appropriate amount of funds to pay for certain authorized governmental services. The bill also allows a governing body creating a service district to accept the allocation, contribution, or reimbursement of funds from any locality for the costs, expenses, and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, expansion, and the operation or maintenance of any facilities and services in the district. Currently, the nonexhaustive list of available sources from which such governing body may accept the allocation, contribution, or reimbursement of funds extends only to persons, authorities, transportation districts, and state and federal agencies. HB 147; CH. 10.

§ 15.2-2403 amended. Powers of service districts. Expands the powers of service districts to include the accumulation and setting aside of annual tax revenue collected for road construction for such reasonable period of time as is necessary to finance such construction. HB 206; CH. 394.

§ 15.2-3400 amended. Voluntary settlements among localities; effective date. Mandates that voluntary agreements that provide for municipal annexation shall take effect, in the absence of a stipulated date, on the first day of the month following court validation of the voluntary agreement. The Code currently provides for such agreements to take effect on January 1 of the year set forth in the agreement. SB 51; CH. 212.

§§ 15.2-4504 and 15.2-4529. See § 58.1-1720; HB 1148.

§§ 15.2-4902 and 15.2-6402 amended. Virginia Regional Industrial Facilities Act. Adds Planning District 2 to those planning districts that may create a regional industrial facility authority with two or more localities rather than three or more localities. SB 511; CH. 324.

§ 15.2-5101 amended. Powers of waste and water authorities. Clarifies the powers of waste and water authorities regarding cost reserves and expenditures for operating capital. A second enactment clause validates certain previous acts by such authorities. SB 164; CH. 219.

§§ 15.2-5214, 15.2-5343, 16.1-319, and 23-50.16:12 amended. Eminent domain; unincorporated churches. Includes "unincorporated churches" with regard to certain eminent domain provisions. Religious corporations are included under current law. HB 955; CH. 673.

§§ 15.2-5401, 15.2-5402, 15.2-5403, 15.2-5405, 15.2-5406, 15.2-5409, 15.2-5423, 56-1, and 56-580 amended; §§ 15.2-5405.1, 15.2-5406.1, 15.2-5406.2, and 15.2-5423.1 added. Electric authorities. Amends the Electric Authorities Act. An electric authority created by the Town of Elkton in

which the Town is the authority's sole member is (i) subject to taxation only to the extent that the Town is subject to such taxation; (ii) subject to the provisions of the Virginia Personnel Act and the Virginia Public Procurement Act in the exercise of any power conferred under the Electric Authorities Act only to the extent that such provisions would have applied to the Town of Elkton in the exercise of such power directly; and (iii) authorized to distribute electric energy for retail sale within the geographic area that was served as of January 1, 2006, by the Town of Elkton. In addition, the bill provides that the provisions of the Virginia Electric Utility Restructuring Act shall not impair the exclusive territorial rights of an authority created by the Town of Elkton in which the Town is the authority's sole member. HB 1187; CH. 929/SB 406; CH. 941.

§15.2-5800. See § 13.1-1002; SB 547.

§§ 15.2-6202, 15.2-6203, 15.2-6209, 15.2-6210, and 15.2-6214. See § 2.2-2609; HB 1010.

§ 15.2-6403 amended. **Virginia Regional Industrial Facilities Act.** Clarifies that members of the board may be appointed for as many terms as the governing body desires. SB 548; CH. 758.

§ 15.2-6501. See § 3.1-22.8; HB 1186/SB 330.

§§ 15.2-6800 through 15.2-6809 added. **Williamsburg Area Transit Authority.** Establishes a local transportation authority in the Williamsburg area. The Authority shall prepare a regional transit plan for all or portions of those areas located within the City of Williamsburg, the County of James City, such portions of York County as its governing body desires to have covered, and the areas owned or operated by the College of William and Mary and the Colonial Williamsburg Foundation, to include, but not necessarily be limited to, transit improvements of regional significance. SB 467; CH. 179.

TITLE 15.2. MISCELLANEOUS - COUNTIES, CITIES AND TOWNS.

Grievance procedure; Albemarle County utilizing an administrative hearing officer rather than panel. Allows Albemarle County to utilize an administrative hearing officer rather than a three-member panel to hear cases involving employee grievances. HB 999; CH. 269.

Hospital authorities. Attempts to standardize powers and duties concerning hospital authorities, specifically the Chesapeake Hospital Authority, Patrick Hospital Authority, Richmond Eye and Ear Hospital Authority, all authorities created under Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2, and all hospital or health center commissions created under Chapter 52 (§ 15.2-5200 et seq.) of Title 15.2. The bill also amends the current exemptions for such hospital authorities under the Virginia Public Procurement Act. The bill contains technical amendments. HB 852; CH. 658.

CHARTERS, AUTHORITIES.

Altavista, Town. Shifts the time of council elections to November; allows council salaries to be set in accordance with the provisions of general law; eliminates certain supermajority voting requirements; deletes provisions related to the town sergeant and the school board; and makes numerous technical changes. This bill contains an emergency clause. HB 871; CH. 263 (effective 3/30/06).

Charlottesville, City. Grants new powers to the city for the purpose of providing housing for low-or moderate-income persons. HB 998; CH. 268/SB 202; CH. 311.

Clifton Forge, Town. Moves the regular election date for town council from May to November. As a result, the current council members shall have their terms extended by six months. In addition, the mayor and vice-mayor shall be elected by the council in January of each odd-numbered year. Thus, the current mayor and vice-mayor shall continue in office as mayor and vice-mayor, respectively, until the first meeting of the council in January 2007. These bills contain an emergency clause. HB 474; CH. 17 (effective 2/23/06)/SB 147; CH. 2 (effective 2/14/06).

Colonial Heights, City. Removes terms of appointment for the city clerk and the city attorney, and makes changes to the city's procurement practices. HB 281; CH. 14/SB 591; CH. 761.

Elkton, Town. Repeals the existing town charter and provides a new charter containing powers typically granted to towns. HB 1188; CH.690/SB 405; CH. 742.

Emporia, City. Moves the regular municipal election date for the mayor and city council from May to November. The current mayor and city council members will have their terms extended by six months. SB 23; CH. 1 (effective 2/13/06).

Honaker, Town. Provides a new charter for the town. The new charter contains provisions typically found in town charters and does not grant unusual powers. The bill contains an emergency clause. SB 503; CH. 323 (effective 3/30/06).

Iron Gate, Town. Changes references from "town sergeant" to "chief of police." HB 445; CH. 15.

Norfolk, City. Allows city council to dispense with 16, rather than 12, of its weekly council meetings each year and changes the required vote from four-fifths to three-fourths for the sale of certain public property. HB 1439; CH. 152/SB 280; CH. 727.

Purcellville, Town. Allows the town to appoint one non-resident to the board of architectural review. HB 1121; CH. 133.

Richmond, City. Amends the charter by (i) clarifying that the council may adopt the budget at either a regular or special meeting, (ii) deleting an additional requirement for introduction of ordinances at special meetings, (iii) clarifying the duties of the city attorney and explicitly granting authority to repre-

sent more than one city official, department, or other entity that are parties to the same transaction, (iv) granting the mayor authority to employ special counsel in instances where the city attorney has a conflict of interests (v) clarifying that the mayor or his designee may attend closed meetings of the council unless the council determines that such inclusion shall be detrimental to the purpose of the council's deliberations, (vi) requiring the chief administrative officer to attend, or be represented at, all open meetings of the council, (vii) making several clarifications to the budgetary process and (viii) making numerous technical or housekeeping changes. These bill contain an emergency clause. HB 621; CH. 650 (effective 4/5/06/SB 81; CH. 712 (effective 4/5/06).

Stuart, Town. Provides for staggered four-year terms of office for the mayor and town council members. The regular municipal election date for the mayor and town council is moved from May to November. The mayor and council members elected at the regular election in May 2006 will serve a term of office until December 31, 2008. HB 1157; CH. 136.

TITLE 16.1. COURTS NOT OF RECORD.

§ 16.1-69.6. See § 2.2-2609; HB 1010.

§ 16.1-69.6:1 amended. **Number of district court judges.** Increases the number of general district court judges by one in each of the following districts: 19th (Fairfax and Fairfax County); 20th (Loudoun, Rappahannock, Fauquier); and 27th (Galax, Radford, Pulaski, Wythe, Carroll, Montgomery, Floyd, Giles, Bland, and Grayson). The bill also increases the number of juvenile court judges by one in each of the following districts: 7th (Newport News); 14th (Henrico); 19th (Fairfax and Fairfax County); and 26th (Harrisonburg, Winchester, Frederick, Clarke, Warren, Shenandoah, Page, and Rockingham). This bill is a recommendation of the Committee on District Courts. HB 62; CH. 34/SB 391; CH. 488.

§§ 16.1-69.35 and 17.1-105 amended. **Designation of district and circuit judges.** Allows the Chief Justice to designate an active or retired judge to provide judicial assistance to another district or circuit if, in his opinion, the administration of justice so requires. Current law allows such designations only due to congestion in the court's work. HB 1237; CH. 144.

§ 16.1-69.48 amended. **Fees collected by clerks; customary bank charges.** Allows for the deduction of customary bank fees without first having to submit an invoice to the Executive Secretary's Office for payment. Entries reflecting the payment of these fees will still be entered into the Financial Management System. This is a recommendation of the Committee on District Courts. SB 113; CH. 305.

§ 16.1-69.48:1. See § 9.1-116.1; HB 1409.

§ 16.1-69.48:2. See § 17.1-275; HB 68/SB 157.

§ 16.1-88.03 amended. **District court; parties not represented by counsel.** Provides that parties in a civil case not represented by counsel must make written notification of an address change if they have made an appearance in the case. There is no requirement in current law that such parties shall have made an appearance. This bill is a recommendation of the Committee on District Courts. SB 379; CH. 374.

§ 16.1-107 amended. **Requirements for appeal; appeal bond.** Removes the requirement that a plaintiff post a bond in order to appeal a judgment in cases where the defendant has not asserted a counterclaim. HB 812; CH. 116.

§§ 16.1-122.2 and 16.1-122.3 amended. **Courts not of record; jurisdiction of small claims court.** Increases from \$2,000 to \$5,000 the ceiling of the jurisdictional amount of a small claims court. HB 1201; CH. 141.

§ 16.1-131.1. See § 19.2-398; HB 1350.

§ 19.2-398 amended; § 16.1-131.1 added. **Constitutional challenges.** Provides that in any criminal or traffic case in a court not of record, if the court rules that a statute or local ordinance is unconstitutional, it shall upon motion of the Commonwealth, stay the proceedings and transmit the case to the circuit court for a determination of constitutionality. If the circuit court rules that the statute or local ordinance is unconstitutional, the Commonwealth may appeal such interlocutory order to the Court of Appeals and thereafter to the Supreme Court; however, if the circuit court rules that the statute or local ordinance is constitutional, the circuit court shall remand the case to the court not of record for trial consistent with the ruling of the circuit court. The bill also provides that a pretrial appeal may be taken by the Commonwealth in any criminal case from an order of a circuit court dismissing a warrant, information, summons, delinquency petition, or indictment, on the ground that a statute on which the order is based is unconstitutional. SB 298; CH. 571.

§§ 16.1-228 and 63.2-100 amended. **Child abuse and neglect; sex offenders; penalties.** Provides that it is child abuse or neglect when a parent or other person responsible for a child's care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling with a person to whom the child is not related by blood or marriage and who the parent knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender. HB 1066; CH. 868.

§§ 16.1-249.1, 16.1-278.7:01, and 16.1-278.7:02. See § 18.2-370.2; HB 984.

§ 16.1-249.1, 16.1-278.7:01, and 16.1-278.7:02. See § 18.2-48; SB 559.

§ 16.1-250 amended. **Juvenile detention hearings.** Provides that if the juvenile and domestic relations district court does not sit within the county or city where the charge is pending on the day following the day the child is taken into custody and there is no ability to hold the hearing electronically the judge may conduct the hearing in another county or city. The bill also

states that the attorney for the Commonwealth, the attorney for the child and the parents may appear electronically. The introduced bill was a recommendation of the Committee on District Courts. HB 126; CH. 89.

§§ 16.1-253.1 and 16.1-279.1 amended. Protective orders. Provides that a respondent may be ordered to restore or may be enjoined from terminating a necessary utility service to the residence that the petitioner has been granted exclusive possession of. The respondent can also be ordered to pay deposits to connect or restore necessary utility services if the respondent was required to provide alternative housing for the petitioner. The bill also allows for any other relief necessary for the protection of the petitioner and family or household members of the petitioner. SB 120; CH. 308.

§ 16.1-260 amended. Intake; alcohol-related offenses; juveniles. Clarifies the juvenile intake process where it is unnecessary to file a petition for the refusal to take a blood or breath test for alcohol-related offenses to make it consistent with implied consent statutes. This is a recommendation of the Committee on District Courts. HB 1017; CH. 677.

§ 16.1-274 amended. Filing time for child custody reports. Requires that a child custody report prepared pursuant to § 16.1-273 be furnished to all attorneys representing parties in the matter 10 days prior to the hearing instead of five days. HB 1007; CH. 675.

§ 16.1-277.01. See § 63.2-1200; SB 534.

§ 16.1-290 amended. Juveniles; administrative support order. Allows the Department of Social Services to establish the amount of the support obligation by the parents when a child is committed to the custody of the Department of Juvenile Justice, and allows the Department of Juvenile Justice to collect child support from the parents from the date it receives the child. HB 1325; CH. 282.

§§ 2.2-2618, 16.1-300, 53.1-10, and 66-3.2 amended. Gang information; juvenile records. Requires the Departments of Corrections and Juvenile Justice to collect information on individuals identified as gang members and transmit it to the Commonwealth's Attorneys' Services Council. The Council will disseminate the information to attorneys for the Commonwealth. The bill also specifies that law-enforcement agencies, school administrations and probation offices are included as entities that may examine certain juvenile records held by the Department of Juvenile Justice if there is a court order determining that they have a legitimate interest. The bill also says that the court order may be granted if the person, agency, or institution has a legitimate interest in the juvenile. Under current law the interest is limited to the case or in the work of the court. In addition, the Department of Juvenile Justice will be allowed to release the social reports and records of a child to certain law enforcement employees for the purpose of investigating criminal street gang activity. HB 847; CH. 431/SB 561; CH. 500.

§ 16.1-309.1 amended. Juvenile confidentiality; gang exception. Provides that where the consideration of public safety

requires, gang-related information pertaining to others, obtained from an investigation or supervision of a juvenile affiliated with a criminal street gang can be released by the Department of Juvenile Justice or a court service unit to a law-enforcement agency investigating criminal street gang activity. HB 692; CH. 259/SB 129; CH. 309.

§ 16.1-309.1 amended. Reporting certain juveniles to the Immigration and Customs Enforcement Agency. Provides that a juvenile intake officer shall report to the United States Immigration and Customs Enforcement Agency a juvenile who has been detained in a secure facility based on an allegation that he committed a violent juvenile felony and who the intake officer has probable cause to believe is in the United States illegally. HB 1046; CH. 682.

§ 16.1-319. See § 15.2-5214; HB 955.

§§ 16.1-340 and 16.1-341 amended. Hearing for involuntary commitment of a minor; admissibility of state recommendations. States that state mental health facility recommendations are admissible during an involuntary commitment hearing of a minor. The bill also amends the current law by stating that the minor's hearing is to be scheduled by the juvenile and domestic relations district court where the minor is located, as opposed to where the minor resides. HB 368; CH. 401.

TITLE 17.1. COURTS OF RECORD.

§ 17.1-105. See § 16.1-69.35; HB 1237.

§ 17.1-105. See § 8.01-343; SB 114.

§ 17.1-213. See § 42.1-77; HB 209.

§§ 16.1-69.48:2, 17.1-275, 17.1-328, 17.1-329, and 17.1-418 amended; § 17.1-132 added. Courts Technology Fund; creation. Creates a special non-reverting fund to be administered by the Supreme Court of Virginia funded by (i) a \$5 increase from July 1, 2006 through December 31, 2006 in clerks' fees for civil case filings in the district and circuit courts and a \$10 increase thereafter, (ii) doubling the filing fee in the Court of Appeals and the Supreme Court to \$50, and (iii) a \$14 increase in the Supreme Court fee for a law license certificate and a certificate of qualification. Money in the Fund is to be allocated at the direction of the Supreme Court of Virginia to staff, advance, update, maintain, replace, repair and support the telecommunications and technology systems of the judicial system. Revenues raised in support of the Fund shall not be used to supplant current funding to the judicial branch. HB 68; CH. 623/SB 157; CH. 718.

§ 17.1-275. See § 55-218.1; SB 446.

§ 17.1-275. See § 63.2-1200; SB 534.

§ 17.1-276. See § 2.2-1201; SB 21.

§ 17.1-278 amended. Courts of record; certain fees. Maintains the current fee collected in civil actions for Legal Aid Services. HB 312; CH. 189.

§§ 2.2-3808.2 and 17.1-279 amended. Posting of court records on a website; personal information; sunset. Removes the sunset provision prohibiting certain information from being posted on a court-controlled website. The Compensation Board policies shall require court clerks to certify that proposed technology improvements of their land records will provide remote access to land records on or before July 1, 2007. If a court clerk provides remote access to land records on or before July 1, 2007, the clerk may then apply to the Compensation Board for an allocation from the Technology Trust Fund. The bill also requests the Virginia Information Technologies Agency to develop methods for the redaction of social security numbers from electronic land record documents and to submit a project budget to Compensation Board for approval. HB 563; CH. 647.

§ 17.1-304 amended. Emergency sessions of the Supreme Court of Virginia. Allows the Supreme Court during a state of emergency to convene at such time, in such location, and for such purposes as is necessary for the efficient and effective administration of justice and, in such circumstances, allows the justices to preside through the use of technology in order to satisfy the quorum requirement. HB 1238; CH. 357.

§ 17.1-415 amended. Court of Appeals; chief judge; additional compensation. Increases the additional compensation of the chief judge of the Court of Appeals from \$1,000 to \$3,000 per year. SB 156; CH. 218.

§§ 17.1-500 and 17.1-506. See § 2.2-2609; HB 1010.

§ 17.1-507 amended. Number of circuit court judges. Adds a fifth circuit court judge to the Third Judicial Circuit (Portsmouth). HB 63; CH. 35/SB 388; CH. 738.

TITLE 18.2. CRIMES AND OFFENSES GENERALLY.

§ 18.2-10 amended. Elimination of capital punishment for minors; penalty. Restricts the death penalty to those who are 18 years of age or older at the time of the capital offense. Currently, the age requirement to receive the death penalty is 16 years of age or older at the time of the offense. This change is being made in response to the case of *Roper v. Simmons*, 543 U.S. 551 (2005), decided March 1, 2005, in which the U.S. Supreme Court held that the Eighth and Fourteenth Amendments forbid the execution of offenders who were under the age of 18 at the time of the crime. HB 45; CH. 36/SB 362; CH. 733.

§ 18.2-46.1 amended; § 18.2-282.1 added. Crimes; brandishing a machete; penalty. Makes it illegal to brandish a machete, with a 12 inch blade or longer, with intent to intimidate, and includes such offense as one of the predicate criminal

acts that defines street gang activity. The penalty for a violation of this section is a Class 1 misdemeanor, or if the violation occurs on or within 1,000 feet of any public, private, or religious school, a Class 6 felony. The bill makes an exception for excusable or justifiable self-defense. HB 588; CH. 844/SB 183; CH. 895.

§ 18.2-46.1 amended. Criminal street gang; definitions; penalty. Expands the definition of predicate criminal act under crimes by gangs to include threats to bomb (§ 18.2-83) and receiving money for procuring person for prostitution (§ 18.2-356). HB 775; CH. 262/SB 473; CH. 319.

§§ 18.2-48, 18.2-61, 18.2-67.1, 18.2-67.2, and 19.2-303 amended; § 18.2-370.3 added. Sex crimes; penalties. Requires a mandatory minimum term of confinement of 25 years for the following offenses where the offender is more than three years older than the victim and the crime is done in the commission of, or as part of the same course of conduct as, or as part of a common scheme or plan as an abduction, burglary, or aggravated malicious wounding: sexual intercourse with a child under 13 years of age, sodomy of a child under 13 years of age, and object sexual penetration of a child under 13 years of age. The bill also provides that for those offenses and for abduction with intent to defile and abduction of a child under 16 years of age for immoral purposes if the term of confinement is less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years and that the suspended sentence shall be suspended (subject to revocation) for the remainder of the defendant's life. Where the conviction is for sexual intercourse, sodomy, or object sexual penetration involving a child under 13 years of age, any probationary period must include at least three years of active supervision under a postrelease supervision program operated by the Department of Corrections with a minimum of three years of electronic GPS (Global Positioning System) monitoring. In any case where a defendant is convicted of abduction, rape, carnal knowledge of a child between 13 and 15 years of age, sodomy, object sexual penetration, aggravated sexual battery, or indecent liberties, and some portion of the sentence is suspended, the period of suspension must be at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned and the defendant must be placed on probation for that period of suspension.

The bill also provides that any person three years older than the victim convicted of rape, forcible sodomy or object penetration of a child under 13 in the commission of an abduction, burglary or aggravated malicious wounding is prohibited from working on the property of a school or day care center, subject to a Class 6 felony. HB 846; CH. 853.

§§ 2.2-3706, 2.2-3802, 9.1-102, 9.1-902 through 9.1-910, 9.1-913, 9.1-914, 9.1-918, 18.2-48, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-370.2, 18.2-472.1, 19.2-169.3, 19.2-299, 19.2-303, 19.2-390.1, 22.1-79, 22.1-79.3, 37.2-900, 37.2-903, 37.2-904, 37.2-905, 37.2-906, 37.2-907, 37.2-908, 37.2-910, 37.2-912, 37.2-919, 46.2-323, 46.2-324, 46.2-330, 46.2-345,

46.2-348, 53.1-115.1, 53.1-116.1, 53.1-121, 53.1-136, 53.1-145, 53.1-160.1, and 63.2-105 amended; §§ 9.1-921, 16.1-249.1, 16.1-278.7:01, 16.1-278.7:02, 18.2-370.3, 18.2-370.4, 19.2-295.2:1, 23-2.2:1, 37.2-900.1, 37.2-920, 53.1-23.2, and 53.1-116.1:01 added. Sex offenders; registration, civil commitment and mandatory minimums; penalties. Amends provisions related to the Sex Offender and Crimes Against Minors Registry and the civil commitment of sexually violent predators and increases penalties for certain sex crimes.

First offense child pornography possession and burglary with the intent to commit certain felony sex offenses will be new Registry offenses if committed after July 1, 2006. The bill adds a conviction for criminal homicide in conjunction with a violation for child abuse as a registrable offense. The sex offender website will include persons convicted of all registrable sex offenses, not just persons convicted of violent sex offenses as under current law. The bill modifies the registration of a person convicted of murdering a child; registration will be required if the victim is under 15 years of age and if the minor victim is 15 or older and the murder is related to a registrable sexual offense. Persons convicted in a foreign country will be required to register. Offenders will have three days to register or reregister after an address change rather than 10 and have to reregister for any employment change. Sex offenders moving into the Commonwealth will have three days to register instead of 10, as will nonresident visitors, workers and college students who are subject to registration requirements.

The State Police, or the Department of Corrections if a person is under Department of Corrections control or on community supervision, will be required to physically verify or cause to be physically verified registration information within the first 30 days of the initial registration or change of address and semi-annually each year thereafter.

Persons who have to register for murder of a minor will be required to reregister every 90 days, the same as a violent sex offender. In addition, when a sex offender is convicted of failing to register, he will be required to reregister more frequently (violent sex offenders monthly instead of every 90 days and sex offenders 180 days instead of 12 months). The duration of registration for sex offenders who have been convicted of failing to register is extended as they will no longer be permitted to get off of the registry in 10 years from the date of registration, but instead the requirement will be 10 years from the date of their last conviction for failing to register. In addition, murder of a minor will require lifetime registration.

Sex offenders convicted of failing to register will no longer be permitted to petition for relief for three years from the date of registration, but can petition five years from the date of their last conviction for failure to register.

The bill makes a second or subsequent conviction for failing to register as a sex offender a Class 6 felony and requires GPS monitoring and makes a second or subsequent conviction of failing to register as a violent sex offender or murderer a Class 5 felony and requires mandatory GPS monitoring.

Procedures to be used by correctional institutions and juvenile facilities to obtain registration information from sex offenders under their custody are made more comprehensive, and faster timelines for transmission of information to the State Police are added. An offender will be required to be photographed every two years and to submit to having a DNA sample taken (if not already taken).

Additional entities will be entitled to automatic notification of registration of sex offenders, including nursing homes and institutions of higher education.

Failure to register is added to the offenses for which conviction bars loitering within 100 feet of a school. Persons convicted of such offenses after July 1, 2006, will also be prohibited from loitering within 100 feet of a child day program. Persons convicted of certain sex offenses will be prohibited from working or volunteering on the grounds of a school or day care center and will be prohibited from residing within 500 feet of a school or day care center.

Local school boards are required to ensure that schools within the division are registered to receive electronic notice of sex offenders within that school division and to develop and implement policies to provide information to parents regarding registration of sex offenders and the availability of information on the Registry. Local school boards must also develop protocols governing the release of children to persons who are not their parent. The Virginia Council for Private Education must annually provide the State Police with the location and e-mail address, if available, of every accredited private school in the Commonwealth for purposes of registering to receive electronic notification of sex offenders near the schools. Public and private two- and four-year institutions of higher education are required to electronically transmit information about applicants who have been accepted for admission at each institution to the State Police for comparison with the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry. The Department of Motor Vehicles is required to electronically transmit application information and change of address information for the same purpose. The bill makes it a Class 4 felony to provide false information to obtain a driver's license with the intent to use it as proof of residency for sex offender registration purposes.

The bill also exempts the provisions of the Registry from the Freedom of Information Act and the Government Data Collection and Dissemination Practice Act and the Virginia Information Technologies Agency. The Department of Criminal Justice Services is required to advise criminal justice agencies regarding Registry requirements.

The bill also requires a mandatory minimum term of confinement of 25 years for the following offenses committed in the course of an abduction, burglary or aggravated malicious wounding where the offender is more than three years older than the victim: sexual intercourse with a child under 13 years of age, sodomy of a child under 13 years of age, and object sexual penetration of a child under 13 years of age. The bill also provides that for those offenses and for abduction with in-

tent to defile and abduction of a child under 16 years of age for immoral purposes if the term of confinement is less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years and that the suspended sentence shall be suspended (subject to revocation) for the remainder of the defendant's life. Where the conviction is for sexual intercourse, sodomy, or object sexual penetration involving a child under 13 years of age by an offender more than three years older than the victim, any probationary period must include at least three years of active supervision under a postrelease supervision program operated by the Department of Corrections with a minimum of three years of electronic GPS (Global Positioning System) monitoring. In any case where a defendant is convicted of abduction, rape, carnal knowledge of a child between 13 and 15 years of age, sodomy, object sexual penetration, aggravated sexual battery, or indecent liberties, and some portion of the sentence is suspended, the period of suspension must be at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned and the defendant must be placed on probation for that period of suspension.

The bill adds to the list of offenses that qualify as sexually violent offenses for the purposes of civil commitment: abduction with intent to defile, abduction of a child under 16 years of age for the purpose of prostitution, carnal knowledge of a child between 13 and 15 years of age, and carnal knowledge of minors in custody of the court or state. The requirement that the complaining witness be under 13 years of age for aggravated sexual battery to qualify is removed. A felony conviction for conspiracy to commit or attempt to commit any of the qualified offenses is added as a qualifying offense. Incompetent defendants will be reviewed by the Commitment Review Committee. The bill provides that the Static-99 will be used to identify prisoners who will be forwarded to the Commitment Review Committee (CRC) for assessment and that if the Director of the Department of Corrections and the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services agree that no specific scientifically validated instrument exists to measure the risk assessment of a prisoner, the prisoner may be evaluated by a psychiatrist or psychologist to determine if he should be forwarded to the CRC. The bill provides factors for a court to consider in deciding whether to release a person on conditional release, such as living arrangements, availability of supervision, and access to treatment. A person on conditional release will be subject to mandatory GPS monitoring. The bill also adds abduction with intent to extort money or for immoral purposes to the felonies for which a presentence report is required. Portions of the bill have delayed effective dates. SB 559; CH. 914 (effective - see bill).

§ 18.2-54.1 amended. Attempt to poison; waterworks; penalty. Provides that any person who administers or attempts to administer any poison or destructive substance in a waterworks with the intent to kill or injure another person is guilty of a Class 3 felony. HB 1540; CH. 300.

§ 18.2-57 amended. Assault and battery; school bus drivers; penalty. Adds school bus drivers and school bus driver

aides to the list of school personnel provided a limited exception to charges of simple assault or assault and battery while acting in the course and scope of their official capacity when using: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control. HB 70; CH. 829.

§ 18.2-57 amended. Assault and battery. Elevates an assault and battery from a Class 1 misdemeanor to a Class 6 felony if the victim is a judge in any Virginia court, if the official was engaged in his public duties. The bill defines "judge" as any justice or judge including a judge designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court or any substitute judge of a district court. Under current law the enhanced penalty applies to law-enforcement officers, correctional officers and firefighters and lifesaving, rescue and emergency medical squad members who are engaged in the performance of their public duties as such. HB 1016; CH. 270.

§ 18.2-57 amended. Teacher aides, school bus drivers, and school bus aides; limited exception to simple assault or assault and battery. Adds teacher aides, school bus drivers, and school bus aides to the list of school personnel provided a limited exception to charges of simple assault or assault and battery while acting in the course and scope of their official capacity when using: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control. SB 26; CH. 709.

§ 18.2-59 amended. Human trafficking; extortion; penalty. Creates a Class 5 felony for extorting money, property or other pecuniary benefit by threatening to report a person as being illegally present in the United States. SB 291; CH. 313.

§ 18.2-67.4 amended. Punishment for sexual battery; penalty. Removes language in the Code section defining and punishing sexual battery, a Class 1 misdemeanor, which is the

same as language in the section defining and punishing aggravated sexual battery, a felony. HB 1338; CH. 284.

§§ 9.1-902 and 18.2-67.5:1 amended. Crimes; conviction of third offense peeping; penalty. Adds peeping or spying into a dwelling to a list of sexually-related misdemeanor offenses where a third offense within a ten-year period is a felony. The bill also requires that any person who commits such a felony violation on or after July 1, 2006, must register with the Sex Offender and Crimes Against Minors Registry. HB 1339; CH. 875.

§ 18.2-152.17 added. Fraudulent procurement of telephone records; penalty. Creates a Class 1 misdemeanor for the fraudulent procurement, sale, or receipt of telephone records. The misdemeanor involves (i) knowingly procuring, attempting to procure, soliciting, or conspiring with another to procure a telephone record without authorization by fraudulent means; (ii) knowingly selling, or attempting to sell, a telephone record without authorization; or (iii) receiving a telephone record knowing that such record has been obtained without authorization by fraudulent means. HB 1518; CH. 469.

§ 18.2-164 amended. Interfering with emergency use of telephone; penalty. Provides that if a person maliciously interrupts telephone communication with the intent to prevent another person from summoning emergency assistance, he is guilty of a Class 1 misdemeanor. HB 1263; CH. 457.

§§ 18.2-178 and 18.2-186 amended. Virginia Insurance Fraud Act; penalties. Sets forth the appropriate venue for violations of § 18.2-178 (obtaining money or signature through false pretenses) and § 18.2-186 (false statement to obtain property or credit). The trial may be in any county or city where any act performed in furtherance of the offense occurred, or in the city or county in which the defendant resided at the time of the offense. SB 497; CH. 321.

§ 18.2-186.3 amended. Identity theft; penalties. Imposes a Class 6 felony for an identity theft violation if five or more persons' identifying information was obtained in the same transaction or occurrence and a Class 5 felony where 50 or more persons' identifying information was obtained in the same transaction or occurrence. The bill does not change provisions of current law that punish identity theft as a Class 1 misdemeanor unless there is a financial loss greater than \$200, in which case the penalty is a Class 6 felony. HB 1141; CH. 455/SB 460; CH. 496.

§§ 18.2-186.3:1 and 18.2-186.5 amended. Reporting identity theft to law-enforcement agencies. Provides that a consumer may report a case of identity theft to the law-enforcement agency where he resides. The bill also provides that upon receipt of a court order and upon request by such person, the Office of the Attorney General, in cooperation with the State Police, shall issue an "Identity Theft Passport" stating that such an order has been submitted. HB 1509; CH. 298.

§ 18.2-204.1 amended. Birth certificates; fraudulent use; penalty. States that the provisions of § 18.2-204.1 shall not

preclude prosecution under any other statute. HB 1049; CH. 271.

§ 18.2-204.2 amended. False identification cards; penalty. Provides that the provisions of the Code section criminalizing the manufacture, sale, etc., or possession of fictitious, facsimile or simulated official licenses or identifications does not preclude an election to prosecute under § 18.2-172 (forgery), except to prosecute for forgery or uttering of such license or identification card or facsimile thereof as proof of age. HB 1013; CH. 445/SB 345; CH. 484.

§ 18.2-213.1. See § 2.2-1401; HB 122/SB 662.

§ 3.1-396.1 added; § 18.2-236 repealed. Labeling of foods as kosher or halal; penalty. Prohibits the willful selling of food or food product labeled or displayed for sale representing the food or food product as kosher or halal without indicating the authority for such designation or providing a toll-free number or website to access the information. Violation of this section is a Class 3 misdemeanor. The bill also repeals the section regulating the sale of kosher meat and meat preparations in accordance with orthodox Hebrew religious requirements. HB 153; CH. 392/SB 349; CH. 485.

§§ 18.2-248 and 18.2-248.1 amended. Punishment for distributing, manufacturing, etc., drugs; penalty. Imposes a five-year mandatory term of imprisonment for a third or subsequent conviction of any Schedule I or II drug sale or distribution. The bill also imposes a five-year mandatory minimum term of imprisonment for manufacturing, selling, giving, distributing or possessing with intent to manufacture 100 grams of heroin, 500 grams of cocaine, 250 grams of cocaine base, 1,000 grams of marijuana, or 10 grams of methamphetamine. The mandatory minimum is not applicable if the person has no prior record, did not use violence, was not the leader of the drug operation, and cooperates fully with the prosecution. The bill also imposes a five-year mandatory minimum term of imprisonment for a third or subsequent felony offense for the sale, gift, distribution or possession with intent to sell, give or distribute marijuana. HB 1347; CH. 697/SB 553; CH. 759.

§ 18.2-248.8 added. Sale of pseudoephedrine by pharmacist; limits on purchase of pseudoephedrine; penalty. Provides that no more than 3.6 grams of either ephedrine or pseudoephedrine may be sold daily to an individual in a retail sale and that retail personnel shall be instructed in special procedures to be used in the sale of products containing such drugs. Effective September 30, 2006, when a substance containing such drugs is provided or sold it shall be displayed behind a sales counter or in a locked case and the purchaser must present a photo ID. If more than one package is purchased, the purchaser must sign a log maintained by the seller. The penalty for violation of these provisions is a Class 1 misdemeanor. HB 1040; CH. 865/SB 146; CH. 893.

§ 18.2-254.1 amended. Drug treatment courts. Establishes a drug treatment court in the City of Newport News. HB 752; CH. 341/SB 367; CH. 175.

§ 18.2-255.2 amended. Drug-free daycare zones; penalty. Amends the 1,000 foot drug-free school zone law to include licensed child day centers. SB 524; CH. 325.

§ 18.2-268.9 amended. Evidence in civil and criminal DUI cases. Provides that copies of records relating to any breath test conducted pursuant to a DUI prosecution shall be admissible provided such copies are authenticated as true copies either by the custodian thereof or by the person to whom the custodian reports. HB 514; CH. 101.

§ 18.2-270 amended. DUI punishment. Clarifies that additional punishment for two offenses of DUI is applicable to any second offense occurring within five years after any prior offense, rather than a second offense occurring within five years after a first offense. HB 41; CH. 82.

§ 18.2-270 amended. Mandatory minimum punishment for DUI. Clarifies that in no case shall mandatory minimum punishments for DUI cumulate so as to exceed the statutory maximum punishment for a Class 1 misdemeanor or, in the case of a third or subsequent offense, for a Class 6 felony. SB 299; CH. 314.

§ 18.2-272 amended. Third offense driving on a suspended license; penalty. Makes a third offense in ten years of driving on a license that has been suspended, revoked or restricted because of a DUI-related offense a Class 6 felony. It is currently a Class 1 misdemeanor. The implementation of the bill is contingent on an appropriation of general funds. HB 102; CH. 390.

§§ 15.2-915.3 and 18.2-308 amended. Concealed handgun permits. Eliminates the ability of a locality to require an applicant for a concealed handgun permit to submit fingerprints as part of the renewal of an existing permit. The bill modifies the current law provision that a court may disqualify an applicant from receiving a concealed handgun permit based upon specific acts that indicate that the applicant would use a weapon unlawfully or negligently by adding a disqualifying conviction and allowing the personal knowledge of a deputy sheriff, police officer or assistant Commonwealth's Attorney to be the basis for the specific acts alleged by the sheriff, chief of police, or Commonwealth's Attorney. The bill adds a definition of personal knowledge and defines it as knowledge of a fact that a person has himself gained through his own senses or knowledge that was gained by a law-enforcement officer or prosecutor through the performance of his official duties.

A permit holder who changes his address must notify the issuing court of his change of address within 30 days.

The bill provides a 90-day grace period for a member of the armed forces to renew his concealed handgun permit if the permit expired during an active-duty military deployment. During the 90-day period, which begins when the person returns from deployment, the permit holder would be required to carry written documentation of the start and end dates of the deployment.

The bill requires the Department of State Police, in consultation with the Supreme Court on the development of the application for a concealed handgun permit, to include a refer-

ence to the Virginia Supreme Court website address or the Virginia Reports on the application.

Concealed handgun permits would no longer have to be renewed every five years if the Virginia State Police receive an appropriation sufficient to conduct a criminal background check on all valid concealed handgun permits annually. The bill creates a Class 6 felony for any person who knowingly is in possession of a revoked concealed handgun permit while in possession of a concealed handgun; this provision is also contingent upon an appropriation. HB 1577; CH. 886

§§ 15.2-912.2, 18.2-340.15, 18.2-340.16, 18.2-340.18 through 18.2-340.20, 18.2-340.23 through 18.2-340.31, 18.2-340.33, 18.2-340.34, 18.2-340.37, and 19.2-389 amended. Charitable gaming. Adds definitions of conduct, management, and operation and revises several existing definitions. Minors may no longer play bingo with parental consent, but may play only if accompanied by a parent or guardian. The bill allows a qualified organization to accept debit cards, and provides that certain employees of the Department of Charitable Gaming are law-enforcement officers. The bill allows a private security services business to provide security for bingo games. Increases the allowance for a single door prize from \$25 to \$50 and allows \$250 in cumulative door prizes in any one session. Increases the remuneration which may be paid to bingo callers from \$50 to \$100. Differentiates between the management or operation of a charitable game and the conduct of a game for the purposes of criminal convictions and places more restrictions on participation by persons with criminal convictions. Increases the fee for a supplier permit from \$500 to \$1,000. The bill provides that conversion of funds derived from charitable gaming is punishable as larceny. Allows the dissemination of criminal history record information to the Department of Charitable Gaming for the conduct of investigations. HB 525; CH. 644.

§ 18.2-340.25 amended. Department of Charitable Gaming; renewal of permits. Provides that if a renewal application is received 45 days or more prior to the expiration of a permit, the permit shall continue to be effective until such time as the Department has taken final action. HB 1507; CH. 211.

§§ 2.2-3706, 2.2-3802, 9.1-102, 9.1-902 through 9.1-910, 9.1-913, 9.1-914, 9.1-918, 18.2-370.2, 18.2-472.1, 19.2-390.1, 22.1-79, 22.1-79.3, 46.2-323, 46.2-324, 46.2-330, 46.2-345, 46.2-348, 53.1-115.1, 53.1-116.1, 53.1-121, and 53.1-160.1 amended; §§ 9.1-921, 16.1-249.1, 16.1-278.7:01, 16.1-278.7:02, 18.2-370.3, 18.2-370.4, 19.2-295.2:1, 23-2.2:1, 53.1-23.2, and 53.1-116.1:01 added. Sex Offender and Crimes Against Minors Registry; penalties. Makes numerous changes to Registry provisions. First offense child pornography possession and burglary with the intent to commit certain felony sex offenses will be new Registry offenses if committed after July 1, 2006. Criminal homicide in conjunction with child abuse will be a registrable offense. The sex offender website will include persons convicted of all registrable sex offenses not just persons convicted of violent sex offenses as under current law. The bill modifies the registration

of a person convicted of murdering a child; registration will be required if the victim is under 15 years of age and if the minor victim is 15 or older and the murder is related to a registrable offense. Persons convicted in a foreign country will be required to register. Offenders will have three days to register or reregister after an address change rather than 10 and have to reregister for any employment change. Sex offenders moving into the Commonwealth will have three days to register instead of 10, as will nonresident visitors, workers and college students who are subject to registration requirements.

The State Police, or the Department of Corrections if a person is under Department of Corrections control or on community supervision, will be required to physically verify or cause to be physically verified registration information within the first 30 days of the initial registration or change of address and semi-annually each year thereafter.

Persons who have to register for murder of a minor will be required to reregister every 90 days, the same as a violent sex offender. In addition, when a sex offender is convicted of failing to register, he will be required to reregister more frequently (violent sex offenders monthly instead of every 90 days and sex offenders 180 days instead of 12 months). The duration of registration for sex offenders who have been convicted of failing to register is extended as they will no longer be permitted to get off of the registry in 10 years from the date of registration, but instead the requirement will be 10 years from the date of their last conviction for failing to register. In addition, murder of a minor will require lifetime registration.

Sex offenders convicted of failing to register will no longer be permitted to petition for relief for three years from the date of registration, but can petition five years from the date of their last conviction for failure to register.

The bill makes a second or subsequent conviction for failing to register as a sex offender a Class 6 felony and requires GPS monitoring and makes a second or subsequent conviction of failing to register as a violent sex offender or murderer a Class 5 felony and requires mandatory GPS monitoring.

Procedures to be used by correctional institutions and juvenile facilities to obtain registration information from sex offenders under their custody are made more comprehensive, and faster timelines for transmission of information to the State Police are added. An offender will be required to submit to having a DNA sample taken (if not already taken) and to being photographed by a law-enforcement agency every two years.

Failure to register is added to the offenses for which conviction bars loitering within 100 feet of a school. Persons convicted of such offenses after July 1, 2006, will also be prohibited from loitering within 100 feet of a child day program. Persons convicted of certain sex offenses will be prohibited from working or volunteering on the grounds of a school or day care center and will be prohibited from residing within 500 feet of a school or day care center.

Local school boards are required to ensure that schools within the division are registered to receive electronic notice of sex

offenders within that school division and to develop and implement policies to provide information to parents regarding registration of sex offenders and the availability of information on the Registry, and are required to develop protocols governing the release of children to persons who are not their parent. The Virginia Council for Private Education is required to provide the State Police with the location of and e-mail address for every accredited private school in the Commonwealth. Public and private two- and four-year institutions of higher education are required to electronically transmit information about applicants accepted for enrollment at each institution to the State Police for comparison with the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry. The Department of Motor Vehicles is required to electronically transmit application information and change of address information for the same purpose. The bill makes it a Class 4 felony to provide false information to obtain a driver's license with the intent to use it as proof of residency for sex offender registration purposes.

The bill also exempts the provisions of the Registry from the Freedom of Information Act and the Government Data Collection and Dissemination Practice Act and the Virginia Information Technologies Agency. The Department of Criminal Justice Services is required to advise and initiate training standards for criminal justice agencies and state, local and regional employees who work with the Registry. HB 984; CH. 857 (effective - see bill).

§§ 18.2-371, 18.2-371.1, and 40.1-103 amended. Protection of infants. Adds a requirement that a baby that is delivered to a qualifying hospital or rescue squad in order for the parent to have an affirmative defense to prosecution for abuse or neglect be delivered in a manner that is reasonably calculated to ensure the child's safety. The 2003 "safe haven" legislation provided that when a parent voluntarily delivers a child no older than 14 days to a hospital or rescue squad, the parent will have an affirmative defense to prosecution for abuse or neglect, if the abuse or neglect prosecution is based solely upon having left the baby at such facility. SB 22; CH. 935.

§ 18.2-371.3 amended. Tattooing or body piercing; penalty. Increases the penalty for tattooing or body piercing minors without parental consent or without medical supervision and for tattooing or body piercing without complying with health and safety requirements and disclosure provisions from a Class 2 misdemeanor to a Class 1 misdemeanor. The criminal provisions will apply only to someone who performs such services for hire or consideration. Currently the Class 1 misdemeanor applies only to a second violation of the statute. HB 1230; CH. 692.

§ 18.2-374.1:2 added. Sexually explicit material; aiding and abetting Internet payment; penalty. Provides that any person who intentionally operates an Internet website for the purpose of facilitating the payment for access to sexually explicit visual material that utilizes or has as a subject a person under the age of 18 years is guilty of a Class 4 felony. HB 1014; CH. 676/SB 348; CH. 732.

§§ 18.2-390 and 18.2-391 amended. **Sale of violent or sexually explicit video games; penalty.** Specifies that the sale, rental, loan or commercial display of a sexually explicit video or computer game to a juvenile is a Class 1 misdemeanor. HB 1403; CH. 463.

§ 18.2-415 amended. **Disorderly conduct; funerals, etc.; penalty.** Punishes the disruption of a funeral or memorial service as disorderly conduct, a Class 1 misdemeanor. HB 372; CH. 250.

§ 18.2-471.1 added. **Destruction of human biological evidence; penalty.** Makes it a Class 6 felony for a clerk of court or other public official to willfully violate a court order entered pursuant to § 19.2-270.4:1, relating to storage, preservation and retention of human biological evidence in a felony case. SB 552; CH. 913.

§ 18.2-472.1. See § 9.1-902; HB 1333.

TITLE 19.2. CRIMINAL PROCEDURE.

§§ 19.2-3.1 and 19.2-54 amended. **Process for issuance of search and arrest warrants.** Provides that where an appearance is required or permitted, and that appearance is made by two-way electronic video and audio communication, documents may be transmitted by facsimile between the magistrate, intake officer, or judge, and the person appearing before such magistrate, intake officer, or judge. Additionally, when seeking a search warrant, the person seeking the search warrant may file the required affidavit by electronically transmitted facsimile process. HB 1345; CH. 285.

§ 19.2-8 amended. **Statute of limitation for occupational and professional criminal violations.** Provides that prosecution of any misdemeanor violation of § 54.1-111 (occupation and profession violations) shall commence within one year of the discovery of the offense by the claimant, but in no case later than five years from the occurrence. HB 553; CH. 193.

§ 19.2-8. See § 24.2-101; HB 972.

§ 19.2-8. See § 24.2-101; SB 141.

§ 19.2-11.01 amended. **Notice to crime victims; bail release.** Provides that crime victims shall be notified of the release of an accused on bail if they have provided their contact information. HB 21; CH. 241.

§ 19.2-12 amended. **Conservators of the peace.** Adds special agents of the National Aeronautics and Space Administration to the list of persons who are conservators of the peace while in the performance of their official duties. HB 125; CH. 88.

§ 19.2-13 amended. **Procedure upon arrest without warrant.** Provides that a special conservator of the peace has the authority to affect arrests and to use up to the same amount of force as would be allowed to a law-enforcement officer when making a lawful arrest. HB 1431; CH. 290.

§ 19.2-82.1 added. **False identification to law-enforcement officer; penalty.** Provides that any person who falsely identifies himself to a law-enforcement officer with the intent to deceive the law-enforcement officer as to his real identity after having been lawfully detained and being requested to identify himself, is guilty of a Class 1 misdemeanor. HB 25; CH. 387.

§ 19.2-120 amended. **Presumption of no bail for person charged with certain sex offenses.** Provides that a person charged with aggravated sexual battery is rebuttably presumed ineligible for bail. Currently such a person is presumed ineligible when he is charged with a second such offense. The bill is not effective unless appropriate funding for it is provided in the budget bill. SB 578; CH. 504 (effective - see bill).

§§ 19.2-123, 19.2-143, and 38.2-2416 amended. **Secure bonds; time within which default is recorded; remittance; power of attorney to be filed with Department of Criminal Justice Services.** Provides that only the actual value of real estate or personal property be used to determine solvency for posting a bond. The bill extends from 60 to 150 days the time period before which a default is recorded, and extends the time for remittance of a default from one to two years. The bill also requires that any power of attorney executed creating an agent to execute a bail bond be filed with the Department of Criminal Justice Services. HB 1490; CH. 296.

§ 19.2-143 amended. **Recognizance bonds; default.** Deletes provision that if the amount of the recognizance forfeited is in excess of the jurisdictional amount of the district court, process is returnable to the circuit court. This conforms the section amended by this bill to § 16.1-77 that was amended in 2004 to provide that the \$15,000 limit does not apply to bond forfeiture. This bill is a recommendation of the Committee on District Courts. SB 381; CH. 316.

§ 19.2-159 amended. **Indigent defendants; appointment of counsel.** Provides that if no attorney who is on the list maintained by the Indigent Defense Commission is reasonably available, the court may appoint as counsel an attorney not on the list who has otherwise demonstrated to the court's satisfaction an appropriate level of training and experience. The court is required to provide notice of the appointment to the Commission. These provisions will expire on July 1, 2008. HB 1028; CH. 680.

§§ 19.2-159 and 19.2-163.03 amended. **Indigent defendants; appointment of counsel.** Provides that if no attorney who is on the list maintained by the Indigent Defense Commission is reasonably available, the court may appoint as counsel an attorney not on the list who has otherwise demonstrated to the court's satisfaction an appropriate level of training and experience. The court is required to provide notice of the appointment to the Commission. These provisions will expire on July 1, 2008.

The bill also allows the court to waive qualifications for court-appointed counsel and states that a waiver does not form the basis for a claim of error. SB 6; CH. 708.

§ 19.2-163 amended. Compensation of court-appointed counsel. Requires court-appointed counsel to make a written request within 30 days of trial or preliminary hearing for payment of his fees. As introduced this bill was a recommendation of the Committee on District Courts. HB 127; CH. 332.

§§ 19.2-163.01 and 19.2-163.02 amended. Indigent Defense Commission. States the Commission's authority and the duties that can be delegated to the executive director. The Commission is required to adopt rules and procedures for the conduct of its business and to ensure that the executive director complies with all Commission and statutory directives. The membership of the Commission is increased from 12 to 14, with the additional members appointed by the General Assembly. HB 844; CH. 429/SB 562; CH. 501.

§§ 19.2-169.3 and 19.2-299. See § 37.2-900; HB 1038.

§ 19.2-175 amended. Criminal procedure; compensation of expert witness. Eliminates the prohibition against compensating psychiatrists, clinical psychologists, or other experts who are employed by the Commonwealth and are appointed by the court to render professional service in trials involving an insanity defense or after conviction in a case in which the offense indicates sexual abnormality. The bill limits such compensation to that which is for professional services rendered during nonstate hours and approved by the expert's employing agency as being beyond the scope of the expert's state employment duties. HB 789; CH. 114/SB 251; CH. 170.

§ 19.2-182.4 amended. Notice of release of acquittee. Provides that the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services shall give notice of the granting of an unescorted community visit to any victim of a felony offense against the person punishable by more than five years in prison that resulted in the charges on which a person was acquitted because of mental illness, or to the next-of-kin of the victim at the last known address, provided the person seeking notice submits a written request for such notice to the Commissioner. HB 1322; CH. 358.

§§ 19.2-182.8 and 19.2-182.9 amended. Not guilty by reason of insanity; conditional release. Provides that when a person who has been found not guilty by reason of insanity is on conditional release, the fact that he voluntarily admits himself to a hospital does not automatically revoke his conditional release. HB 791; CH. 343/SB 289; CH. 370.

§ 19.2-182.8 amended. Revocation of conditional release; expedited hearing. Requires that a hearing on revocation of conditional release of one acquitted by reason of insanity be scheduled on an expedited basis and given priority over other civil matters before the court. SB 288; CH. 369.

§ 19.2-182.10 amended. Revocation of conditional release; period following revocation. Extends the duration of the custody period following the revocation of a person's conditional release but before he is subject to hospitalization and treatment from 30 days to 60 days. HB 790; CH. 199/SB 250; CH. 225.

§ 19.2-187 amended. Certificate of analysis; availability to defendant when entered into evidence. Provides that if, upon proper request made by counsel of record for the accused, a copy of a certificate of analysis is not mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused in a timely manner, the defendant shall be entitled to continue the hearing or trial. HB 1469; CH. 294.

§ 19.2-188.1 amended. Field test for marijuana evidence at trial. Provides that in any trial for marijuana possession, any law-enforcement officer shall be permitted to testify as to the results of any field test approved by the Department of Forensic Science, regarding whether or not any plant material, the identity of which is at issue, is marijuana. The bill also provides an opportunity for defense counsel to require full laboratory analysis. HB 1030; CH. 447.

§ 19.2-266.2 amended. Timing of defense objections; general district court. Clarifies that defense motions or objections seeking suppression of evidence or dismissal of the warrant need not be made before trial at the general district court level and that upon such motion made at trial a court shall grant a continuance upon motion of the Commonwealth. HB 1022; CH. 862.

§ 19.2-266.2 amended. Defense objections in criminal proceeding. Clarifies that defense motions or objections seeking suppression of evidence or dismissal of the warrant need not be made before trial at the general district court level and that upon such motion made at trial a court shall grant a continuance upon motion of the Commonwealth. SB 549; CH. 578.

§ 19.2-270.1:1 added. Computer and electronic data seized in obscenity, etc., cases; access to defendant. Provides that when computer data or electronic data, the possession of which is otherwise unlawful, are seized as evidence in a criminal prosecution of an obscenity or child pornography offense, neither the original data nor a copy shall be released to the defendant or his counsel. The court is not allowed to order the release of such evidence to the defendant or his counsel except in accordance with the rules of discovery or under restricted conditions upon a finding that the data is necessary and material to the defense of the accused. HB 863; CH. 601.

§§ 19.2-169.3, 19.2-295.2:1, 19.2-299, 19.2-303, and 19.2-390.1. See § 18.2-48; SB 559.

§§ 19.2-295.2:1 and 19.2-390.1. See § 18.2-370.2; HB 984.

§ 19.2-299 amended. Investigations and reports by probation officers in certain cases. Allows the court to use a presentence report which contains only the defendant's criminal history, any history of substance abuse, any physical or health-related problems, and any applicable sentencing guideline worksheets. This expedited report shall be subject to all the same procedures as all other sentencing reports and sentencing guidelines worksheets, but shall not be used over the objection of the defendant or the Commonwealth. HB 438; CH. 99.

§ 19.2-299 amended. Presentence investigations and reports. Clarifies that presentence reports are required in certain cases, such as sex offenses. Adds to the sex offenses abduction with intent to defile or to prostitute a child under 16 or assisting in such abductions, and attempted aggravated sexual battery. SB 566; CH. 916.

§ 19.2-303. See § 18.2-48; HB 846.

§ 19.2-303 amended. Criminal street gang members; conditions of probation. Provides that the court, when sentencing an active participant or member of a criminal street gang, may, as a condition of probation or a suspended sentence, place reasonable restrictions on with whom the accused may have contact. The bill creates an exception for those who are members of the person's family or household. HB 901; CH. 436/SB 344; CH. 483.

§§ 9.1-174 and 19.2-303.3 amended. Community-based probation. Provides for placement of certain offenders within a community-based probation agency. The bill also provides that the court may revoke all or part of the suspended sentence if the offender refuses to comply with the community-based probation agency or if the offender commits a new offense while under agency supervision. HB 1526; CH. 883.

§ 19.2-310.2:1 amended. DNA analysis after arrest for capital murder or attempted capital murder. Requires that a person arrested for capital murder or attempted capital murder have a sample of saliva or tissue taken for DNA analysis. SB 579; CH. 182.

§ 19.2-349 amended. Criminal procedure; collection of unpaid fines and costs by local treasurers. Authorizes a local treasurer pursuant to an agreement with the attorney for the Commonwealth and subject to existing law regarding collection of delinquent taxes and other charges, to collect administrative costs and fees normally collected when collecting unpaid fines and court costs. HB 1425; CH. 359.

§§ 19.2-368.5, 19.2-368.20, and 19.2-368.21 amended. Profits from crime. Provides that profits from crime are subject to a special order of escrow, with the profits going to the victim. If there is money remaining after a judgment in favor of the victim is paid, or if there is no judgment in favor of a victim, 25 percent of the defendant's legal fees paid by the Commonwealth may be reimbursed to the Commonwealth and the defendant's fines and costs may be paid. Any money remaining will be paid into the Literary Fund. Because Article VIII, Section 8 of the Virginia Constitution requires forfeited assets, other than those involved in the distribution of illegal drugs, to be deposited into the Literary Fund, under current law the money cannot be paid into the Criminal Injuries Compensation Fund. HB 617; CH. 414.

§ 19.2-386.2 amended. Issuance of warrants by circuit court judges. Provides that a circuit court judge, upon the motion of the attorney for the Commonwealth, shall issue a warrant to seize property named in an information. SB 637; CH. 766.

§ 19.2-386.23 amended. Criminal procedure; disposal of nonevidentiary substances or paraphernalia. Allows the chief law-enforcement officer of an agency to assign a designee who may order, with proper authorization of the attorney for the Commonwealth, the destruction of nonevidentiary substances or paraphernalia. HB 653; CH. 107.

§ 19.2-389 amended. Criminal procedure; dissemination of criminal history record information. Provides for the dissemination of criminal history record information to shipyards for the purpose of screening potential employees and other personnel seeking access to shipyard facilities. HB 524; CH. 257.

§ 19.2-389. See § 18.2-340.15; HB 525.

§ 19.2-389 amended. Criminal history background check of persons who enter the homes of others. Provides that any employer of persons whose employment requires that they enter the homes of others may acquire those persons' criminal history record information for the purpose of screening those individuals. HB 1266; CH. 277.

§ 19.2-389.1 amended. Dissemination of juvenile record information. Allows the Virginia Criminal Sentencing Commission access to juvenile record information for research purposes. SB 567; CH. 502.

§ 19.2-398 amended; § 16.1-131.1 added. Constitutional challenges. Provides that the district court shall remove a case to circuit court if the defendant moves for dismissal on the basis that the statute is unconstitutional. Such motion shall be made prior to trial. The bill also allows a pretrial appeal by the Commonwealth if the circuit court dismisses a criminal warrant, information or indictment or charge on the ground that a statute is unconstitutional. HB 1350; CH. 876.

§ 19.2-398. See § 16.1-131.1; SB 298.

TITLE 20. DOMESTIC RELATIONS.

§ 20-27 amended. Domestic relations; fee for marriage. Provides that a person authorized by a circuit court judge to celebrate the rites of marriage in the Commonwealth may charge \$50 for the ceremony. This provision does not apply to ministers. HB 239; CH. 625.

§§ 20-60.3 and 63.2-1916 amended. Child support orders; effective date. Specifies the date that judicial and administrative support orders are effective and payment due dates. A judicial support order is effective in an initial proceeding on the date of filing of the petition and in a modification proceeding the effective date may be the date of notice to the responding party. An initial administrative support order is effective on the date of service and a modified administrative support order is effective on the date that notice of the review is served upon the nonrequesting party. There are provisions for prorating payments for the first month. HB 1108; CH. 869.

§§ 20-60.3 and 63.2-1916 amended. **Child support.** Requires that administrative and court support orders contain a statement that if any arrearages for child support, including interest or fees, exist at the time the youngest child included in the order emancipates, payments shall continue in the total amount due (current support plus amount applied toward arrearages) at the time of emancipation until all arrearages are paid. SB 169; CH. 720.

§ 20-79.3 amended. **Child support; income withholding.** Provides that when there is more than one child support withholding order against an obligor, the employer shall prorate among the orders based upon the current amounts due, with any remaining amounts prorated among the orders for any accrued arrearages. SB 168; CH. 365 (effective 3/30/06).

§ 20-107.3 amended. **Court decree as to property; equitable distribution.** Changes the statute to address problems raised in *Fowlkes v. Fowlkes*, 42 Va. App. 1, (2003). Ensures that separate and marital contributions made to marital assets are all accounted for in the equitable distribution process. HB 723; CH. 260.

§ 20-108 amended. **Revision of child support, etc. decrees; expedited hearing.** Provides that any member of the Armed Forces Reserves, Virginia National Guard, or Virginia National Guard Reserves who files a petition or is a party to a petition requesting the adjudication of the custody, visitation or support of a child based on a change in circumstances because one of the parents has been called to active duty, shall be entitled to have such a petition expedited on the court's docket. SB 300; CH. 371.

§§ 20-108.1 and 20-108.2 amended. **Determination of child or spousal support; factors.** Revises, clarifies the wording, expands, and eliminates some of the factors that the court may consider in deviating from the guideline amount. Deviation factors were changed to allow for evaluation of the good faith and reasonableness of the parent's employment decisions when considering imputed income based on a party's change in employment, consideration of the cost of visitation travel, and consideration of the standard of living for the child during the marriage, rather than the family. There is a provision that the amendments are not retroactive and cannot be the basis for a material change in circumstances upon which a modification of child support may be based. HB 731; CH.785/SB 167; CH. 798.

§ 20-121.03 amended. **Certain domestic relations documents.** Amends a Code section added in 2005 that provides that certain required information (social security numbers and financial information) be contained in a separate addendum rather than in the petition, pleading, motion, order, or decree to add a requirement that the attorney or party who prepares the petition, etc. ensure that such an addendum be incorporated by reference into such petition, etc. This bill is a recommendation of the Judicial Council. SB 369; CH. 734.

§ 20-124.2 amended. **Parent convicted of certain crimes; custody and visitation.** Provides that a child's parent or legal

guardian can petition the court to enjoin an offending parent from petitioning the court for custody and visitation for up to ten years if the offending parent is convicted of sexual assault or murder of a child of the parent, a child residing with the parent or the other parent of the child, if doing so is in the best interest of the child. The court must appoint a guardian ad litem for the child. HB 903; CH. 665.

TITLE 22.1. EDUCATION.

§ 22.1-3 amended. **Education; no tuition charges for certain children of relocated military personnel.** Provides that tuition shall not be charged to children of active members of the military who are ordered to locate to military housing located in a different school division than the one the child is attending at the time of the order to relocate. Such children shall be allowed to continue attending school in the school division they attended immediately prior to the relocation and shall not be charged tuition for attending such school. The school division in which such children are enrolled subsequent to their relocation to base housing is not responsible for providing for their transportation to and from school. HB 240; CH. 188.

§ 22.1-3.2 amended. **Registration of new student.** Requires a parent, guardian, or other person having control or charge of a child of school age to provide to a public school, upon registration of a student, information concerning certain criminal convictions or delinquency adjudications. When the registration results from foster care placement, the information shall be furnished by the local social services agency or licensed child-placing agency that made the foster care placement. HB 95; CH. 53/SB 656; CH. 183.

§ 22.1-18.01 amended. **Biennial review of the Standards of Quality.** Changes the Board of Education's required review of the Standards of Quality from odd-numbered years to even-numbered years, and provides that in any odd-numbered year following the year in which the Board proposes changes to the Standard of Quality, budget estimates required to be reported take such changes into consideration. HB 1058; CH. 130/SB 71; CH. 42.

§§ 2.2-3705.3, 22.1-19.1, and 22.1-253.13:3 amended. **Test security procedures; violations.** Authorizes the Board of Education to initiate a review of any alleged violation of its regulations by a local school board or local school board employee responsible for the distribution or administration of tests. The bill also allows the Board to recover the reasonable costs of any review or investigation conducted because of violations of test security from any person who violates test security procedures. HB 348; CH. 95.

§§ 2.2-3705.3, 22.1-19.1, and 22.1-253.13:3 amended. **Test security procedures; violations.** Creates a limited exemption from the Freedom of Information Act, for records furnished to or prepared by the Board of Education in connection with the

review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for distribution or administration of the tests. However, the exemption does not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

Also, the bill authorizes the Board of Education to initiate a review of any alleged violation of its regulations by a local school board or local school board employee responsible for implementing the regulations of the Board, including the distribution or administration of tests. The bill also allows the Board to recover the reasonable costs of any investigation conducted because of violations of test security from any person who violates test security procedures. SB 39; CH. 25.

§ 22.1-32 amended. School board salaries. Increases from \$2,400 to \$3,600 the maximum salary to be paid members of the Hopewell school board. The bill also increases the maximum salary to be paid members of the Hanover school board, from \$4,600 to \$8,000. HB 466; CH. 840.

§§ 22.1-32 and 22.1-47.4. See § 15.2-702.1; HB 1002.

§§ 22.1-57.3 and 22.1-75 amended. Election of school board members; appointment of tiebreaker. Authorizes a popularly elected school board, having an even number of members, to appoint a tiebreaker in case of a tie vote. SB 502; CH. 29.

§ 22.1-70.2 amended. Education; Internet safety instruction. Adds to the acceptable Internet use policies developed by the division superintendents a requirement that such policies include a component on Internet safety for students that is integrated in a division's instructional program. The measure contains an enactment clause providing that within 45 days of the enactment of the act, the Superintendent of Public Instruction must issue a superintendent's memorandum advising school divisions of the provisions in the act and encourage cooperation with local law enforcement agencies in its implementation. HB 58; CH. 52.

§ 22.1-70.2. See § 2.2-1201; SB 21.

§§ 22.1-79 and 22.1-79.3. See § 18.2-370.2; HB 984.

§§ 22.1-79 and 22.1-79.3. See § 18.2-48; SB 559.

§ 22.1-79.3 amended. Administration of surveys and questionnaires to public school students. Prohibits local school boards from administering questionnaires or surveys requesting sexual information to public school students unless the parent is notified in writing of the administration of the questionnaire or survey at least 30 days in advance to its administration. The notice must inform the parent of the nature and types of questions included in the questionnaire or survey, the purposes and age-appropriateness of the survey, and

whether and how any findings or results will be disclosed. The bill provides parents the right to review the questionnaire or survey and to exempt their child from participating in the survey. No questionnaire or survey requesting sexual information of a student may be administered to any student in kindergarten through sixth grade and, unless required by federal or state law or regulation, school personnel administering any such questionnaire or survey shall not disclose personally identifiable information. HB 1242; CH. 145.

§ 22.1-98 amended. Reduction of state aid when length of school term below 180 days or 990 hours. Defines "declared state of emergency" as the term is used elsewhere in the section. Additionally, the bill clarifies that the length of the school term shall be at least 180 teaching days or 990 teaching hours and that school divisions may make up missed time by adding teaching days to the school calendar or extending the length of the school day. The bill (i) revises the amount of time that must be made up when a school or schools have been closed for six or more days during the school term due to severe weather conditions or other emergency situations, (ii) spells out the procedures for requesting a waiver from the Board of Education for closings resulting from a declared state of emergency, and (iii) adds a provision about school calendars and teacher contracts. Finally, the bill requires the division superintendent and chairman of the local school board to certify the total number of teaching days and hours each year as part of their annual report to the Board of Education. HB 349; CH. 96/ SB 66; CH. 26.

§ 22.1-110 amended. Temporary loans to school boards. Extends the length of a temporary loan for the purpose of financing new school buses to replace obsolete buses from five to 10 years. SB 715; CH. 239.

§ 22.1-167.1 amended. Virginia Public School Authority; pass-through of bond refunding savings. Authorizes the Virginia Public School Authority to implement a pass-through of refunding savings to a locality without requiring any further local legislative action on the part of the locality. SB 203; CH. 223.

§ 22.1-178. See § 54.1-3812; HB 300.

§§ 22.1-199.2 and 22.1-254.01 amended. Remediation programs. Amends the standards for remediation programs to require that data submitted to the Board of Education include the number of students failing any Standards of Learning assessments for grades three through eight. This bill also provides that students who fail the Standards of Learning assessments in grades three through eight, in addition to other factors that the division superintendent may use to determine the student's need for remediation, must attend summer school or after-school remediation programs. There are several technical amendments. HB 216; CH. 834/SB 67; CH. 41.

§ 22.1-202.1 amended. Comparative religion as elective course. Reallocates the duty to authorize a comparative religion class from local school boards to the Board of Education. In the process of revising the Standards of Quality, language

was inadvertently altered during the 2004 Session. HB 215; CH. 90/SB 62; CH. 161.

§§ 22.1-223, 22.1-254, and 22.1-254.2 amended. General Educational Development Program. Allows participation in a general educational development program to be by court order and excludes from the compulsory school attendance requirements any child who has obtained a general educational development (GED) certificate. The bill also adds to the list of those persons who may participate in the GED testing program, the testing program through which persons may earn a high school equivalency certificate, (i) persons 16 years of age or older who have been expelled from school and (ii) persons required by court order to participate in the testing program. HB 347; CH. 335.

§ 22.1-253.13:3 amended. Standards of Quality; Standard 3, Standards of Learning and administration and use of SOL tests. Provides that the Board of Education may adopt special provisions related to the administration and use of any SOL test or tests in a content area as applied to accreditation ratings for any period during which the SOL content or assessments in that area are being revised and phased in. Prior to statewide administration of such tests, the Board of Education must provide notice to local school boards regarding such special provisions. HB 813; CH. 117.

§ 22.1-253.13:3 amended. Standards of Learning; release of assessments. Adds a condition to the release of Standards of Learning assessments by the Board of Education that the release of such assessments to the public may not limit the ability to test students on demand and provide immediate results in the web-based assessment system. HB 1059; CH. 131/SB 34; CH. 38.

§ 22.1-253.13:4 amended. Education; calculation of high school graduation rates. Directs the Board of Education to collect, analyze, and report high school graduation and drop out data using a formula prescribed by the Board. The measure contains a delayed enactment clause providing that the amendments to § 22.1-253.13:4 will take effect October 1, 2008. A second enactment clause, which will take effect on July 1, 2006, requires the Board of Education to report to the House Committee on Education and the Senate Committee on Education and Health by December 1, 2006, on the formula to be used for the uniform assessment of high school graduation rates. In developing the formula, the Board is also required to consider the 2005 Report of the National Governors Association Task Force on State High School Graduation Data. HB 19; CH. 584.

§ 22.1-254.1 amended. Requirements for home instruction of children. Amends the requirements for home instruction to provide that parents may home school their children if they: (i) provide a program of study or curriculum which, in the judgment of the division superintendent, includes the standards of learning objectives adopted by the Board of Education for language arts and mathematics, or (ii) provide evidence that the parent is able to provide an adequate education for the child. Currently, parents choosing to home school a child must pro-

vide the child a program of study or curriculum that includes the standards of learning objectives adopted by the Board of Education for language arts and mathematics. The bill further provides that a parent who elects to home school a child must provide the division superintendent with evidence that the child has attained a composite score in or above the fourth stanine of any nationally normed standardized achievement test rather than the current requirement that such child receive a score in or above the fourth stanine on a battery of achievement tests that have been approved by the Board of Education for use in the public schools. HB 1483; CH. 562.

§ 22.1-254.1 amended. Declaration of policy; requirement for home instruction of children. Requires that school boards implement a plan to make PSAT examinations available to students receiving home instructions. HB 1588; CH. 567.

§ 22.1-254.1 amended. Requirements for home instruction of children. Modifies the criteria that a parent must meet to provide home instruction to their children, by providing that a parent who holds a high school diploma, rather than a baccalaureate degree, meets the requirements. HB 1340; CH. 932/SB 499; CH. 911.

§ 22.1-264.1 amended. Education; tuition liability for false statements of residency within a school division; penalty. Provides that any person who knowingly makes a false statement concerning the residency of a child for the purpose of avoiding tuition charges shall be liable to the school division in which the child was enrolled as a result of such false statements for tuition charges for the time the student was enrolled in the school division. HB 1222; CH. 143.

§ 22.1-277.07 amended. Possession of certain weapons on school property; expulsion. Requires a school board to expel from school for at least one year a student who possesses certain weapons on school property or at a school-sponsored activity. Current law relates to "bringing" weapons to school. HB 1516; CH. 703.

§ 22.1-279.3:1 amended. Notification to school principals of students charged with committing certain crimes. Amends the requirement that principals or their designees receive notification from local law-enforcement authorities when students in their school commit certain crimes to require that such notification be given, whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. The bill further requires that any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of § 16.1-260 must report such information to the principal of the school in which the juvenile is enrolled. HB 1279; CH. 146.

§ 22.1-279.8 amended. School crisis, emergency management, and medical emergency response plan; required. Requires each school to implement a "medical emergency response plan" as part of their school crisis and emergency management plan. The Department of Education must provide assistance in the development of the plan in coordination with

local emergency medical services providers, the training of school personnel and students to respond to a life-threatening emergency, and the equipment required for this emergency response. The Department must also prepare a model medical emergency response plan. SB 75; CH. 43.

§§ 22.1-288.1 and 52-31.1 amended. School records of missing children; local law-enforcement cooperation. Enhances current procedures for notation in school records of missing children and local law-enforcement cooperation with the schools by mandating that, (i) within 24 hours of the missing child report, local law enforcement must notify the principal of the school where the missing child is or was most recently enrolled of the report so that the school can mark the student's record; and (ii) upon notification that the marked child's record has been requested, the Superintendent of State Police must immediately initiate an investigation into the circumstances surrounding the request. Additionally, the bill defines the term "mark"; as an electronic or other indicator that is readily apparent on the student's record. HB 1482; CH. 295.

§ 22.1-289 amended. Electronic storage of scholastic records. Allows local school divisions to electronically store and maintain student scholastic records. The amendment conforms to the definition of "record" in the federal Family Educational Rights and Privacy Act (FERPA). HB 20; CH. 47.

§§ 22.1-289.1, 22.1-295, and 22.1-303 amended. Teachers; compensation. Requires the Director of Human Resource Management to consider, in the biennial review of the compensation of teachers and other occupations requiring similar education and training the Commonwealth's compensation for teachers relative to member states in the Southern Regional Education Board. The bill also requires the evaluation of each teacher with continuing contract status at least once every three years. Such teachers who have an unsatisfactory evaluation must be evaluated the following year. Additionally, the bill provides that the evaluations must be maintained in the employee's personnel file. SB 324; CH. 373.

§§ 22.1-292.1, 22.1-292.2, and 22.1-349 amended; §§ 22.1-298.1, 22.1-298.2, and 23-9.2:3.6 added; §§ 22.1-298 and 23-9.2:3.4 repealed. Education; revision of teacher licensure requirements and regulations governing teacher education programs. Revises statutes governing teacher licensure regulations and regulation of teacher education programs by repealing the current statutes and reenacting teacher licensure and teacher education program provisions. The bill provides that the Board of Education must prescribe, by regulation, the requirements for licensure of teachers and other school personnel. The Board's regulations must include requirements that a person seeking initial licensure complete professional assessments prescribed by the Board and complete study in attention deficit disorder, gifted education, and family involvement in student learning. In addition, every person seeking initial licensure or licensure by renewal must demonstrate proficiency in the use of educational technology and receive professional development in instructional methods promoting student academic progress and Standards of Learn-

ing assessments. Persons seeking initial licensure or first-time licensure renewal must complete prescribed study in child abuse. All persons seeking licensure with an endorsement as a teacher of the blind and visually impaired must demonstrate proficiency in reading and writing Braille. The Board's regulations must also provide for licensure of principals and assistant principals contingent upon a prescribed assessment; criteria to effectuate the substitution of experiential learning for coursework for those seeking initial licensure through an alternate route; and licensure by reciprocity. The Board's regulations may provide for provisional licensure valid for up to three years.

The Board's regulations governing education preparation programs must provide for such programs offered by institutions of higher education, Virginia public school divisions, and certified providers for alternate routes to licensure and must prescribe an assessment of basic skills for individuals seeking entry into an approved education preparation program and accountability measures for approved education programs. Education preparation programs must meet the Board's requirements for accreditation and program approval. HB 1057; CH. 349/SB 74; CH. 27.

§ 22.1-295.1 amended. Education; maintenance of employee personnel records. Permits personnel files of school board employees to be produced and maintained in digital or paper format. HB 434; CH. 191.

§ 22.1-296.1 amended. Background checks for public school contract employees; penalty. Provides that, prior to awarding a contract for the provision of services that require direct contact with students, a school board shall require the contractor and, when relevant, any employee who will have direct contact with students, to certify (i) that he has not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child; and (ii) whether he has been convicted of a crime of moral turpitude. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor. The fact of such conviction will be grounds for the revocation of the contract and, when relevant, revocation of the person's license to provide such services. Schools boards will not be liable for materially false statements regarding the required certifications. "Direct contact with students" is defined as "being in the presence of students during regular school hours or during school-sponsored activities." HB 1109; CH. 790.

§§ 22.1-323.2. See § 37.2-408; HB 577.

§§ 22.1-329, 37.2-418, 63.2-1737, and 66-24 amended; § 37.2-419.1 added. Summary suspension of licenses of certain group homes and residential facilities under certain circumstances; penalty. Authorizes the Superintendent of Public Instruction, the Director of the Department of Juvenile Justice, and the Commissioner of Social Services to issue orders of summary suspension of a license to operate a group home or other residential facility for children, in cases of immediate and substantial threat to the health, safety, and welfare of residents. The bill also authorizes the Commissioner of the

Department of Mental Health, Mental Retardation and Substance Abuse Services to issue orders of summary suspension of a license to operate a group home or other residential facility for adults, in cases of immediate and substantial threat to the health, safety, and welfare of residents. Since DMHMRSAS obtained identical summary suspension authority for children's group homes and residential facilities in 2005, this bill provides consistency in the legal authority for the interdepartmental licensure program for children's residential facilities by giving all four departments the authority to address egregious circumstances while ensuring due process for the licensees or certificate holders. Emergency regulations are required by the second enactment clause. Technical amendments are also included. This bill is a recommendation of the Joint Subcommittee Studying Private Youth and Single Family Group Homes pursuant to HJR 685 (2005). SB 190; CH. 168.

§ 22.1-354.1. See § 2.2-2609; HB 1010.

TITLE 22.1. MISCELLANEOUS - EDUCATION.

Opening of the 2006 school year at T.C. Williams High School. Authorizes, in a noncodified provision, the School Board of the City of Alexandria to set the 2006 - 2007 school calendar for T.C. Williams High School so that the first day students are required to attend the old T.C. Williams High School for the 2006 - 2007 school year will be prior to Labor Day of 2006 and the last day students are required to attend the old T.C. Williams High School will be at the end of May 2007. In setting its 2006 - 2007 school calendar for all other Alexandria schools, the School Board of the City of Alexandria must comply with the provisions of § 22.1-79.1, requiring the first day of the school year to be after Labor Day. The act will expire on January 1, 2007. HB 971; CH. 125/SB 366; CH. 174.

No Child Left Behind; waiver and exemption requests. Encourages the President of the Board of Education, in calendar year 2006, to request certain waivers and exemptions from regulatory and statutory requirements of the federal No Child Left Behind Act from the U.S. Department of Education. The President of the Board of Education is directed to submit a report on the status of all such requests for waivers and exemptions to the chairmen of the Senate Committee on Education and Health and the House Committee on Education and the chairmen of the Senate Committee on Finance and the House Committee on Appropriations. If the report indicates that the response from the U.S. Department of Education to requests for waivers and exemptions is unsatisfactory, then the President of the Board of Education must make recommendations to the Governor and the General Assembly regarding additional actions that could be taken by the Commonwealth regarding No Child Left Behind requirements. HB 1428; CH. 880.

No Child Left Behind; elimination plan. Directs the Board of Education to develop a plan to identify initiatives or conditions

that are currently being funded by No Child Left Behind, that are not integral or necessary component of the Commonwealth's own Standards of Quality, Standards of Accreditation, or Standards of Learning. Upon the development of the plan, the Office of the Attorney General must provide the Board and the General Assembly an estimate of the costs for providing legal services in the event that the elimination of any initiatives or conditions results in withholding of Title I funds.

The Board of Education must report its plan to the Senate Committee on Education and Health, the House Committee on Education, the Senate Committee on Finance, and the House Committee on Appropriations by October 1, 2006. HB 1427; CH. 879/SB 410; CH. 904.

Approval of teacher education programs. Prohibits the Board of Education from conditioning full approval of teacher education programs provided by an institution of higher education on (i) the number of students in individual licensure programs, such as, but not limited to, prekindergarten-three, Spanish, music education, high school physics, or other disciplines, or (ii) documented efforts to increase enrollment in such programs. SB 687; CH. 382.

High school diploma requirements and students with limited English proficiency. Requires the Board and Department of Education to collect certain statewide data on Virginia's public school students with limited English proficiency and school division programs for such LEP students, analyze the data, and recommend steps to resolve the issues relating to the requirements for obtaining a high school diploma and students with limited English proficiency that will retain high academic standards and accountability, while assisting such students in their endeavors to obtain an education and to become productive Virginians. SB 683; CH. 526.

Fire and evacuation drills prohibited in schools during periods of mandatory testing. † Requires the Board of Housing and Community Development to promulgate regulations prohibiting fire and evacuation drills in schools during periods of mandatory testing required by the Board of Education. The bill includes an enactment clause requiring the promulgation of emergency regulations. SB 97; CH. 164 (effective 3/23/06).

TITLE 23. EDUCATIONAL INSTITUTIONS.

§ 23-2.2:1. See § 18.2-370.2; HB 984.

§ 23-2.2:1. See § 18.2-48; SB 559.

§§ 2.2-2233.2, 23-4.3, and 23-4.4 amended; § 23-9.10:4 repealed. **Public institutions of higher education; intellectual property.** Removes limitations and requirements currently in place governing the assignment of intellectual property rights at public institutions of higher education. Instead, each institution will be required to adopt its own policies concerning assignment of intellectual property that will govern any research contracts to which it is a party. Each institution

must forward a copy of its policies to the Governor and the Joint Commission on Technology and Science and report annually to the Governor and the Joint Commission on Technology and Science as to the assignment of any intellectual property interests by that institution. The bill removes the requirement that the State Council of Higher Education for Virginia create guidelines for institutions to follow in developing their policies. In addition, the bill provides for the Department of Planning and Budget working in cooperation with the state-supported institutions of higher education and the Joint Commission on Technology and Science to issue guidelines defining (i) the conditions under which projects are to be considered wholly or predominately funded by the general fund and (ii) procedures for an expedited review by the Governor of relevant transfers of intellectual properties by December 1, 2006. HB 134; CH. 77/SB 259; CH. 899.

§ 23-4.3:1 amended. Textbook sales at public institutions of higher education. Requires the governing boards of public institutions of higher education to implement policies, procedures, and guidelines that encourage efforts to minimize the cost of textbooks for students at colleges and universities while maintaining the quality of education and academic freedom. The guidelines must ensure (i) that faculty textbook adoptions are made with sufficient lead time to university- or contract-managed bookstores so as to confirm availability of the requested materials and, where possible, ensure maximum availability of used textbooks; (ii) that, in the textbook adoption process, the intent to use all items ordered, particularly each individual item sold as part of a bundled package, is affirmatively confirmed by the faculty member before the adoption is finalized. If the faculty member does not intend to use each item in the bundled package, he must notify the bookstore, and the bookstore must order the individualized items when their procurement is cost effective for both institutions and students and such items are made available by the publisher; (iii) that faculty members affirmatively acknowledge the bookstore's quoted retail price of textbooks selected for use in each course; (iv) that faculty be encouraged to limit their use of new edition textbooks when previous editions do not significantly differ in a substantive way as determined by the appropriate faculty member, and (v) that the establishment of policies must include provisions for the availability of required textbooks to students otherwise unable to afford the cost. The measure further provides that no funds for financial aid from university bookstore revenue may be counted in the calculation for state appropriations for student financial aid. HB 1478; CH. 561.

§§ 23-7.4 and 23-7.4:2 amended. In-state tuition for dependents of active duty military personnel. Provides that all dependents of active duty military personnel assigned to a permanent duty station in Virginia who reside in Virginia shall be deemed to be domiciled in the Commonwealth for purposes of eligibility for in-state tuition and shall be eligible to receive in-state tuition in Virginia. All dependents of such military personnel receiving in-state tuition shall be afforded the same educational benefits as any other individual receiving in-state tuition so long as they are continuously enrolled in an institu-

tion of higher education in Virginia or are transferring between Virginia institutions of higher education. HB 695; CH. 783/SB 121; CH. 797.

§ 23-7.4 amended. In-state tuition; limitation on eligibility. Provides that students entitled to in-state tuition will be assessed a surcharge upon satisfactorily completing 125 percent of credit hours needed to obtain a degree in the student's chosen program. The surcharge will be an amount calculated to equal 100 percent of the average cost of the student's education at the relevant institution less tuition and mandatory educational and general fee charges assessed to a student meeting Virginia domiciliary status who has not exceeded 125 percent of such credit hours. Certain courses and credit hours are excluded from the calculation of the 125 percent of the credit hours needed to satisfy the degree requirements for the "credit hour threshold," e.g., remedial courses and credits obtained through advanced placement or international baccalaureate programs or dual enrollment while in high school. A waiver of the surcharge may be granted by the relevant institution, in accordance with the guidelines and criteria established by the State Council of Higher Education for Virginia (SCHEV). Waiver criteria may include, but need not be limited to, illness or disability or active service in the armed forces of the United States. A second enactment clause requires SCHEV to revise its guidelines for determining in-state tuition charges, which are not subject to the Administrative Process Act, to include these requirements by July 1, 2006, including, but not limited to, notice to students who may be or may become subject to the surcharge and determinations of extenuating circumstances. SB 542; CH. 806.

§ 23-7.4:1 amended. Virginia War Orphan Education Program; definition of disability. Amends the Virginia War Orphan Education Program to (i) rename the program as the "Military Survivors and Dependents Education Program"; and (ii) expand eligibility to the spouse or child between the ages of 16 and 29 of a military service member who, during military operations against terrorism, a peace-keeping mission, a terrorist act, or any armed conflict, is killed, missing in action, a prisoner of war, or at least 90 percent disabled as rated by the United States Department of Veterans Affairs. Eligibility for benefits under the Program must be established through documentation from the United States Department of Veterans Affairs. The Commissioner of the Department of Veterans Services is directed to designate a senior-level official to be responsible for developing and implementing the agency's strategy for disseminating information about the Military Survivors and Dependents Education Program to disabled veterans whose dependents qualify and to survivors of veterans who may qualify. The Commissioner of the Department of Veteran Services must report annually to the Governor and General Assembly as to the agency's policies and strategies relating to dissemination of information about the Program and the number of current beneficiaries, the educational institutions attended by beneficiaries, and the completion rate of the beneficiaries. HB 1272; CH. 793.

§ 23-9.2:3 amended. University programs on awareness and prevention of sexual crimes. Directs the governing boards of educational institutions to establish programs, in cooperation with the State Council of Higher Education for Virginia and the Office of the Attorney General, to promote the awareness and prevention of sexual crimes committed upon students. HB 910; CH. 121.

§ 23-9.2:3.02 amended. Higher education; articulation agreements and transferable credits. Requires that if a student declares an intention to transfer credit from an institution within the Virginia Community College System to a four-year public institution, the articulation agreement in force at the time of the student's declaration will determine those credits that may be transferred if the student (i) completes an associate degree within four years of submitting a written declaration of intent to transfer to a four-year public institution of higher education in Virginia and (ii) enrolls in such institution within 18 months of completing an associate degree. HB 57; CH. 531.

§§ 23-9.2:3.02, 23-9.6:1, and 23-9.14:2 amended. Articulation, transfer, and dual enrollment and admissions agreements. Requires all four-year public institutions of higher education to develop articulation, transfer, and dual enrollment and admissions agreements, including dual admissions programs for qualified students to be simultaneously accepted by a community college and, contingent upon the successful completion of an acceptable associate degree program from the community college, by the four-year public institution of higher education. The State Council of Higher Education must include in its guidelines for these agreements conditions required to establish dual admissions programs that set forth the obligations of the students accepted in the programs, including grade point average requirements, acceptable associate degree programs, completion timetables, and the students' access to the privileges of enrollment in both institutions while attending either institution. SB 538; CH. 379.

§§ 23-9.2:3.4 and 23-9.2:3.6. See § 22.1-292.1; HB 1057/SB 74.

§ 23-9.3:1 amended. Higher education; State Council of Higher Education student advisory committee. Omits the requirement that appointees to the student advisory committee serve on the committee at least one year before they are eligible to be elected chairman of the committee. HB 310; CH. 92.

§ 23-9.6:1 amended; §§ 23-9.14:3 through 23-9.14:7 added. Higher education; Office of Learning Technology. Creates the Office of Learning Technology within the State Council of Higher Education to facilitate and coordinate the voluntary participation of public and private institutions of higher education in the Commonwealth in technology-enriched initiatives.

The Office is charged with establishing and administering agreements with nonprofit public and private institutions of higher education in the Commonwealth and other entities for the identification of unmet needs for technology-enriched educational programs and opportunities, and the development and delivery of technology-enriched initiatives, including distance

and distributed learning initiatives, for currently served populations and underserved constituencies. In addition, the Office must (i) review technology-enriched learning initiatives and make recommendations to the Council regarding unnecessary duplication in such initiatives; (ii) assist in the development of standards for improving access to, training for, and efficiency in such learning initiatives; and (iii) enter into contracts for related program development. The bill is contingent on funding in the appropriation act. HB 305; CH. 537.

§§ 2.2-2101 and 23-14 amended; §§ 23-231.30 through 23-231.36 added. Higher Education; New College Institute established. Establishes the New College Institute as an educational institution in the area of Martinsville and Henry Counties. The New College Institute is charged with, among other things, expanding educational opportunities in the region by providing access to degree-granting programs, including undergraduate, graduate, and professional programs, through partnerships with private and public institutions of higher education, the public schools, and public and private sectors; and seeking to diversify the region's economy by engaging the resources of other institutions of higher education, public and private bodies, and organizations of the region and state.

The institute will be governed by a 12-member Board of Directors appointed as follows: seven nonlegislative members to be appointed for staggered terms by the Governor, three members to be appointed by the Speaker of the House of Delegates in accordance with the rules of proportional representation in the Rules of the House, and two members to be appointed by the Senate Committee on Rules. The Board would direct the development and focus of New College's curriculum. The curriculum would include appropriate degree and nondegree programs offered by other educational institutions. HB 517; CH. 842.

§§ 2.2-2101 and 23-14 amended; §§ 23-231.30 through 23-231.36 added. Higher Education; New College Institute established. Establishes the New College Institute as an educational institution in the area of Martinsville and Henry Counties. The New College Institute is charged with, among other things, expanding educational opportunities in the region by providing access to degree-granting programs, including undergraduate, graduate, and professional programs, through partnerships with private and public institutions of higher education, the public schools, and public and private sectors; and seeking to diversify the region's economy by engaging the resources of other institutions of higher education, public and private bodies, and organizations of the region and state.

The institute will be governed by a 12-member Board of Directors appointed as follows: seven nonlegislative members to be appointed by the Governor, three members to be appointed by the Speaker of the House of Delegates, and two members to be appointed by the Senate Committee on Rules. The Board would direct the development and focus of New College's curriculum. The curriculum would include appropriate and nondegree programs offered by other educational institutions. SB 40; CH. 808.

§§ 23-38.53:1, 23-38.53:2, and 23-38.53:3 repealed. Repeal of Virginia Scholars Program. Repeals sections relating to the Virginia Scholars Program by recommendation of the State Council of Higher Education for Virginia and the Code Commission. The Virginia Scholars Program is no longer functional and does not receive appropriations. HB 49; CH. 50.

§§ 23-38.53:25 through 23-38.53:28 added. Virginia Mathematics, Science, and Technology Education Grant Program. Creates the Virginia Mathematics, Science, and Technology Education Grant Program for the purpose of providing higher education grants to domiciles of Virginia who are enrolled in a qualified undergraduate or graduate degree program identified by the State Council of Higher Education for Virginia (SCHEV). SCHEV is designated as the administering agency for the program and is authorized to promulgate necessary and appropriate regulations for the disbursement of grants and the administration of the program. To receive a grant under this program, a person must (i) be a Virginia domicile; (ii) be enrolled in a qualified program approved by SCHEV; (iii) maintain a cumulative grade point average of at least 2.5; and (iv) sign a promissory note agreeing to begin employment in the Commonwealth in the area of mathematics, science, engineering, or technology within six months of receiving an undergraduate or graduate degree and to continue such employment in the Commonwealth for at least four years. The bill is contingent on funding in the appropriation act. HB 1244; CH. 557.

§§ 23-38.70 and 23-38.71 repealed. Repeal of Virginia Work-Study Program. Repeals provisions relating to the Virginia Work-Study Program by recommendation of the State Council of Higher Education for Virginia and the Code Commission. The Virginia Work-Study Program is no longer functional and does not receive appropriations. HB 50; CH. 51.

§ 23-38.88 amended. Restructured Higher Education Financial and Administrative Operations Act; campus security. Adds campus safety and security to the several state goals that public institutions of higher education participating in the Restructured Higher Education Financial and Administrative Operation Act must commit to the Governor and General Assembly to meet. HB 346; CH. 775.

§ 23-38.88 Management agreements with certain institutions of higher education. Provides management agreements between the Commonwealth and Virginia Polytechnic Institute and State University, The College of William and Mary in Virginia, and the University of Virginia, respectively, pursuant to the Restructured Higher Education Financial and Administrative Operations Act. HB 1502; CH. 933/SB 675; CH. 943.

§ 23-50.16:12. See § 15.2-5214; HB 955.

§§ 23-105, 23-106, and 23-107 amended; §§ 23-107.1 and 23-107.2 added. Admission of state cadets at the Virginia Military Institute. Amends provisions for the admission of state cadets to provide that, upon evidence of fair moral character, sufficient state cadets, selected from the Commonwealth at large, must be admitted by the VMI Board of Visitors. Cur-

rently, at least fifty state cadets are selected from each senatorial district and from the Commonwealth at large. The measure also provides for military scholarship cadets. Up to 40 such cadets are to be admitted by the Board of Visitors to receive financial aid in exchange for a commitment to serve as commissioned officers in the Virginia National Guard for a term in accordance with Guard policy and regulation. If a military scholarship cadet fails to fulfill the obligation to serve in the Virginia National Guard, he must repay the scholarship unless excused from the obligation by the VMI Board of Visitors, in consultation with the Virginia National Guard. The financial assistance for the military scholarship cadets must be entirely from federal funds, Virginia National Guard funds, or private gifts that do not have matching requirements. SB 486; CH. 810.

§ 23-135.7:6. See § 67-100; SB 262.

§ 23-218 amended. Reduced tuition rates for employees of the Virginia Community College System. Allows the State Board for Community Colleges to establish policies and guidelines providing for reduced tuition rates at Virginia's community colleges for employees of the Virginia Community College System. HB 504; CH. 337.

§ 23-231.25 amended. Southern Virginia Higher Education Center; board of trustees. Modifies the membership of the board of trustees to allow the Speaker of the House of Delegates to appoint an alternate for any Delegate appointed to the board and the Senate Committee on Rules to appoint an alternate for the Senator appointed to the board. SB 54; CH. 160.

§ 23-276.4 amended. Education; accreditation of out-of-state vocational schools. Requires that all out-of-state academic-vocational noncollege degree schools operating in good standing in the Commonwealth prior to July 1, 2006, that have not obtained accreditation by an accrediting agency recognized by the United States Department of Education secure accreditation candidacy status by July 1, 2009, and full accreditation by July 1, 2012. Further, on and after July 1, 2006 all out-of-state academic-vocational noncollege degree schools, subject to the provisions of Chapter 21.1 of Title 23, must disclose their accreditation status in all written materials advertising or describing the school that are distributed to prospective or enrolled students or the general public. HB 38; CH. 814.

§ 23-276.12 amended. Regulation of certain private and out-of-state institutions of higher education; civil penalty. Authorizes the State Council of Higher Education for Virginia to recover a civil penalty of up to \$1,000 for each violation of the chapter relating to regulation of certain private and out-of-state institutions. The civil penalty is available when there has been no criminal prosecution instituted against such postsecondary school. HB 36; CH. 48.

TITLE 24.2. ELECTIONS.

§§ 24.2-101, 24.2-403, and 24.2-544 amended. **Elections; definitions and age qualification to vote.** Adds language to specify that a person must be 18 years of age “on or before the day” of the election to be qualified to vote in the election or be qualified by law to vote in the special and primary elections held immediately before the general election day by which he will be 18 years of age. HB 1172; CH. 205.

§§ 2.2-419, 2.2-3103, 2.2-3117, 19.2-8, 24.2-101, 24.2-405, 24.2-622, 24.2-676, 24.2-680, 30-103, 30-111, and 30-127 amended; §§ 24.2-945, 24.2-953.4, 24.2-954, 24.2-955 and 24.2-959.1 added; §§ 24.2-503.1, 24.2-900 through 24.2-930, 24.2-940, 24.2-941 through 24.2-944, 24.2-1013, and 24.2-1014.1 repealed. **Campaign Finance Disclosure Act of 2006.** Enacts a new campaign finance disclosure act; reorganizes and clarifies provisions in the act; amends various cross-references to the act; and repeals the existing act. The bill is the result of a review of the act undertaken by the State Board of Elections pursuant to House Joint Resolution 667 (2005). HB 972; CH. 787.

§§ 2.2-419, 2.2-3103, 2.2-3117, 19.2-8, 24.2-101, 24.2-405, 24.2-622, 24.2-676, 24.2-680, 30-103, 30-111, and 30-127 amended; §§ 24.2-945, 24.2-953.4, 24.2-954, 24.2-955 and 24.2-959.1 added; §§ 24.2-503.1, 24.2-900 through 24.2-930, 24.2-940 through 24.2-944, 24.2-1013, and 24.2-1014.1 repealed. **Campaign Finance Disclosure Act of 2006.** Enacts a new campaign finance disclosure act; reorganizes and clarifies provisions in the act; amends various cross-references to the act; and repeals the existing act. The bill is the result of a review of the act undertaken by the State Board of Elections pursuant to House Joint Resolution 667 (2005). SB 141; CH. 892.

§ 24.2-103 amended. **Elections; powers and duties of the State Board of Elections.** Provides that the State Board’s required annual training and any additional training of local electoral board members and general registrars shall be provided without charge to them. SB 590; CH. 760.

§§ 24.2-105.1 and 24.2-914.1. See § 2.2-1201; SB 21.

§ 24.2-109.1 amended. **Elections; general registrars; performance reviews.** Replaces the requirement that the local electoral board send a copy of each annual performance review of the general registrar to the State Board of Elections with the requirement to send a summary of the review. SB 589; CH. 235.

§ 24.2-228.1 amended. **Special elections to fill vacancies in constitutional offices.** Provides that the general law provision calling for a special election to fill a vacancy in a constitutional office overrides any other provision in a charter that may provide a different method to fill the vacancy. HB 470; CH. 253.

§ 24.2-228.1 amended. **Special elections to fill vacancies in constitutional offices; absences.** Provides that the absence

from the county or city of a constitutional officer because of service in the armed forces does not create a vacancy in the office unless the officer provides written notice of his resignation. The bill further provides that the power to relieve the officer of his duties or powers during an absence remains the sole prerogative of the officer unless waived by him in writing. HB 884; CH. 120.

§§ 24.2-302.1, 24.2-303.1, 24.2-303.2, and 24.2-304.01. See § 2.2-2609; HB 1010.

§ 24.2-304.02 amended. **House of Delegates districts.** Makes technical changes in the boundary line between the Seventeenth and Nineteenth House of Delegates districts within Botetourt County to eliminate splits of three current voting precincts. All of the Cloverdale Precinct will be in the Seventeenth district; all of the Amsterdam and Rainbow Forest Precincts in the Nineteenth District. HB 773; CH. 261.

§ 24.2-304.02 amended. **House of Delegates districts.** Makes a technical adjustment in a part of the boundary between the Seventy-seventh and Seventy-eighth Districts within the City of Chesapeake to eliminate the split of a current voting precinct. The same adjustment was made to the Senate line, but not the House line, in 2004. SB 716; CH. 240.

§ 24.2-404 amended. **Elections; voter registration; duties of State Board of Elections.** Adds to the provision under which the State Board requires local registrars to remove voters’ names from the registered voter lists in appropriate cases, a requirement to delete the names of voters who are not United States citizens. The bill specifies that the Board will institute procedures to implement the requirements set out in the section and requires notice to be sent to any registered voter whose registration is cancelled because of noncitizen status. HB 61; CH. 243.

§§ 24.2-404, 24.2-427, and 46.2-208.1 amended; § 24.2-410.1 added. **Elections; voter registration; citizenship status.** Requires the Department of Motor Vehicles to furnish monthly lists to the State Board of Elections of license applicants who indicate a non-citizen status on their applications, and directs the State Board to forward the information to the general registrars. Non-citizen status constitutes grounds for cancelling a person’s voter registration. HB 170; CH. 926 (effective 1/1/07)/SB 313; CH. 940 (effective 1/1/07).

§ 24.2-417.1 amended. **Elections; voter registration.** Creates a presumption with respect to the spouse or dependent of a member of the military or merchant marine that the spouse or dependent who has a physical presence and place of abode in Virginia has established domicile in Virginia and residence for purposes of voting, unless the spouse or dependent expressly states otherwise. HB 138; CH. 391.

§§ 24.2-511 and 24.2-527 amended. **Certification of political party candidates for general, special, and primary elections.** Provides that the individual who acts for the party to certify candidates for the party primary or as party nominees shall not be a candidate for that primary or election. The party

shall designate another party official to certify its candidates in such cases. HB 71; CH. 83.

§ 24.2-646.1 added. Elections; permitted use of paper ballots. Delineates the circumstances when it is permissible to use paper ballots: when the paper ballot is the ballot used in the precinct; for assisting voters at curbside; for provisional votes; when voting equipment is inoperable; for absentee voting; and for certain voters in presidential elections. SB 434; CH. 492.

§§ 24.2-649, 24.2-704, and 24.2-1012 amended. Assistance to persons voting by absentee ballot; penalties. Provides that a violation of the law on assistance for persons voting by absentee ballot constitutes a Class 5 felony. HB 24; CH. 242.

§ 24.2-655 amended. Elections; ascertaining the vote by officers of election; observers of the process. Provides that observers must be afforded an unobstructed view of the officers of election as they work to ascertain the results of the election. SB 435; CH. 177.

§§ 24.2-659, 24.2-669, 24.2-671, and 24.2-802 amended. Elections; post-election procedures; recounts. Provides for political party and candidate representatives to be present during certain post-election procedures: any examination of sealed voting devices on authorization of the State Board of Elections; an examination of sealed ballots on authorization of the State Board or local board; and the electoral board meeting to ascertain the results of the election. The bill requires the State Board to post on the Internet notice of changes made to the election night results by local electoral boards and made to certified results by a recount court. HB 1175; CH. 689.

§ 24.2-687 amended. Distribution of information on referendum elections. Allows towns as well as counties and cities to provide for the preparation and printing of an explanation for each referendum question to be submitted to the voters. HB 1571; CH. 302.

§§ 24.2-701, 24.2-703, 24.2-706, and 24.2-707 amended. Elections; absentee ballots and certain deadlines. Provides that applications for mailed absentee ballots must be received by 5:00 p.m. on the seventh day before the election rather than at least five days before the election. HB 929; CH. 438.

§§ 24.2-705, 24.2-709, 24.2-710, and 24.2-712 amended. Absentee voting procedures. Provides a uniform statewide deadline (the close of the polls) for the return of voted absentee ballots to the electoral board or general registrar. HB 1491; CH. 297.

§§ 24.2-708 and 24.2-711 amended; § 24.2-653.1 added. Elections; absentee voting procedures and provisional ballots for certain voters. Permits a voter who applied for but has not received an absentee ballot to vote a provisional ballot at his polling place upon his signed statement that he has not received or voted an absentee ballot. Current law requires that the voter who did not receive an absentee ballot and who lives in a locality that has established a central absentee voter precinct must be sent to that precinct to vote. HB 1327; CH. 283.

§§ 24.2-803 and 24.2-804 amended. Contested election for Governor, Lieutenant Governor, Attorney General, or the General Assembly. Provides for a surety bond of \$10 per precinct in contested elections for statewide office and \$100 per precinct in contested elections for the General Assembly to be forfeited by a losing contestant to the extent of the contestee's actual costs. The bill also makes the failure to meet the procedural deadlines for notice and subsequent filings dispositive of the contest and equivalent to a finding against the party failing to meet the deadlines. HB 1463; CH. 292.

§§ 24.2-901, 24.2-908, and 24.2-922 amended; §§ 24.2-907.1, 24.2-908.2, 24.2-910.2, 24.2-910.3, 24.2-910.4, and 24.2-930.1 added. Campaign finance; special disclosure requirements for certain committees; civil penalties. Requires federal and IRS 527 committees contributing more than \$10,000 to candidates in Virginia to register with the State Board of Elections. Information on contributors to federal committees will be made available by the Board through a link to filings at the Federal Election Commission. Information on contributors of \$2,500 or more to 527 committees will be filed with the State Board and available to the public. Candidates accepting more than \$10,000 from a committee must verify that the committee has registered with the State Board. Civil penalties are imposed for accepting or making contributions in violation of the act. HB 291; CH. 771/SB 436; CH. 805.

§ 24.2-901 amended. Campaign finance disclosure; definitions; exemptions. Provides that the exemption for Internal Revenue Code § 501 (c) (3) organizations will also apply to § 501 (c) (4) and (6) organizations so long as the organization does not advocate the election or defeat of an identified candidate. This is a recommendation of the task force that assisted the State Board of Elections in conducting a review of the Campaign Finance Disclosure Act pursuant to House Joint Resolution 667 (2005). HB 292; CH. 770/SB 228; CH. 800.

§§ 24.2-901 and 24.2-910 amended. Campaign finance disclosure; definitions; independent expenditures. Retains the present law amounts that trigger reporting requirements applicable to independent expenditures: \$500 in statewide elections and \$200 in other elections. Clarifies that any person, candidate committee, or political committee may be subject to the independent expenditure reporting requirements. As introduced, this was a recommendation of the task force that assisted the State Board of Elections in conducting a review of the Campaign Finance Disclosure Act pursuant to House Joint Resolution 667 (2005). HB 294; CH. 772.

§§ 24.2-901 and 24.2-910 amended. Campaign finance disclosure; definitions; independent expenditures. Increases the amounts that trigger reporting requirements applicable to independent expenditures from \$500 to \$1,000 in statewide elections and from \$200 to \$500 in other elections. Clarifies that any person, candidate committee, or political committee may be subject to the independent expenditure reporting requirements. As introduced, this was a recommendation of the task force that assisted the State Board of Elections in conduct-

ing a review of the Campaign Finance Disclosure Act pursuant to House Joint Resolution 667 (2005). SB 230; CH. 938.

§ 24.2-904 amended. Campaign finance; filings by candidates and campaign committees; statements of organization. Provides that a candidate's statement of organization shall be filed within 10 days of appointing a campaign treasurer or designating his campaign committee or depository. The bill retains the present law requirement for a candidate to comply with campaign finance disclosure act provisions upon the acceptance of any campaign contribution. The bill also provides that a General Assembly candidate files his statement of organization with the State Board of Elections and files a copy of it with the local electoral board where he resides. HB 1143; CH. 134.

§§ 24.2-905 and 24.2-908 amended. Campaign finance disclosure; statements of organization; petty cash funds; depository requirements. Increases from \$100 to \$200 the amount of a credit card charge that may be reimbursed from petty cash funds by a candidate campaign committee. Provides that other political committees will have the same authority as a candidate campaign committee (i) to use a petty cash fund and (ii) to invest funds in an interest-bearing account so long as all expenditures are made through the committee's designated depository account. This is a recommendation of the task force that assisted the State Board of Elections in conducting a review of the Campaign Finance Disclosure Act pursuant to House Joint Resolution 667 (2005). HB 295; CH. 773/SB 227; CH. 799.

§ 24.2-919 amended. Campaign finance; special reports of large pre-election contributions. Redefines large contributions requiring special reports to be more than \$5,000 for statewide campaigns, more than \$1,000 for General Assembly campaigns, and more than \$500 for other campaigns. Present law requires reports for contributions greater than \$1,000 in statewide campaigns and \$500 in other campaigns. The bill also requires the special reports to be filed by 5:00 p.m. on the day following receipt, or by 5:00 p.m. on the following Monday if received on a Saturday, rather than "on the next business day." HB 297; CH. 334.

§§ 24.2-922, 24.2-928, and 24.2-929 amended. Campaign finance disclosure; reports as condition to qualify for office; penalties. Revises and increases the civil penalties applicable to the filing of incomplete campaign finance reports. HB 1065; CH. 789.

§ 24.2-942 amended. Disclosure requirements for political campaign advertisements; definitions. Broadens the definition of "print media" to cover any printed matter disseminated by mail. "Print media" now includes mass mailings of 500 or more pieces of mail. HB 105; CH. 769.

§§ 24.2-943 and 24.2-944 amended. Requirements for political campaign advertisements; increased civil penalties. Increases the civil penalty from an amount not to exceed \$100 to an amount not to exceed \$1,000 for violations of the basic requirements and from an amount not to exceed \$500 to an

amount not to exceed \$1,000 for violations of special requirements for radio and television advertisements. The bill also provides for a civil penalty not to exceed \$2,500 for a violation occurring during the 14 days before or on election day, and it raises from \$5,000 to \$10,000 the cap on penalties for multiple broadcasts of one advertisement. HB 1177; CH. 791/SB 265; CH. 802.

TITLE 24.2. MISCELLANEOUS - ELECTIONS.

Page County School Board; referendum. Provides for a referendum in the County at the November 2006 election on the question of whether the school board should be elected biennially for staggered four-year terms. HB 783; CH. 112/SB 342; CH. 28.

TITLE 25.1. EMINENT DOMAIN.

§§ 25.1-100, 25.1-209, 25.1-213, 25.1-214, 25.1-219, 25.1-220, 25.1-228, 25.1-229, 25.1-235, 25.1-318, 36-27, and 62.1-98 amended; §§ 25.1-226 and 25.1-227 repealed. Eminent domain; determining just compensation. Removes the option of the landowner to choose commissioners to hear an eminent domain case. Only jurors or the court shall be permitted to hear such a matter. All of the jurors in an eminent domain proceeding are required to be freeholders in the jurisdiction of the land in question. Additionally, from an original panel of 13 jurors, each party will be granted four preemptory strikes. HB 132; CH. 586.

§ 25.1-108 amended. Offer of repurchase to former owner; nonwaivable right. Eliminates the language relating to the waiver of the right to the offer of repurchase in cases of eminent domain and clearly states that such right cannot be waived. HB 241; CH. 246.

§ 25.1-205.1 added. Mandatory dispute resolution orientation session. Requires that the parties in a condemnation proceeding attend a dispute resolution orientation session. HB 631; CH. 415.

§ 25.1-408 amended. Eminent domain. Raises from \$50,000 to \$75,000 the cap on relocation expenses that may be paid to certain persons displaced from their business or farm operation. HB 1099; CH. 452.

TITLE 27. FIRE PROTECTION.

§§ 27-14 and 40.1-79.1 amended. **Firefighters; local ordinances.** Provides that local ordinances shall not require a minor who achieved firefighter certification as administered by the Department of Fire Programs prior to January 1, 2006, and between the ages of 15 and 16 to repeat the certification after his sixteenth birthday. HB 1390; CH. 462.

TITLE 28.2. FISHERIES AND HABITAT OF THE TIDAL WATERS.

§ 28.2-201 amended. **Federal sport fish matching funds.** Gives the Virginia Marine Resources Commission the authority to accept federal grant money from the federal Wallop-Breaux Fund. The U.S. Department of the Interior has indicated that Virginia's statutes do not give the agency such authority. The wording, as proposed, would satisfy federal officials. HB 651; CH. 5.

§§ 28.2-539, 28.2-546, and 28.2-548 amended. **Oyster taxes.** Requires oyster taxes be paid to the Virginia Marine Resources Commission. Currently, the Commission's Marine Patrol Officers collect the tax. The bill also directs that the oyster inspection tax be deposited in the Public Oyster Rocks Replenishment Fund. HB 652; CH. 33.

§ 28.2-1203 amended. **Subaqueous permits.** Exempts (i) finger piers of up to five feet in width, (ii) L or T head platforms and appurtenant floating dock platforms of up to 400 square feet, and (iii) open-sided shelter roofs and gazebo-type platforms if allowed by local ordinances, that extend over state-owned, subaqueous lands from having to obtain a permit from the Virginia Marine Resources Commission. SB 634; CH. 507.

§ 28.2-1303. See § 15.2-2212; HB 1171.

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

Conveyance of Property, Sam's Restaurant. Authorizes the Governor to convey at fair market value, upon consultation with the Virginia Marine Resources Commission, to Ocean Properties, LLC, an irregular-shaped lot, piece, or parcel of land situate, lying and being in the downtown section of Hampton, Virginia, known as Sam's Restaurant. Such sale and conveyance shall be in a form approved by the Attorney General. HB 898; CH. 664.

Conveyance of property. Authorizes the Virginia Marine Resources Commission, on behalf of the Commonwealth, to convey to a private party approximately 1.2 acres, more or less, in the Rappahannock River, subject to any rights of the adjoining property owner as determined by a court of competent jurisdiction. HB 940; CH. 201.

Conveyance of subaqueous lands. Authorizes the Governor to convey approximately 3.40 acres of subaqueous lands in the Elizabeth River in Norfolk to Moon of Norfolk, L.L.C., 4.11 acres of subaqueous lands in the Elizabeth River in Norfolk to Harbor Point Investors, L.L.C., and 3.6 acres of subaqueous lands in the Elizabeth River in Norfolk to Front Street Investors, L.L.C. HB 1533; CH. 884.

TITLE 29.1. GAME, INLAND FISHERIES AND BOATING.

§§ 29.1-102, 29.1-108, and 29.1-109 amended. **Composition of Board of Game and Inland Fisheries.** Requires the Board of Game and Inland Fisheries to develop a Governance Manual that sets forth rules and procedures for the conduct of the Board's business. The bill also (i) delineates the duties of the chairman of the Board, (ii) requires the Board to ensure that the Auditor of Public Accounts, or any agent of the Auditor, conducts an annual audit of the accounts and transactions of the Board, and (iii) requires the Board to elect a new chairman and vice-chairman each year. The Director of the Department of Game and Inland Fisheries will be subject to confirmation and reconfirmation by the General Assembly every four years. HB 362; CH. 69/SB 564; CH. 915.

§ 29.1-103.1 added. **Control of wildlife diseases.** Authorizes the Department of Game and Inland Fisheries to promulgate regulations to (i) eradicate or prevent wildlife diseases and (ii) establish procedures for the condemnation and indemnification of captive wildlife. HB 172; CH. 12.

§ 29.1-103.1 added. **Federal funds for wildlife and fish restoration.** Authorizes the Department of Game and Inland Fisheries to accept federal grant money related to the Pittman-Robinson Act (wildlife restoration) and the Wallop-Breaux Act (sport fish restoration). The Office of the Inspector General of the U.S. Department of the Interior has indicated to the Department that its audit of these federal funds found that Virginia does not have the statutory authority within the Code of Virginia to accept these funds. HB 981; CH. 24.

§ 29.1-309.3 added. **Youth trapping license.** Establishes the state junior resident trapping license, which can be obtained by any resident under the age of 16 for a fee of \$10. The license entitles the youth to trap throughout the state. HB 574; CH. 70.

§ 29.1-314 amended. **Special fishing license for handicapped.** Authorizes the Department of Game and Inland Fisheries to issue permits to organized groups of physically or mentally handicapped persons to fish on the second Saturday

in May in designated waters stocked with trout, without members of the group having to obtain individual licenses. This is emergency legislation. HB 5; CH. 8 (effective 2/23/06)/SB 12; CH. 37 (effective 3/7/06).

§§ 29.1-521 and 29.1-530 amended. Trapping; penalty. Authorizes the Director of the Department of Game and Inland Fisheries to allow governmental employees and persons holding a commercial Nuisance Annual Permit to visit conibear-style traps once every 72 hours. However, private trappers would continue to be required to visit their conibear traps every day. The bill also clarifies that a trapper can shoot an animal caught in his trap without having to obtain a hunting license and allows the shooting to occur every day of the week, including Sundays during the prescribed seasons. HB 575; CH. 20.

§ 29.1-521 amended. Visiting traps; penalty. Authorizes the Director of the Department of Game and Inland Fisheries to allow government employees and persons holding a Commercial Nuisance Annual Permit to visit conibear-style traps once every 72 hours. However, private trappers would continue to be required to visit their conibear traps every day. SB 83; CH. 215.

§ 29.1-746 amended. Boating safety course. Requires courts to order any person who has been convicted of violating a boating law that imposes a penalty of a Class 3 misdemeanor or greater to pass a National Association of State Boating Law Administrators approved boating safety course, accepted by the Department of Game and Inland Fisheries. HB 870; CH. 23.

TITLE 30. GENERAL ASSEMBLY.

§ 30-19.12 amended. General Assembly; additional compensation. Clarifies that members of the General Assembly are not entitled to receive additional compensation for attending meetings of boards, commissions, and other bodies when the General Assembly is in active session. In addition, when a house has a pro forma session, members who attend meetings held in the buildings on Capitol Square will not be entitled to additional compensation. They will be expected to attend the session to receive the session per diem. HB 1074; CH. 272.

§§ 30-28.16 and 30-34.14 amended. Duties of the Division of Legislative Services and the Division of Legislative Automated Systems. Moves from DLS to DLAS the responsibility for the preparation and publication of the annual liaison booklet designating information officers of state departments, agencies, boards, and commissions. HB 886; CH. 662.

§§ 2.2-2503 and 30-58.1 amended. Special Advisory Commission on Mandated Health Insurance Benefits; staffing. Directs the Joint Legislative Audit and Review Commission (JLARC) to provide staff assistance to the Special Advisory Commission on Mandated Health Insurance Benefits. JLARC

would join the State Corporation Commission's Bureau of Insurance and the Health Department in staffing the Special Advisory Commission. JLARC is charged with assessing, analyzing, and evaluating the social and economic costs and benefits of any proposed mandated health insurance benefit or mandated provider, and reporting its findings to the Special Advisory Commission. HB 614; CH. 413.

§§ 30-103, 30-111, and 30-127. See § 24.2-101; HB 972.

§§ 30-103, 30-111, and 30-127. See § 24.2-101; SB 141.

§ 30-155 amended. Administrative Law Advisory Committee. This bill provides that the chairman of the Administrative Law Advisory Committee may be a member of and must be appointed by the Virginia Code Commission. Other amendments to the bill allow, rather than require, the representation from certain entities and limits the total membership of the Advisory Committee to 12 members. SB 19; CH. 157.

§ 30-170 amended. Joint Commission on Health Care. Extends the sunset provision for the Joint Commission on Health Care for three years, to July 1, 2010. HB 788; CH. 113.

§ 30-170 amended. Joint Commission on Health Care. Extends the sunset provision for the Joint Commission on Health Care to July 1, 2010, allowing the Commission to continue for another three years. SB 438; CH. 178.

§ 30-196 amended. National Conference of Commissioners on Uniform State Laws (NCCUSL). Provides that the Director of the Division of Legislative Services is a Commissioner rather than an Associate Commissioner as currently provided under NCCUSL's Constitution. HB 885; CH. 661.

§ 30-205 amended. Commission on Electric Utility Restructuring. Authorizes the Commission on Electric Utility Restructuring to appoint persons who are not members of the Commission to any subcommittee that the Commission may establish. The measure also specifically authorizes the Commission to evaluate and assess the implications of the scheduled expiration of capped rates. SB 711; CH. 812.

§ 30-225 repealed. Commission on Unemployment Compensation. Repeals the section that provides that the authorization for the Commission on Unemployment Compensation expires on July 1, 2006. Repealing this sunset provision allows the Commission to remain in existence indefinitely. HB 65; CH. 389/SB 79; CH. 476.

§§ 30-266, 30-267, and 30-268 added. Manufacturing Development Commission. Establishes the Manufacturing Development Commission as a legislative commission to assess the manufacturing needs in the Commonwealth and formulate legislative and regulatory remedies to ensure the future of the manufacturing sector in Virginia. The bill also provides that the Secretary of Commerce and Trade serve ex officio. The provisions of this act expire on July 1, 2009. In addition, if the Commission is not funded during its first year of study, the Joint Rules Committee must approve its expenses. However, if the Commission is not funded for any year thereafter, the provisions of this act shall expire July 1 of the fiscal

year that the Commission fails to receive funding. HB 1233; CH. 607.

§§ 30-266, 30-267, and 30-268 added. Manufacturing Development Commission. Establishes the Manufacturing Development Commission as a legislative study commission. The Commission will be responsible for assessing manufacturing needs and formulating legislative and regulatory remedies to ensure the future of the manufacturing sector in Virginia. The Commission will expire July 1, 2009. SB 261; CH. 900

§§ 30-266 through 30-274 added. Virginia Sesquicentennial American Civil War Commission. Establishes the Virginia Sesquicentennial American Civil War Commission to prepare for and commemorate the 150th anniversary of Virginia's participation in the American Civil War. HB 1440; CH. 465.

TITLE 30. MISCELLANEOUS - GENERAL ASSEMBLY.

Brown v. Board of Education Scholarship Program and Fund; penalty. Strengthens and modifies the Brown v. Board of Education Scholarship Program and Fund to accomplish the purposes of the Program more effectively and efficiently. This bill enhances and increases educational opportunities for eligible persons by adding certain career and technical education postsecondary schools in the Commonwealth and the College-Level Examination Program (CLEP) to the list of approved education programs in which recipients may enroll. This bill also (i) provides that awards may be used to cover the costs of textbooks for approved education programs; (ii) clarifies the duration of awards for career and technical education and training programs, and CLEP; (iii) authorizes the Brown v. Board of Education Scholarship Awards Committee to determine approved education programs to preserve the purpose for which the Program was created; (iv) exempts scholastic records, personally identifiable information, scholarship applications, confidential letters and statements, and certain other related information pertaining to applicants and recipients of scholarships awarded by the Brown v. Board of Education Scholarship Awards Committee, and deliberations of the Committee relating to the review and consideration of awards, scholarship renewal, setting the annual maximum scholarship award, and the cancellation, rescindment, or recovery of awards from FOIA; (v) provides definitions; (vi) authorizes the Awards Committee to cancel, rescind, and recover awards; (vii) allows students to take courses of a religious or theological nature to satisfy undergraduate elective requirements for a liberal arts nonreligious degree; (viii) requires applicants to sign acceptance forms, affirming the submitted information and agreeing to pursue the education program for which the award was given to its completion; (ix) establishes criteria for the renewal of awards; (x) requires education agencies to credit promptly student accounts after awards have been disbursed;

and (xi) makes certain technical amendments. In addition, the second and third enactment clauses of Chapter 753 and Chapter 834 of the 2005 Acts of Assembly are repealed. The second enactment clause of these chapters permitted students enrolled in approved education programs upon the expiration of the Program to complete their course of study. The third enactment clauses of these chapters provided that the State Council of Higher Education must review and approve the application for renewal of scholarship awards to students who were enrolled in approved education programs upon the expiration of the Program.

This bill is a recommendation of the Brown v. Board of Education Scholarship Awards Committee. SB 443; CH. 518.

General Assembly and State and Local Government Conflict of Interest Act. Makes several amendments so the General Assembly and State and Local Government Conflict of Interest Acts include (i) clarifying that individual stocks and amounts should be listed, (ii) requiring net rather than gross amounts regarding disclosure of business interests, (iii) requiring disclosure of previously deferred compensation when the filer has begun to receive such compensation, (iv) requiring disclosure of payments made by a filer to a lobbyist for representation, (v) adding definitions for "deferred compensation," "deferred compensation plan," and "contingent liability," and (vi) revising the definition of "close financial association." The bill also provides an extension for filing deadlines under the Acts that may fall on a weekend or a legal holiday. The bill is the recommendation of the HJR 186 (2004) Joint Subcommittee Studying Conflicts of Interests and Lobbyist Disclosure Filings. HB 542; CH. 779.

TITLE 31. GUARDIAN AND WARD.

§ 31-46 amended. Virginia Uniform Transfer to Minors Act; custodians. Allows two people to be joint custodians for a single minor under the Virginia Uniform Transfer to Minors Act. Each joint custodian shall have full power and authority to act alone with respect to the custodial property, and if either resigns, dies, becomes incapacitated or is removed, the remaining person becomes sole custodian. HB 796; CH. 657.

TITLE 32.1. HEALTH.

§§ 32.1-46, 32.1-50, 32.1-60, 32.1-138, and 32.1-325. See § 54.1-3812; HB 300.

§ 32.1-46 amended. Immunization of children against certain diseases. Sets out the minimum requirements for the immunization of children for the State Board to include in their regulations. The requirements bring the Commonwealth in line with the Immunization Schedule developed and published by

the Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices, the American Academy of Pediatrics, and the American Academy of Family Physicians. The bill also requires the State Board of Health to review the section annually and make recommendations to the Governor, the General Assembly, and the Joint Commission on Health Care. The bill is contingent on funding. SB 116; CH. 716.

§ 32.1-46 amended. Immunization of patients against certain diseases. Adds the requirement of a booster dose of tetanus toxoid, reduced diphtheria toxoid, and acellular pertussis (Tdap) vaccine in accordance with the board's regulations, which shall also require that prior to entering sixth grade, a child must have another booster dose of Tdap if more than five years have elapsed since the last dose. This bill is contingent on funding. SB 117; CH. 364 (effective - see bill).

§ 32.1-50 amended. Reporting of tuberculosis strains with antimicrobial drug susceptibilities. Removes the option of submitting to the local health director a report of antimicrobial drug susceptibilities performed by a laboratory certified to perform such testing in lieu of submitting a representative and viable sample of initial cultures positive for tubercle bacilli to the Virginia Division of Consolidated Laboratory Services. The bill requires that the Virginia Division of Consolidated Laboratory Services establish a library of isolates from persons with active tuberculosis disease for the purpose of disease strain analysis as indicated by epidemiological investigations. HB 13; CH. 46/SB 112; CH. 822.

§§ 32.1-69.1 and 32.1-69.2 amended. Virginia Congenital Anomalies Reporting and Education System. Requires the Commissioner of the Department of Health to provide for a secure system that protects the confidentiality of data and information for which reporting is required to implement the Virginia Congenital Anomalies Reporting and Education System (VaCARES). The system may include online data entry and a minimum data set is specified, including names, gender, diagnosis, etc. The bill deletes current reporting requirements concerning the parent's service in Vietnam and possible exposure to Agent Orange and certain outdated language relating to the Board's regulations. Hospitals, the only facilities required to report birth defects to VaCARES, are authorized to view personally identifiable information in the system "as approved by the Commissioner and upon receipt by the Commissioner of sworn affirmation from each such person that the confidentiality of the information will be preserved." HB 1391; CH. 699/SB 428; CH. 906.

§ 32.1-69.3 added. Virginia Cord Blood Bank Initiative. Establishes the Virginia Cord Blood Bank Initiative as a public resource for Virginians for the treatment of patients with life-threatening illnesses or debilitating conditions, for use in advancing basic and clinical research, and, in the event of a terrorist attack, to be used in the treatment of the injured citizens of the Commonwealth. The Initiative will be established as a nonprofit legal entity to collect, screen for infectious and genetic diseases, perform tissue typing on, cryopreserve, and

store umbilical cord blood and will be a collaborative consortium covering all geographical regions of Virginia. The State Health Commissioner will develop or arrange for or contract with a nonprofit entity for the development of the Initiative. Medical schools, hospitals, biotechnology companies, regional blood banks, laboratories, and others will be requested to participate and assist in the design and implementation of the Initiative. Participants will estimate the costs of implementation and the Commissioner will assist in the development of cost estimates, compare and evaluate the estimates, and negotiate with the participants. The Commissioner will also coordinate the design of the Initiative, such as appropriate contact with pregnant women, obtaining informed consent for donations, storage periods, recycling of the samples and the sale or transfer of the samples being withdrawn from storage for use in basic or clinical research, and the development of reasonable rates and fees for cord blood products. The Initiative will conduct outreach and research, particularly for ethnic and racial minorities. Information will be disseminated through health departments and Medicaid. Women will be offered the opportunity to donate umbilical cord blood; however, no woman will be required to make a cord blood donation. Health care entities must disclose financial remuneration for the collection of the cord blood prior to harvesting it. No person who objects to transfusion or transplantation of blood on the basis of bona fide religious beliefs will be required to participate in the Initiative. The Initiative will be implemented with such funds as may be appropriated or otherwise made available for its purpose. The Commissioner must, upon implementation of the Initiative, seek the development of a nonprofit entity to assume the operation and administration of it and may seek federal, state, and private grant funds for its continuation. This bill is a recommendation of the Joint Subcommittee to Study Medical, Ethical, and Scientific Issues Relating to Stem Cell Research in the Commonwealth (HJR 588 of 2005). HB 413; CH. 636/SB 370; CH. 735.

§§ 8.01-581.13, 8.01-581.16, 8.01-581.17, 8.01-581.19, 32.1-111.3, and 32.1-116.1 amended. Facilitating an emergency medical services quality of care initiative; civil immunity and privileged communications. Facilitates the development of a quality of care initiative in the emergency medical services system by providing civil immunity for members of entities monitoring such care and rendering their communications privileged in the same manner as provided to other professional groups. HB 610; CH. 412.

§ 32.1-111.4 amended. Emergency medical services; oxygen training. Directs the State Board of Health to prescribe regulations authorizing emergency medical services personnel to possess and administer oxygen with the authority of the local medical director and a licensed emergency medical services agency. HB 594; CH. 194.

§§ 32.1-122.07 and 32.1-125.3 amended. Designation as rural hospital. Establishes in state law that any medical care facility licensed as a hospital will be considered a rural hospital on and after September 30, 2004, pursuant to 42 U.S.C. §1395ww(d)(8)(E)(ii)(II), if (i) the hospital is located in an

area defined as rural by federal statute or regulation; (ii) the Board of Health defines, in regulation, the area in which the hospital is located as a rural health area or the hospital as a rural hospital; or (iii) the hospital was designated, prior to October 1, 2004, as a Medicare-dependent small rural health hospital, as defined in 42 U.S.C. §1395ww(d)(5)(G)(iv). SB 519; CH. 378.

§§ 32.1-126.01, 32.1-162.9:1, and 63.2-1720 amended. Nursing homes, assisted living facilities, adult day care, home care organizations, and hospice; barrier crimes. Removes the phrase “moral turpitude” from the description of crimes that would constitute a barrier to employment in nursing homes, assisted living facilities, adult day care, home care organizations, and hospice care. HB 1398; CH. 701/SB 620; CH. 764.

§§ 32.1-126.01 and 32.1-162.9:1. See § 63.2-1720; SB 421.

§§ 54.1-3303 and 54.1-3408 amended; § 32.1-126.4 added. Hospital standing orders or protocols for certain vaccinations. Authorizes hospitals to provide or arrange for the administration of influenza and pneumococcal vaccinations to their patients when standing orders or protocols for the immunizations have been approved by a member or committee of the hospital’s medical staff. The standing order or protocol will waive the requirement for specific written physician orders for influenza and pneumococcal immunizations; however, the standing order or protocol will not supersede a physician’s authority to issue specific written orders relating to immunizations. The standing order or protocol for administration of the vaccines must be in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices (ACIP) of the Centers for Disease Control and Prevention; medical contraindications must be ascertained; the patient’s wishes and any religious objections must be determined; and informed consent must be obtained from the patient or his legal representative. The vaccinations must be documented in the patient’s health record. Approval of a standing order or protocol for the administration of the vaccines will be deemed to satisfy the requirement for a bona fide practitioner-patient relationship. HB 851; CH. 432.

§ 32.1-127.1:03 amended. Health records privacy. Clarifies that health records may be disclosed by a health care entity in connection with the health care entity’s own health care operations, as specified in federal regulation (45 C.F.R. § 164.501), or in the normal course of business. HB 853; CH. 433.

§ 32.1-164.5 amended. Sewage sludge fee. Requires the Board of Health to promulgate regulations establishing an initial fee of \$5,000 to be imposed upon permit holders and applicants and a fee not to exceed \$1,000 for the reissuance, amendment or modification of a permit. Fees collected are to be deposited into the Sludge Management Fund for the administration and management of the Department of Health’s sewage sludge program. Currently, the Board may adopt regulations requiring permittees to pay a reasonable fee, not to exceed \$2,500, for the processing of the application for a sewage sludge permit. HB 1134; CH. 353.

§§ 32.1-276.4 and 32.1-276.5 amended. Health care data reporting; safety and quality of care. Requires the Commissioner of Health to determine, along with the Board of Medicine, any data concerning safety and quality health care services rendered by physicians to Medicaid recipients that should be identified, collected, and disseminated. Also requires sufficient funding to be identified to cover the costs to physicians of this additional reporting requirement. HB 760; CH. 426.

§ 32.1-288.1 added. Determination of hazardous human remains. Allows the Commissioner of the Department of Health, in conjunction with the Governor, to determine if human remains are hazardous to the public health. If remains are determined to be hazardous, the Commonwealth is charged with handling and disposition of the remains and shall erect a memorial at the disposition site. “Hazardous human remains” means those remains contaminated with an infectious, radiologic, chemical or other dangerous agent. HB 625; CH. 651.

§§ 32.1-292.2 and 32.1-297.1 amended. Virginia Donor Registry. Clarifies that the Virginia Transplant Council (VTC) is the agency responsible for the creation, compilation, maintenance, and modification of the Virginia Donor Registry, currently referred to in the Code of Virginia as the Organ and Tissue Donor Registry. The bill consists primarily of technical amendments to arrive at this clarification, including the reordering of the VTC’s responsibilities to list the Registry first and updating of the VTC’s voting and nonvoting associate membership. SB 119; CH. 166.

§ 32.1-325 amended. Medicaid; public-private long-term care partnership program. Requires the Board of Medical Assistance Services to include, in the state plan for medical assistance services, a provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that must be designed to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies designated by the Department as “qualified state long-term care insurance partnerships” that may be used as the first source of benefits for the participant’s long-term care. The components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, must be structured in accordance with federal law and applicable federal guidelines. A second enactment clause requires DMAS to collaborate with the Department of Human Resource Management to encourage state employees to participate in the partnership program. HB 759; CH. 425.

§ 32.1-351 amended. Family Access to Medical Insurance Security Plan. Requires that, insofar as feasible, individuals eligible for Family Access to Medical Insurance Security (FAMIS) Plan must be enrolled in health maintenance organizations. The bill modifies the present requirement that the health care benefits provided under FAMIS must be through the existing Department of Medical Assistance Ser-

vices' contracts with health maintenance organizations and other providers, or through new contracts with HMOs, health insurance plans, or other entities or through employer-sponsored health insurance. HB 831; CH. 428.

TITLE 32.1. MISCELLANEOUS - HEALTH.

Certificate of public need. Authorizes the submission of an application for an increase in nursing home beds, either on-site or through relocation within the same city or county, for a facility that was licensed for less than 40 beds under certain specific conditions. The approval shall not affect whether Requests for Applications are issued before the beds have been operated for two years. The bill has a sunset of June 30, 2007, as well as an emergency clause. HB 267; CH. 816 (effective 4/6/06).

Certificate of public need; authorization of certain amendment. Authorizes, notwithstanding the provisions of the moratorium on nursing home bed construction or additions that was in effect until July 1, 1996, or the provisions of two previous authorizations for amendments to the relevant certificate, the Commissioner of Health to accept and approve a request to amend the conditions of a certificate of public need issued as an exception to a former restriction on filing applications for nursing home bed projects. The bill authorizes the facility to request an amendment to its previous certificate of public need to admit persons, other than residents of the cooperative units, to its nursing home facility beds. The facility must be: (i) operated by an association described in § 55-458; (ii) created in connection with a real estate cooperative; and (iii) providing its residents a level of nursing services consistent with the definition of continuing care in Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2. This bill applies to one facility to which the original certificate of public need was issued prior to October 3, 1995. The certificate shall expire no later than June 30, 2009. HB 381; CH. 776.

Chesapeake CHAMPS program. Repeals Chapter 598 of the Acts of Assembly of 1991. CHAMPS, Inc. was originally incorporated to assist in the coordinated medical care between the Health Department and community volunteer physicians who agreed to see patients for episodic care. However, it was never established as a 501(c)(3) organization and is currently defunct. The repeal of Chapter 598 is by the recommendation of the Chesapeake Health Department and the Virginia Code Commission and will not result in any adverse effects on current Department of Health programs. HB 48; CH. 49.

Local health partnership authorities; sunset repealed. Repeals the sunset clause that allows the article on local health partnership authorities to expire on July 1, 2006, thereby establishing the law indefinitely. The law provides that government and private entities may join forces to address the health care needs of an area and assist in providing such services in a coordinated manner so as to eliminate duplication and inefficiency. HB 714; CH. 339/SB 252; CH. 368.

Medical Assistance Services; State Plan amendment or application for waiver. Requires the Department of Medical Assistance Services (DMAS) to convene a Medicaid Revitalization Committee to prepare recommendations for a State Plan amendment or an application for a waiver, including but not limited to a research and demonstration project waiver pursuant to Section 1115 of Title XIX of the Social Security Act, as amended, to reform and revitalize Virginia's Medicaid program. The recommendations shall include fundamental elements to move toward greater emphasis on the state's role in purchasing healthcare services, leveraging the forces of the marketplace to customize services to meet the needs of Virginia's various Medicaid populations, enhancing personal responsibility and empowering individuals to manage their healthcare, bridging public and private coverage, and containing the growth of Medicaid expenditures in the Commonwealth. By May 15, 2007, DMAS shall prepare, submit, and seek approval of any required State Plan amendments or waiver authority. Enactment clauses require emergency regulations upon obtaining approval of the waiver and authorize DMAS to use electronic media, when in compliance with the Administrative Process Act, in the regulatory process. The provisions of the bill are subject to an appropriation of funds in the general appropriation act. HB 758; CH. 655.

TITLE 33.1. HIGHWAYS, BRIDGES AND FERRIES.

§ 33.1-12 amended. Naming highways, bridges, and interchanges. Allows the Commonwealth Transportation Board to name highways, bridges, and interchanges that are part of any state highway system, provided they are not named for living people. HB 143; CH. 833.

§ 33.1-12 amended. Awarding of design-build contracts by Commonwealth Transportation Board. Eliminates the number and dollar limitations on awarding of design-build contracts by the Commonwealth Transportation Board. HB 666; CH. 417.

§ 33.1-12 amended. Naming highways and bridges. Requires the Commonwealth Transportation Board to receive resolutions from affected local governing bodies in support of a highway or bridge naming before naming a highway or bridge and requires that costs of producing, placing, and maintaining signs indicating the names of highways and bridges be borne by the locality in which they are located. Highways and bridges are not to be named for living people. HB 672; CH. 197.

§ 33.1-12. See § 15.2-2001; SB 720.

§ 33.1-23.03:0001 added. Mobility goals for addressing the transportation needs of populations with limited mobility. Requires the Commonwealth Transportation Board, in cooperation with other local, regional, or statewide agencies and

entities vested with transportation planning responsibilities, to establish specific mobility goals for addressing the transportation needs of populations with limited mobility and incorporate such goals in the development and implementation of the Statewide Transportation Plan required by § 33.1-23.03. HB 226; CH. 395/SB 663; CH. 508.

§ 33.1-23.03:1. See § 56-557; SB 666.

§ 33.1-23.1 amended. **Allocation of highway construction funds for rail projects.** Allows the Commonwealth Transportation Board to allocate up to 10 percent of funds available for highway construction to undertaking and financing of rail projects that, in its determination, will result in mitigation of highway congestion. SB 193; CH. 937.

§ 33.1-46.2 amended. **High-occupancy vehicle lanes; penalties.** Increases the fine for first-time HOV lane violations in Northern Virginia to \$125. The fine for a second violation within five years of the original violation is increased to \$250. Additionally, any subsequent violation within five years of the original violation carries a penalty of three demerit points. HB 843; CH. 600.

§§ 33.1-46.2 and 46.2-749.3 amended. **HOV lanes; exemption for clean special fuel vehicles.** Extends the “sunset” to 2007 authorizing the use of HOV lanes by vehicles bearing clean special fuel vehicle license plates. This bill also provides that all clean special fuel vehicle license plates issued after July 1, 2006, be issued with a new design distinctively different from the design of the previous plates. Also, on HOV lanes serving the I-95/395 corridor, only vehicles registered with and displaying clean special fuel vehicle license plates prior to July 1, 2006, shall be treated as vehicles displaying special license plates issued under this section. This bill also directs the Commissioner of DMV to develop procedures to ensure that all potential purchasers of clean special fuel vehicle license plates receive adequate notice of the benefits, risks and timelines required for the issuance of these plates. In addition, this bill raises the annual fee for clean special fuel vehicle license plates from \$10 to \$25, with funds being paid to the HOV Enforcement Fund for use by Virginia State Police for enhanced HOV enforcement. This bill also increases first and second offense fines in Planning District Eight to \$125 and \$250 respectively. HB 1248; CH. 873/SB 454; CH. 908.

§ 33.1-49.1 added. **Contracts for maintenance of components of Interstate Highway System.** Requires that, with a few exceptions, all maintenance on components of the Interstate Highway System in Virginia be carried out under contracts awarded by the Commonwealth Transportation Commissioner and approved by the Commonwealth Transportation Board. HB 667; CH. 782.

§§ 33.1-56.4 and 33.1-252. See § 46.2-208; HB 1000.

§ 33.1-70.1 amended. **Rural Rustic Road program.** Allows roads with average daily traffic volumes of no more than 1,000 vehicles to qualify for the Rural Rustic Road program. Present law limits roads in the program to average daily traffic volumes of no more than 500 vehicles. HB 821; CH. 546.

§§ 33.1-72.1 and 33.1-75.3 amended; § 33.1-23.05 added; § 33.1-75.1 repealed. **Revenue-sharing funds for systems in certain counties, cities, and towns.** Expands the present revenue-sharing fund program for counties to include cities and towns as well. The annual match limit is raised to \$1 million per locality, and the total limit on state funds is raised to \$50 million. Up to half of local contributions may take the form of proffers. Since the program now applies to all localities (not just counties), the present section embodying the program is repealed, and the new program is relocated to the article of Chapter 1 of Title 33.1 dealing with overall allocations of highway improvement funds. SB 721; CH. 827.

§ 33.1-75.3 amended. **Primary and secondary system highway projects undertaken by counties.** Grants counties carrying out construction projects under § 33.1-75.3 the same power to enter property to survey transportation projects granted the Commonwealth Transportation Commissioner. The bill also provides that (i) any county without an existing franchise agreement shall have the same authority as the Department pertaining to the relocation of utilities and (ii) whenever so requested by any county, funding of any project may be supplemented solely by state funds to avoid complying with additional federal requirements, provided that a determination has been made by the Department that adequate state funds are available to fully match federal funds and the Department can meet its federal obligation authority. HB 809; CH. 115.

§ 33.1-190 amended. **Construction by state and local employees.** Provides that the Commonwealth Transportation Board may enter into written agreements with localities for the building and maintenance of any of the roads in any system of state highways by local employees provided that: (i) the locality has obtained a cost estimate for the work of not less than \$300,000 nor more than \$650,000 and (ii) the locality has issued an invitation for bid and has received fewer than two bids from private entities to build or maintain such roads. HB 877; CH. 434/SB 196; CH. 480.

§ 33.1-210.2 amended. **Installation and maintenance of certain signs.** Authorizes any town to request and pay for the installation of “children at play” signage by the Virginia Department of Transportation without the approval of the county in which the town is located. HB 824; CH. 548.

§ 33.1-221 amended. **Industrial access roads.** Changes the term “industrial” sites to “economic development” sites to include nonmanufacturing as well as manufacturing developments. HB 1282; CH. 147/SB 13; CH. 473.

§ 33.1-221.1:1.2 added. **Shortline Railway Preservation and Development Fund.** Creates a Shortline Railway Preservation and Development Fund to foster retention, maintenance, and improvement of shortline railways and development of railway transportation support facilities that are essential to the Commonwealth’s continued economic growth, vitality, and competitiveness in national and world markets. HB 977; CH. 856.

§ 33.1-223.2:16 added. **Design-build contracts.** Allows counties, cities, and towns to award contracts for the construction of transportation projects on a design-build basis. HB 671; CH. 419.

§ 33.1-228.1 added. **Local toll facilities.** Allows adjoining counties, cities, and towns to enter into agreements for the construction and operation of toll highways, bridges, and ferries within their boundaries. HB 201; CH. 587.

§ 33.1-288 amended; § 33.1-319 repealed. **Richmond-Petersburg Turnpike Authority; Elizabeth River Tunnel Commission.** Eliminates from Title 33.1 (Highways, Bridges, and Ferries) obsolete references to the Richmond-Petersburg Turnpike Authority and the Elizabeth River Tunnel Commission. This bill is a recommendation of the Virginia Code Commission. HB 2; CH. 186.

§ 33.1-371.1 amended. **Outdoor advertising; vegetation control.** Establishes a consistent statewide standard for vegetation control throughout the Commonwealth, including inside municipalities. The bill would clearly establish applicability of the statewide standard inside municipalities and throughout the Commonwealth, but also respect the beautification projects of local governments, by granting VDOT the authority to impose on a billboard company requesting approval of a vegetation control permit, the obligation to relocate or replant vegetation according to a landscaping plan approved by VDOT, at the sole cost of the billboard company. HB 665; CH. 543/SB 87; CH. 512.

§§ 33.1-382 through 33.1-385 repealed. **Adjustment of claims resulting from certain contracts.** Repeals Chapter 8 of Title 33.1, which relates to adjustment of claims resulting from contracts entered into prior to July 1, 1976, for construction of state highways. This bill is a recommendation of the Virginia Code Commission. HB 1; CH. 81.

§ 33.1-391.3:1 amended. **Rail Advisory Board.** Provides that the members of the Rail Advisory Board are not subject to the provisions of § 2.2-3112 (prohibited conduct concerning personal interest in a transaction). SB 198; CH. 222.

§ 33.1-464 added. **Interstate Public-Private Transportation Partnership Compact.** Establishes the Interstate Public-Private Transportation Partnership Compact. HB 801; CH. 850 (effective - see bill)/SB 425; CH. 905 (effective - see bill).

TITLE 33.1. MISCELLANEOUS - HIGHWAYS, BRIDGES AND FERRIES.

Annual report by CTC to General Assembly. Requires the Commonwealth Transportation Commissioner (CTC) annually to report in writing to the General Assembly, no later than November 30 of each year, on all actions, accomplishments, achievements, and initiatives of the Virginia Department of Transportation in the preceding fiscal year that involved out-

sourcing, privatization, and downsizing. The bill further requires the CTC to provide, in writing to the General Assembly, detailed and specific plans for outsourcing, privatization, and downsizing in the current fiscal year. HB 676; CH. 420.

Annual report by Commonwealth Transportation Commissioner on certain accomplishments, actions, and initiatives of the Virginia Department of Transportation. Requires that the Commonwealth Transportation Commissioner annually report in writing to the General Assembly, no later than November 30 of each year, on all actions and initiatives of the Virginia Department of Transportation in the preceding fiscal year that involved outsourcing, privatization, and downsizing. The Commissioner is further required to provide, in writing to the General Assembly, detailed and specific plans for outsourcing, privatization, and downsizing in the current fiscal year, including, but not limited to, appropriate asset management and intelligent transportation system functions and services. HB 677; CH. 544.

Alma C. White Memorial Bridge. Designates the Virginia Route 631 bridge at Little Creek Dam Road the "Alma C. White Memorial Bridge." HB 1547; CH. 619.

Jack L. Massie Memorial Bridge. Designates each of the Virginia Route 199 twin bridges over College Creek the "Jack L. Massie Memorial Bridge." SB 485; CH. 521.

Nicely Memorial Bridge. Designates the Interstate 64 bridge over the Cowpasture River in Alleghany County the "Nicely Memorial Bridge." SB 650; CH. 525.

Worrell Family Bridge. Designates the Virginia Route 662 bridge over Burks Fork Creek the "Worrell Family Memorial Bridge." HB 511; CH. 592.

Blue Star Memorial Highway. Designates a portion of Old Keene Mill Road in Fairfax County a "Blue Star Memorial Highway." HB 589; CH. 542/SB 532; CH. 523.

Blue Star Memorial Highway. Designates the entire portion of U.S. Route 236 and Braddock Road between U.S. Route 123 and U.S. Route 28 the "Blue Star Memorial Highway." HB 1597; CH. 887.

James B. Tabb Sr. Memorial Highway. Designates the portion of Virginia Route 615 from the intersection with Virginia Route 616 to the intersection with Virginia Route 5000 as the "James B. Tabb Sr. Memorial Highway." HB 1219; CH. 606.

Jimmy Maloney Memorial Highway. Designates the portion of U.S. Route 60W between Virginia Route 646 and Virginia Route 1611 the "Jimmy Maloney Memorial Highway." SB 484; CH. 520.

O. Winston Link Trail. Establishes the O. Winston Link Trail. SB 213; CH. 224.

Interstate Route 81 Corridor; diversion of truck traffic. Requires the Commonwealth of Virginia, through the Secretary of Transportation and the Rail Advisory Board, to complete a comprehensive feasibility plan to define the conditions that would be necessary to divert the maximum amount feasible of

the long-haul, through-truck freight traffic to intermodal rail in the Interstate Route 81 Corridor. HB 1581; CH. 934.

Maintenance of certain private roads in Dickenson County. Adds Dickenson County to an existing provision allowing county maintenance of private roads serving certain cemeteries. HB 643; CH. 105/SB 514; CH. 180.

Rural Addition Program. Provides that the Commonwealth Transportation Board and the Commonwealth Transportation Commissioner cannot diminish funds allocated or allocable to any county for use under the Rural Addition Program because of a county ordinance authorizing the use of private roads not built to standards set by the Department of Transportation or construction of subdivision streets built to standards other than those established by VDOT. The bill further provides that, in those counties where the bill is applicable, a local ordinance must state that any and all streets that are not constructed to meet the standards necessary for inclusion in the system of state highways must be privately maintained and will not be eligible for acceptance into the system of state highways unless improved to current Department of Transportation standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board. HB 1543; CH. 566.

Transportation agreements between local governments and local school divisions. Provides that any local government or combination of governments within planning district 16 may enter into cooperative agreements with a local school division for the use of school vehicles for public transportation purposes during non-school hours. Such agreements may utilize public or private funds for addressing the costs of the program. An enactment clause provides that if no such agreements are entered into by July 1, 2010, the provisions of the act will expire on July 1, 2010. HB 1582; CH. 821.

Virginia-North Carolina Interstate Toll Road Compact. Establishes the Virginia-North Carolina Interstate Toll Road Compact to set, impose, and collect tolls for use of Interstate Route 95. SB 614; CH. 917.

TITLE 36. HOUSING.

§§ 36-2, 36-3, 36-4, 36-4.1, 36-19, 36-19.2, 36-27, 36-48, 36-48.1, 36-49, 36-49.1, 36-49.1:1, 36-50 through 36-52.1, 36-52.3, 36-53, 36-55.30:2, 36-60, and 58.1-3245.1 amended; § 36-9.1 added; § 36-39 repealed. **Housing Authorities Law.** Makes various changes to the Housing Authorities Law to update its provisions. The bill adds several definitions including “blighted area,” “blighted property,” “conservation area,” “redevelopment area,” and “spot blight abatement plan.” The bill also reconfirms that the elimination of blight in a redevelopment area, the prevention of blight in a conservation area, and the designation of individual properties as blighted pursuant to a spot blight abatement plan are public uses and purposes. In addition, the bill (i) updates referendum provisions; (ii) clari-

fies that written notice sent by certified mail to all record owners at their last known address as indicated in the records of the treasurer, current real estate tax records, or the records of any other officer responsible for collecting taxes prior to the use of eminent domain and spot blight abatement proceedings is required; (iii) clarifies that an owner in a proposed redevelopment or conservation area has the right to present testimony before the local governing body objecting to the designation of an area as a redevelopment or conservation area, and to acquisition of their property by negotiated purchase or the use of eminent domain; and (iv) clarifies that farm structures are generally exempt from the Housing Authorities Law and that the right to establish redevelopment or conservation areas and use the process of spot blight abatement shall not abrogate the right to farm as protected in § 3.1-22.28. The bill includes various technical amendments. HB 699; CH. 784.

§ 36-27. See § 25.1-100; HB 132.

§ 36-55.64 added. **Local rehabilitation zones.** Authorizes localities to designate housing rehabilitation zones for the establishment of incentives to rehabilitate housing stock in the zone and to perform general improvement of the neighborhood. Incentives include reduced user fees, special tax incentives, special zoning, expedited permitting, and the waiver of tax liens under certain circumstances. In addition, the locality is authorized to establish a special service district to expand or improve the public infrastructure in the zone. SB 46; CH. 711.

§ 36-96.2 amended. **Exemptions to the Virginia Fair Housing Law.** Removes exemption of single family-house from the Fair Housing Law section relating to restrictive covenants. Section 36-96.6 states in pertinent part that any restrictive covenants based on race, color, religion, national origin, sex, elderliness, familial status or handicap are void and against Virginia public policy. HB 1236; CH. 693.

§ 36-98. See § 15.2-2242; SB 374.

§ 36-100. See § 2.2-4006; SB 162.

§ 36-105 amended. **Uniform Statewide Building Code; enforcement actions; transfer of ownership.** Provides that when the local building official has initiated an enforcement action against the owner of a building or structure and the owner subsequently transfers ownership to an entity in which the owner holds more than 50 percent of the ownership interest, the pending enforcement action shall continue to be enforced against the owner. HB 744; CH. 424.

§ 36-106 amended. **Abatement of lead hazards; disclosure of lead risks or the identification of a child as having an elevated blood-lead level; retaliation deemed noncompliance; civil penalty.** Establishes the two essential lead program elements relating to lead poisoning prevention that are lacking in Virginia but are required by federal agencies for the 2006 grant cycle. The bill provides an enforcement mechanism for control of lead hazards and protections from termination of the rental agreement or other retaliatory action after written notification of (i) a lead hazard in the dwelling unit or (ii) that a child of the

tenant, who is an authorized occupant in the dwelling unit, has an elevated blood lead level. The bill also requires the landlord to maintain the painted surfaces of the dwelling unit in compliance with the Property Maintenance Code and the Uniform Statewide Building Code and provides that the failure to do so will entitle the tenant to terminate the rental agreement. This bill is a recommendation of the Joint Subcommittee to Study Lead Poisoning Prevention (SJR 380), 2005. SB 450; CH. 746.

§ 36-139 amended. Housing programs for ex-offenders. Directs the Director of the Department of Housing and Community Development to develop a strategy, in consultation with the Virginia Housing Development Authority, for the creation and implementation of housing programs and community development for the purpose of meeting the housing needs of persons who have been released from federal, state, and local correctional facilities into communities. This bill is a recommendation of the Joint Subcommittee Studying the Commonwealth's Program for Prisoner Reentry to Society (2005). SB 184; CH. 721.

TITLE 37.2. MENTAL HEALTH, MENTAL RETARDATION, AND SUBSTANCE ABUSE SERVICES.

§§ 22.1-323.2, 37.2-408, 63.2-1737, and 66-24 amended; § 2.2-5211.1 added. Residential placements of children; reimbursement restrictions; regulatory requirements for licensure; reporting and other regulations. Requires the Boards and Departments of Education, Juvenile Justice, Mental Health, Mental Retardation and Substance Abuse Services, and Social Services to promulgate regulations that require, as a condition of initial licensure of, and, if appropriate, license renewal, that the applicant (i) be personally interviewed by Department personnel to determine the qualifications of the owner or operator before granting an initial license; (ii) provide evidence of having relevant prior experience before any initial license is granted; (iii) provide, as a condition of initial license or renewal licensure, evidence of staff participation in training on appropriate siting of the residential facilities for children, good neighbor policies, and community relations; and (iv) be required to screen residents prior to admission to exclude individuals with behavioral issues, such as histories of violence, that cannot be managed in the relevant residential facility.

In addition, the departments must notify relevant local governments and placing and funding agencies, including the Office of Comprehensive Services, of multiple health and safety or human rights violations in children's residential facilities for which the relevant department serves as lead licensure agency when such violations result in the lowering of the licensure status of the facility to provisional; post on the department's website information concerning the application for initial licensure of or renewal, denial, or provisional licensure of any residential facility for children located in the locality; require

all licensees to self-report lawsuits against or settlements with residential facility operators relating to the health and safety or human rights of residents and any criminal charges that may have been made relating to the health and safety or human rights of residents; require proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services, or any other services needed to serve the residents in accordance with the facility's operational plan; and modify the term of the license (or, in the case of the Department of Juvenile Justice, the certificate) based on a change in compliance. The Department of Social Services will be given the additional responsibility for disseminating or posting an accurate list of licensed and operating group homes and other residential facilities for children by locality with information on services and identification of the lead licensure agency.

In the event a group home or residential facility has its licensure status lowered to provisional as a result of multiple health and safety or human rights violations, all children placed by CSA in the facility must be assessed to determine whether it is in the best interests of each child to be removed from the facility and placed in a fully licensed facility and additional placements are prohibited until full licensure status has been restored. Prior to placing a child across jurisdictional lines, the local family assessment and planning team must also explore all appropriate community services for the child; document that no appropriate placement is available in the locality; and report the rationale for placement to the community policy and management team (CPMT). The CPMTs are required to report annually to the office of Comprehensive Services on the gaps in services needed to keep children in the local community and any barriers to the development of the services. The CPMTs are also required to notify receiving school divisions of placements across jurisdictional lines and to identify children with disabilities and foster care children to expedite enrollment and special education.

A second enactment requires emergency regulations for the licensure and certification requirements and a third enactment requires that the emergency regulations include provisions addressing HB 2461 (2005) and SB 1304 (2005). This bill is a recommendation of the Joint Subcommittee Studying Private Youth and Single Family Group Homes pursuant to HJR 685 (2005). HB 577; CH. 781.

§ 37.2-418. See § 22.1-329; SB 190.

§ 2.2-4343 amended; §§ 37.2-512 and 37.2-615 added. Community services boards and behavioral health authorities; joint agreements. Allows for joint agreements between two or more community services boards or behavioral health authorities for the purpose of (i) providing treatment, habilitation, or support services for consumers with specialized and complex service needs and associated managerial, operational, and administrative services and support, and (ii) promoting clinical, programmatic, or administrative effectiveness. The bill also allows for an administrator or management body to coordinate the activities of the joint agreement, and gives this

administrator or body various powers and duties, including accepting funds from various public and private sources, hiring staff, and entering into service contracts on behalf of the community services boards and behavioral health authorities subject to the agreement. HB 774; CH.656.

§ 37.2-821 amended. Mental health; appeal of an involuntary admission or certification order. Grants the circuit court discretion to rely on the existing psychological evaluation from the commitment hearing which is being appealed, or to request a new evaluation. SB 353; CH. 486.

§§ 19.2-169.3, 19.2-299, 37.2-900, 37.2-903 through 37.2-908, 37.2-910, 37.2-912, 37.2-919, 53.1-136, 53.1-145, and 63.2-105 amended; § 37.2-920 added. Civil commitment of sexually violent predators. Adds to the list of offenses that qualify as sexually violent offenses: abduction with intent to defile, abduction of a child under 16 years of age for the purpose of prostitution, carnal knowledge of a child between 13 and 15 years of age, and carnal knowledge of minors in custody of the court or state. The requirement that the complaining witness be under 13 years of age for aggravated sexual battery to qualify is removed. A felony conviction for conspiracy to commit or attempt to commit any of the qualified offenses is added as a qualifying offense. Incompetent defendants will be reviewed by the Commitment Review Committee. The bill provides that the Static-99 will be used to identify prisoners who will be forwarded to the Commitment Review Committee (CRC) for assessment and that if the Director of the Department of Corrections and the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services agree that no specific scientifically validated instrument exists to measure the risk assessment of a prisoner, the prisoner may be evaluated by a psychiatrist or psychologist to determine if he should be forwarded to the CRC. The bill provides factors for a court to consider in deciding whether to release a person on conditional release, such as living arrangements, availability of supervision, and access to treatment. A person on conditional release will be subject to mandatory GPS monitoring. The bill also adds abduction with intent to extort money or for immoral purposes to the felonies for which a presentence report is required. The provisions regarding qualifying offenses will be effective January 1, 2007, the remainder of the bill will be effective July 1, 2006. HB 1038; CH. 863.

§§ 37.2-900, 37.2-900.1, 37.2-903, 37.2-904, 37.2-905, 37.2-906, 37.2-907, 37.2-908, 37.2-910, 37.2-912, 37.2-919, and 37.2-920. See §18.2-48; SB 559.

§ 37.2-900.1 added. Sexually violent predators. Establishes within the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Office of Sexually Violent Predator Services to administer provisions relating to the civil commitment of sexually violent predators. HB 1037; CH. 681.

§§ 37.2-910, 37.2-912, and 53.1-145 amended. Sexually violent predators. Authorizes the Department of Mental Health, Mental Retardation and Substance Abuse Services to contract with the Department of Corrections to provide services for the monitoring and supervision of civilly committed sexually vio-

lent predators who are on conditional release. HB 1359; CH. 698/SB 318; CH. 730.

§ 37.2-1000. See § 64.1-118; SB 217.

§ 37.2-1001 amended. Guardianship; petition by parent of incapacitated person. Authorizes the parent or guardian of an incapacitated person who is under the age of 18 to file a petition for guardianship six months prior to the child's eighteenth birthday. Where the petition is brought by any other person, the petition may be filed no earlier than the respondent's eighteenth birthday. HB 855; CH. 552.

§ 37.2-1002 amended. Protecting incapacitated people from identity theft. Protects the identity of incapacitated individuals from identity theft by requiring the sealed filing of the social security number in any petition to a Circuit Court for the appointment of a guardian and conservator. HB 1583; CH. 471.

TITLE 38.2. INSURANCE.

§ 38.2-209 amended. Insurance coverage; recovery of attorney fees in action on surety bond. Eliminates the ability of an individual to recover his costs and attorney fees in a civil action to determine what coverage exists under a surety bond. The ability to recover such costs and fees in an action to determine coverage under a fidelity bond is not affected. HB 1275; CH. 279.

§ 38.2-231 amended. Liability insurance policies; notices. Limits the circumstances pursuant to which insurers are required to provide notice of reduction in coverage or increase in premiums. Such notices are not required if the policy is issued to a large commercial risk, the policy is retrospectively rated, or a renewal offer or policy is sent to the insured not less than 45 days prior to its effective date, or 90 days prior if it is a medical malpractice policy. Insureds shall be advised of the specific reasons for the increase and the amount of the increase, or reasons for a reduction in coverage, or that the information may be obtained from the agent or insurer. The requirement that certain insured persons receive 45 days' notice of a liability insurance premium increase, or 90 days' notice of a medical malpractice insurance premium increase, will apply only to insurer-initiated premium increases, which excludes increases resulting from requested changes in coverage or policy limits requested by the insured and changes in the insured's operations and rating exposures. HB 1001; CH. 554.

§ 38.2-401. See § 9.1-202; HB 208.

§ 38.2-401 amended. Fire Programs Fund. Authorizes the Virginia Fire Services Board to revise allocations to eligible localities. SB 498; CH. 322.

§ 38.2-401.1. See § 10.1-603.16; HB 596/SB 624.

§§ 38.2-602 and 38.2-3412.1. See § 8.01-581.1; HB 443.

§ 38.2-1022 amended. Insurers; change of domicile. Removes the requirement that insurers file copies of amendments to their bylaws with the State Corporation Commission when they change their state of domicile. SB 586; CH. 329.

§ 38.2-1315.1 amended. Insurance; actuarial statements. Requires insurers to submit an actuarial opinion summary, written by the insurer's appointed actuary, to the State Corporation Commission if they are required to submit an actuarial opinion. Currently, the actuarial opinion is referred to as a "summary of opinion or issues." SB 474; CH. 320.

§§ 38.2-1318, 38.2-4306, 38.2-4319, 38.2-5803, and 38.2-5804 amended. Health maintenance organizations; Medicaid coverage. Exempts health maintenance organization contracts that provide coverage to Medicaid enrollees under plans administered by the Department of Medical Assistance Services (DMAS) from certain measures providing for regulatory oversight by the Bureau of Insurance. Measures from which such contracts are exempted include evidence of coverage, schedules of charges for enrollee coverage for health care services, and certain disclosure requirements. The measure specifically does not limit the Bureau's authority to consult with DMAS prior to taking action against any person providing Medicaid benefits. HB 1041; CH. 866.

§§ 38.2-1329 and 38.2-1330 amended; § 38.2-1330.1 added. Insurance companies; dividends and distributions. Prohibits a domestic insurer from declaring or paying a dividend or other distribution from any source other than earned surplus without the State Corporation Commission's prior approval. The measure defines an extraordinary dividend or distribution, and provides that insurers may declare an extraordinary dividend or distribution conditioned upon the Commission's approval. The Commission is authorized to limit or disallow the payment of ordinary dividends by insurers that are financially distressed or troubled. The bill also (i) prohibits domestic insurers from entering into transactions with persons within an insurance company holding system if their purpose is to avoid the review that is required of material transactions between insurers that are members of an insurance company holding system and their affiliates; (ii) requires the quality of an insurer's earnings and the extent to which the earnings include extraordinary items to be considered in determining whether an insurer's surplus to policyholders is reasonable in relation to its outstanding liabilities; and (iii) requires insurers that are members of an insurance company holding system to report dividends and other distributions to the Commission within five business days following their declaration and at least 30 days prior to their payment; currently, such distributions must be reported within two days following their declaration. SB 546; CH. 577.

§§ 38.2-1356 and 38.2-1363 amended. Licenses of reinsurance intermediaries and managing general agents. Authorizes the State Corporation Commission to place on probation, suspend, revoke, or refuse to issue or renew the license of a reinsurance intermediary or managing general agent that has had its corporate existence or certificate of organization,

trust, partnership, authority, or registration terminated, cancelled, surrendered, or revoked. SB 593; CH. 762.

§ 38.2-1800 amended. Burial insurance; agent licensing. Increases the maximum amount of a burial association group life insurance certificate that may be solicited with respect to members of such an association, pursuant to a limited burial insurance authority, to \$10,000. Currently the maximum is \$7,500. HB 573; CH. 410.

§§ 38.2-1868.1 and 38.2-1869 amended. Insurance agents; compliance with continuing education requirements. Allows an insurance agent who obtained the required continuing education course credits but failed to submit proof of compliance within the permitted time to submit proof of compliance after the State Corporation Commission has issued a notice of impending termination of the agent's license. To make such a late submission of proof of compliance, the agent is required to submit the proof of compliance and pay filing fees and a \$500 penalty within the 30-day period following the Commission's issuance of notice of impending termination of the license. An agent who has had multiple licenses terminated will be able to apply for new licenses within the 90-day period after termination upon payment of one administrative penalty of \$1,000, regardless of the number of licenses for which he applies. HB 261; CH. 589.

§§ 38.2-2212 and 38.2-2213.1. See § 46.2-1088.6; HB 816/SB 90.

§ 38.2-2416. See § 19.2-123; HB 1490.

§§ 38.2-2600, 38.2-2601, 38.2-2602, 38.2-2604, 38.2-2605, 38.2-2613, and 38.2-2615 amended; §§ 38.2-2617 through 38.2-2628 added. Home service contract providers. Establishes requirements for the business of providing home service contracts, which are agreements to perform the repair, replacement or maintenance of property, or indemnification therefor, with regard to components, parts, appliances, or systems of a covered residential dwelling. Providers are required to be licensed by the State Corporation Commission, to either insure its obligations to contract holders or maintain a funded reserve account, and to make certain disclosures to contract purchasers. Providers are subject to premium tax at a rate of 2.25 percent of their provider fees. HB 383; CH. 634.

§ 38.2-3115 amended. Credit life insurance; interest on proceeds. Exempts credit life insurance that is payable in whole or in part to a creditor that is an affiliate of the insurer and that does not charge postdeath interest on the indebtedness, from requirements that insurers pay interest on the proceeds of a life insurance policy. HB 1429; CH. 209.

§ 38.2-3407.10 amended. Health insurance; provider panel contracts. Requires any carrier that rents or leases its provider panel to unaffiliated carriers to make available a list of those unaffiliated carriers to its providers, upon request. The list shall be updated monthly if it is available in electronic format. HB 323; CH. 398.

§§ 38.2-4214, 38.2-4319, and 38.2-4509 amended;

§§ 38.2-3551 through 38.2-3555 added. Small employer health group pooling. Authorizes the establishment of cooperatives for the purpose of offering, providing or facilitating the provision of coverage for health care services to participating small employers. Membership in health group cooperatives is limited to employers with not more than 50 eligible employees. A small employer health group cooperative is deemed to be a single entity for purposes of negotiating the terms, including premium rates of coverage. Cooperatives shall elect to either be the policyholder of a group policy covering employer-members or a sponsoring entity that facilitates the provision of separate policies for each of its employer-members. If a cooperative elects to be the group policyholder, the agreement shall address the collection of funds from employer-members when one employer-member fails to remit its share of the premium. HB 761; CH. 427.

§§ 38.2-4300, 38.2-4307.1, and 38.2-5800 amended. Health maintenance organizations. Exempts health maintenance organizations that report a capital and surplus amount of at least \$4,500,000 from the obligation to file statements of covered and uncovered expenses with the State Corporation Commission. The measure also provides that identification cards issued to a subscriber do not constitute evidence of coverage under a certificate, agreement, or contract. HB 1044; CH. 448.

§§ 38.2-5010 and 38.2-5013 amended. Virginia Birth-Related Neurological Injury Compensation Act; redetermination of claim. Allows for an opportunity for a second review by the Commission in the case of any child born between January 1, 1988, and July 1, 1993, if such application for review is filed by July 1, 2007. The review may only occur in those cases where (i) the claim was timely filed and dismissed on the basis of the injury not being caused by a deprivation of oxygen or mechanical injury and (ii) the panel reported in the hearing that the injuries did not meet the definition of a birth-related neurological injury. SB 632; CH. 919.

§§ 38.2-5016 and 38.2-5016.1 amended. Birth-Related Neurological Injury Program; Virginia Retirement System. Eliminates requirements that the investment advisors retained by the board of directors of the Birth-Related Neurological Injury Program be from a list provided by the chief investment officer of the Virginia Retirement System and that the board consult with the chief investment officer semiannually. Any investment advisor retained by the board will be required to either be a federal covered investment advisor or registered with the State Corporation Commission under the Securities Act. HB 417; CH. 777.

TITLE 38.2. MISCELLANEOUS - INSURANCE.

Medical malpractice insurance. Extends from July 1, 2006 to July 1, 2008 the effective date of the state-operated risk management plan allowing certain qualifying physicians and sole

community hospitals to purchase insurance from a risk management plan to be administered by the Department of Treasury. The introduced bill was a recommendation of the Joint Subcommittee Studying Risk Management Plans for Physicians and Hospitals. The plan will not be established unless appropriate funding for it is provided in the 2008 Budget Bill. SB 610; CH. 580.

TITLE 40.1. LABOR AND EMPLOYMENT.

§ 40.1-79.1. See § 27-14; HB 1390.

§ 40.1-103. See § 18.2-371; SB 22.

TITLE 42.1. LIBRARIES.

§ 42.1-15.1 amended. Professional librarians; qualifications. Provides that public libraries serving a political subdivision or subdivisions having a population greater than 13,000 and libraries operated by the Commonwealth or under its authority shall not employ, in the position of librarian or in any other full-time professional librarian position, a person who does not meet the qualifications established by the State Library Board. Currently such public libraries cannot use funds derived from any state aid to employ a professional librarian who does not meet the qualifications established by the State Library Board. The bill provides that it applies to any person employed on or after July 1, 2006. HB 382; CH. 539.

§ 42.1-36.1. See § 2.2-1201; SB 21.

§§ 17.1-213, 42.1-77, 42.1-78, 42.1-79, 42.1-82, 42.1-85, 42.1-86, 42.1-86.1, and 42.1-87 amended; §§ 42.1-76.1 and 42.1-90.1 added; §§ 42.1-83 and 42.1-91 repealed. Public Records Act; electronic records. Updates the Public Records Act to include provisions relating to the management and archiving of electronic records. The bill creates new definitions for electronic records, lifecycle, metadata, conversion, and migration, and amends the powers and duties of the Library Board to be medium-neutral and to allow the Library to issue regulations and guidelines related to the lifecycle of records, generally. The bill requires the custodians of records to convert and migrate electronic data as necessary to maintain access to these records. Finally, the bill allows the Library to conduct audits of the record keeping practices of agencies subject to the act, and to file the audit reports with the Governor and the General Assembly. The bill also includes numerous technical amendments. This bill is a recommendation of the HJR 6 study (2004). HB 209; CH. 60.

§ 42.1-86.1 amended. Virginia Public Records Act; timely destruction of records. Provides that each agency shall ensure that records created after July 1, 2006, and authorized to be destroyed or discarded under the Virginia Public Records Act, are

destroyed or discarded within six months of the expiration of the record's retention period in accordance with the provisions of the Virginia Public Records Act. The bill also provides that all records previously authorized to be destroyed must be destroyed in a timely manner. SB 461; CH. 909.

§ 2.2-609 amended; §§ 42.1-92 through 42.1-97 added; §§ 42.1-17 and 42.1-19 through 42.1-19.4 repealed. State Publications Depository Program. Amends the State Publications Depository Program to include electronic publications, and clarifies that the requirements of the Program apply to all state agencies in any branch of government. The bill allows The Library of Virginia to authorize agencies to send certain publication information to the Library, instead of the publications themselves, to facilitate the collection and dissemination of state publications in electronic form. The bill creates a new reporting requirement for The Library of Virginia to annually report to the Governor and the chairmen of the House and Senate Committees on General Laws, the House Appropriations Committee, and the Senate Finance Committee which agencies do not send The Library of Virginia the publications required under the Depository Program. The bill creates a new chapter for the Depository Program, and includes a policy statement. The bill also repeals a current provision requiring The Library of Virginia to annually compile a listing of publications printed by each state agency during the previous fiscal year, which it must currently do in addition to the statutory requirement that it annually compile a catalog of all publications currently available at each agency. This bill is a recommendation of the HJR 6 study (2004). HB 210; CH. 59.

TITLE 43. MECHANICS' AND CERTAIN OTHER LIENS.

§§ 43-32 and 43-34. See § 46.2-100; HB 1258/SB 134.

TITLE 44. MILITARY AND EMERGENCY LAWS.

§ 44-93 amended. Military laws; leaves of absence for employees of the Commonwealth. Provides that whenever an employee returns from federally funded military duty and the required eight-hour rest period overlaps such employee's scheduled work shift, the employee must receive paid military leave to the extent of the overlap. HB 33; CH. 621.

§ 58.1-344.3 amended; § 44-102.2 added. Virginia Military Family Relief Fund; contribution of tax refund; report. Establishes the Virginia Military Family Relief Fund, a special nonreverting fund to assist Virginia members of the armed services who have been called to active duty and to assist their families with living expenses. The Fund will be administered

by the Office of The Adjutant General. The Adjutant General will report annually to the Governor and the chairmen of the House Appropriations and Senate Finance Committees. The bill also includes the Fund on the list of entities eligible to appear on the Virginia tax return for voluntary tax refund contributions. HB 628; CH. 103/SB 139; CH. 479.

§ 44-117 amended. Officers of militia; Fishburne Military School. Adds the officers of the Fishburne Military School in Waynesboro, Virginia, to the list of those officers recognized as commissioned officers of the unorganized Virginia militia. HB 922; CH. 123.

§ 44-146.15 amended. Emergency services and disasters; constitutional rights. Provides that nothing in Chapter 3.2 of Title 44 relating to emergency services and disaster laws should be interpreted as allowing the Governor or any other governmental authority to limit the right to keep and bear arms pursuant to the Constitutions of Virginia and of the United States. These rights include the lawful possession, sale, and transfer of firearms. These rights are not extended to places designated as emergency shelters. HB 1265; CH. 458.

§ 44-146.17 amended. Powers of Governor during emergency; public safety employee hardship. Allows the Governor, in his discretion, to provide up to \$2,500 per month for up to three months to a public safety employee responding to a natural or man-made disaster who has suffered an extreme personal or family hardship in the affected area. HB 1180; CH. 140.

§ 44-146.19 amended. Local emergency management; emergency coordinators. Requires each locality to maintain an agency of emergency management and to appoint a coordinator of emergency management. Currently, the authority to establish such an agency and appoint a coordinator is discretionary. HB 1170; CH. 138.

TITLE 45.1. MINES AND MINING.

§§ 45.1-161.70 and 45.1-161.292:43. See § 54.1-3812; HB 300.

§ 45.1-161.202 amended. Wireless communication in underground coal mines. Requires that the emergency response plan prepared by operators of underground coal mines include a mine emergency communication plan. The bill authorizes the Chief of the Division of Mines to require periodic updates of the emergency response plan. The bill also specifies that anyone going underground shall have available an adequate supply of self-rescue devices. The Department of Mines, Minerals and Energy is directed to assess the effectiveness of wireless communication and mine locator systems and report its findings and recommendations to the committees of oversight. The bill contains an emergency clause. HB 1443; CH. 291 (effective 3/30/06).

§§ 45.1-361.21 and 45.1-361.22 amended. Pooling of interests in drilling units, conflicting claims. Requires the designated operator of a drilling operation operating under a pooling order to file with the Virginia Gas and Oil Board a petition for disbursement of escrowed funds upon the discovery of the identity and location of any unknown owner, provided that the owner's claim is not contested. The petition for disbursement shall be placed on the first available Board docket. Funds shall be disbursed within 30 days after the Board's decision and receipt by the Department of all documentation is required by the Board. SB 513; CH. 498.

§ 45.1-390. See § 67-100; SB 262.

§§ 45.1-393 and 45.1-394 added. Biofuels Production Fund and Grant Incentive Program; established. Establishes the Biofuels Production Fund (the Fund) and the Biofuels Production Grant Incentive Program (the Program) to administer the Fund. The Program offers grants to producers of neat biofuels, which are defined as either biodiesel fuels or ethanol fuels that are not mixed with traditional fuels such as gasoline or diesel fuel. To be eligible for a grant the producer must produce in excess of 10 million gallons of neat biofuels within the Commonwealth in a calendar year using feedstock originating domestically within the United States. The producer must commence eligible sales on or after January 1, 2007, and pre-existing producers are only eligible if their production increases over prior calendar year levels by at least 10 million gallons of neat biofuels. Producers that qualify for a grant under the program may be granted \$0.10 per gallon for neat biofuels produced in the given calendar year. If moneys in the fund are not sufficient to pay all qualified applicants, disbursements from the Fund shall be made on a pro-rata basis. The Program and Fund would expire on December 31, 2016. The payment of grants is subject to an appropriation to the fund. HB 680; CH. 652.

TITLE 46.2. MOTOR VEHICLES.

§§ 15.2-919, 46.2-100, 46.2-808, 46.2-904, 46.2-905, 46.2-906, 46.2-906.1, 46.2-907, 46.2-908.1, 46.2-914, 46.2-932, 46.2-1047, and 46.2-1049 amended; § 46.2-911.1 added. Mopeds, motorized scooters and skateboards. Allows localities to adopt ordinances regulating noise from mopeds and motorized scooters and skateboards. The bill also revises the definitions of "electric power-assisted bicycle," "moped," and "motorcycle," defines "motorized skateboard or scooter" and "motor-driven cycle," and limits where motorized skateboards and scooters and motor-driven cycles may lawfully be operated. HB 366; CH. 539/ SB 712; CH. 529.

§ 46.2-100 amended. Definition of "highway." Expands the definition of "highway" in § 46.2-100 to include the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased,

or controlled by the United States government and located in the Commonwealth. HB 496; CH. 540.

§§ 43-32, 43-34, 46.2-100, 46.2-649.1, 46.2-1028, 46.2-1070, 46.2-1150, 46.2-1209, 46.2-1217, 46.2-1224, 46.2-1231, 46.2-1232, 46.2-1233.1, 46.2-1233.2, and 46.2-2100 amended; §§ 46.2-2800 through 46.2-2828 added. Tow trucks; towing and recovery operators; local-option regulations; regulation by Board for Towing and Recovery Operators; civil penalty. Allows a mechanic's lien for "towing, storage, and recovery" in addition to the present "keeping, supporting, and care"; increases the present three-day limit for garage keepers to obtain vehicle data from the DMV and provides written notice to the owner of the stored vehicle to a seven-day limit; raises the so-called "junk car" threshold from the present \$5,000 to \$7,500; and increases from \$25 per day to \$50 per day the amount owed for storage if a vehicle is towed, unclaimed, and sold.

The bill also revises the procedures by which towing and storage companies may seek to recover their fees and charges for towing away and storing immobilized and abandoned vehicles.

In addition, it provides that local towing regulations can be no less restrictive than those imposed by the new Board for Towing and Recovery Operators. The measure also expands localities' ability to regulate "trespass tows" by ordinance and provides that, in the event a vehicle is towed from one locality to be stored in another, the ordinances of the locality from which the vehicle was towed shall apply.

The bill also provides for the so-called "secondary tow." When a vehicle is towed as the result of a police-towing request, the owner of the towing and recovery business, upon presentation of a written request from the owner of the vehicle and payment in full for all towing, recovery, and storage charges, shall release the vehicle for the purpose of inspecting or towing the vehicle to another location for repair, storage, or disposal. As for payment, all towing and recovery businesses shall accept cash, insurance company check, certified check, money order, at least one of two commonly used, nationally recognized credit cards, or any additional methods of payment approved by the Board.

The bill also requires that signs used to provide notice that a trespassing vehicle will be towed include at least the nonemergency telephone number of the local law-enforcement agency or the telephone number of the towing and recovery business authorized to perform the tows. The bill also prohibits local requirements that towing and recovery businesses provide service as repair facilities, body shops, or filling stations. Under this measure, localities would be authorized by ordinance to require photographic evidence to justify "trespass tows," posting of signs providing notice of where towed vehicles may be reclaimed and the name and telephone number of the local consumer affairs office, and obtaining the so-called "second signature" from the property owner agent prior to tows. The bill additionally prohibits certain relationships between towing and recovery businesses and the agents of property owners from whose property trespassing vehicles are towed. The max-

imum allowable hookup and initial towing fee for trespass tows of passenger cars would be increased from \$85 to \$125, unless local ordinance sets a different limit, and the amount of additional fees for late night, weekend, and holiday tows would be raised from \$10 to \$25 not to exceed \$50. The bill allows local governments, by ordinance, to (i) prohibit storage charges for periods of time when owners cannot reclaim their vehicles because the towing and recovery business is closed and (ii) place caps on the charges that these businesses may impose and requires that any such limits be subject to “periodic and timely” adjustments. Local towing and advisory boards would be required to consist of an equal number of representatives of local law-enforcement agencies and representatives of towing and recovery operators, plus one “civilian” and would have to meet at least once per year at the call of the chairman, who is to be chosen annually by a majority vote of the board.

Finally, the bill establishes a new Board for Towing and Recovery Operators to license and regulate the towing and recovery industry and tow truck drivers. HB 1258; CH. 874/SB 134; CH. 891.

§§ 46.2-100, 46.2-616, 46.2-619, 46.2-623, 46.2-629, 46.2-637, 46.2-638, 46.2-915.1, 46.2-1051, 46.2-1993, 46.2-1993.35, 46.2-1993.39, 46.2-1993.55, 58.1-3503, 58.1-3504, and 58.1-3523 amended; §§ 46.2-644.1, 46.2-644.2, 46.2-644.3, 46.2-679.1, and 46.2-679.2 added. All-terrain vehicles and off-road motorcycles. Requires non-dealer owners of all-terrain vehicles and off-road motorcycles powered by gasoline or diesel engines displacing more than 50 cubic centimeters and purchased as new on or after July 1, 2006, to title their vehicles with DMV. SB 191; CH. 896.

§ 46.2-105.1 amended. Unlawful sale of driver’s licenses. Makes it a Class 1 misdemeanor for any person or entity other than the Department of Motor Vehicles to sell, give, or distribute, or attempt to sell, give, or distribute any document purporting to be a driver’s license. HB 1163; CH. 871.

§§ 46.2-208 and 46.2-322. See § 54.1-3812; HB 300.

§§ 46.2-208 and 46.2-214 amended. Fees charged for release of information by the Department of Motor Vehicles (DMV). Provides that for information provided by DMV on the request of any federal, state, or local governmental entity or their authorized agents, the DMV Commissioner will provide driver and vehicle record abstracts at a fee that is one-half the normal charge for an abstract. The bill further provides that on the request of any federal, state, or local law-enforcement officer, attorney for the Commonwealth, an official of any federal or state court, or authorized agent of any of the foregoing, the DMV Commissioner will supply this same information free of charge. Such information, if supplied to various non-profit and charitable entities, will be provided at half price. HB 646; CH. 846.

§§ 33.1-56.4, 33.1-252, 46.2-208, 46.2-819.1, and 46.2-819.3 amended. Failure to pay toll; penalties. Provides that the same persons who may use the Chesapeake Bay Bridge-Tunnel and toll facilities of the Richmond Metropolitan Authority

without having to pay a toll may also use toll facilities operated pursuant to the Public-Private Transportation Act of 1995 toll free. The bill also provides that if a driver fails to pay a required toll and the matter proceeds to court, he will be liable, in addition to the amount of the unpaid toll and administrative fees of the toll facility operator, for a civil penalty of \$50 for a first offense, \$100 for a second offense, \$250 for a third offense, and \$500 for a fourth or subsequent offense. The bill also provides for nonissuance and nonrenewal of vehicle registrations of persons who fail to pay tolls until all tolls, fees, and penalties have been paid. Several technical changes are also made in the manner in which offenders are to be identified and prosecuted. HB 1000; CH. 859.

§ 46.2-208.1. See § 24.2-404; HB 170/SB 313.

§ 46.2-221.2 amended. Driver’s licenses; extension of expiration. Provides for extension of the validity of driver’s licenses for persons serving outside Virginia in the armed forces and the diplomatic service and affords the same extensions for spouses and dependents accompanying them. HB 90; CH. 85.

§§ 46.2-323, 46.2-324, 46.2-330, 46.2-345, and 46.2-348. See § 18.2-370.2; HB 984.

§§ 46.2-323, 46.2-324, 46.2-330, 46.2-345, and 46.2-348. See § 18.2-48; SB 559.

§ 46.2-341.16 amended. Vehicle classifications and endorsements; school buses. Requires certain school bus operators to obtain a school bus endorsement. SB 305; CH. 226.

§ 46.2-613 amended. Offenses relating to registration and certificates of title; penalty. Raises the penalty, from a traffic infraction to a Class 1 misdemeanor, for using a false name or address in any application for the registration of any vehicle, for a certificate of title, or for any renewal or duplicate certificate, or knowingly making a false statement of material fact or concealing a material fact or committing a fraud in any registration application. Additionally, the bill raises the penalty for knowingly displaying any fictitious registration card, certificate of title, or license plate or decal, or for knowingly displaying any registration card, certificate of title, or license plate or decal which has been cancelled, revoked, suspended or altered, or that is currently issued for another vehicle, to a Class 2 misdemeanor. Finally, the bill also raises the penalty for failing to surrender, on demand, any certificate of title, registration card, or license plate or decal which has been suspended, cancelled, or revoked, to a Class 2 misdemeanor. HB 1005; CH. 444.

§ 46.2-613 amended. Offenses relating to registration, licensing, and certificates of title; penalties. This bill raises the penalty for using a false name or address in any application for the registration of any vehicle, for a certificate of title, or for any renewal or duplicate certificate, or knowingly making a false statement of material fact or concealing a material fact or committing a fraud in any registration application from a traffic infraction to a Class 1 misdemeanor. SB 8; CH. 472.

§ 46.2-635. See § 10.1-1402; HB 447/SB 88.

§ 46.2-653 amended. **Notice to counties, cities, and towns whenever title to modular home or mobile home is surrendered.** Requires DMV to make a record of every instance in which the title to a modular home, mobile home, or any other vehicle titled as a trailer is surrendered because it has been placed on a foundation and has ceased to be a vehicle required to be titled, and requires DMV to share this data with local governments. HB 1006; CH. 202.

§§ 46.2-703, 46.2-2011.6, 46.2-2053, 46.2-2121, and 46.2-2143 amended. **Federal Unified Carrier Registration Act of 2005.** Makes technical changes in Virginia law necessary to comply with the provisions of the federal Unified Carrier Registration Act of 2005. HB 1304; CH. 208.

§ 46.2-716 amended. **License plates.** Prohibits use of any bracket, holder, mounting, or frame that obscures the alpha-numeric license number, the name or abbreviated name of the state in which the vehicle is registered, or any decal, stamp, or other device indicating the month or year in which the vehicle's registration expires. HB 827; CH. 549.

§ 46.2-725 amended. **Special license plates generally.** Removes the option of receipt of an administrative fee of \$3,500 for development of license plates. The bill also reduces the number of days in which the 350 prepaid applications must be received by the Commissioner from 180 to 30 days. HB 834; CH. 550.

§ 46.2-743 amended; §§ 46.2-742.5, 46.2-744.1, 46.2-746.2:3.1, 46.2-746.23, 46.2-749.56:1, 46.2-749.90, 46.2-749.91, 46.2-749.92, 46.2-749.94, 46.2-749.109:1, 46.2-749.118, 46.2-749.120, 46.2-749.121, 46.2-749.126, 46.2-749.127, 46.2-749.128, 46.2-749.131, 46.2-749.132, and 46.2-749.133 repealed. **Special license plates; expired authorizations.** Repeals authorizations for issuance of special license plates for which the required minimum number of prepaid orders was never received, the plates affected being those for retired members of the U.S. Air Force, recipients of the National Defense Services Medal, members of the Virginia State Defense Force, members and former members of the U.S. Naval Construction Force (Seabees), members of the Virginia Division of the United Daughters of the Confederacy, supporters of the Rocky Mountain Elk Foundation, supporters of St. Jude Children's Research Hospital, members and supporters of the YMCAs of Virginia, supporters of the National D-Day Memorial Foundation, commemoration of the 30th anniversary of Secretariat's winning of horse racing's Triple Crown, children with special needs, members and supporters of the Junior League, Master Gardeners, supporters of education in the public schools of Virginia, supporters of the Salem Avalanche baseball team, members and supporters of the Mustang Club of America, 100th anniversary of the City of Galax, law-enforcement chaplains, Virginia quilters, and graduates and supporters of the U.S. Merchant Marine Academy. HB 927; CH. 437.

§ 46.2-749.3. See § 33.1-46.2; HB 1248/SB 454.

§ 46.2-749.78 amended. **"United We Stand" special license plates.** Eliminates the revenue-sharing component of the statute authorizing the issuance of "United We Stand" special license plates. The bill also authorizes issuance of special license plates honoring Robert E. Lee, bearing the legend "I VOTED," and for supporters of childhood cancer awareness, immediate family members of persons who have died in military service to their country and supporters of youth soccer. HB 833; CH. 852.

§ 46.2-752 amended. **Display of local decal.** Clarifies that a locality may eliminate the local decal without violating state statute. HB 1284; CH. 148.

§ 46.2-755 amended. **Vehicle licensing fees.** Allows motor vehicle renting companies to charge a "vehicle licensing fee," provided such fee is disclosed in the company's vehicle rental agreements. SB 303; CH. 515.

§ 46.2-756 amended. **Local vehicle license fees, etc.** Requires the DMV Commissioner to develop and implement standardized procedures and fees whereby the Commissioner, when so requested in writing by the treasurer or director of finance of any county, city, or town, will refuse to issue or renew any vehicle registration of persons who owe the locality any local vehicle license fees or delinquent tangible personal property tax or parking fines. HB 670; CH. 418 (effective 1/1/07).

§ 46.2-819.2 amended. **Drive off from retail motor fuel establishment; court costs.** Requires the payment of court costs for driving off and not paying for gasoline at a retail gas station. The penalty for violation is a civil penalty. Prosecution for larceny is not precluded. This is a recommendation of the Committee on District Courts. SB 378; CH. 487.

§ 46.2-833 amended. **Traffic lights.** Allows police to use wireless telecommunications devices in enforcement of traffic light signals. HB 1047; CH. 928.

§ 46.2-862 amended. **Reckless driving.** Defines reckless driving as (i) driving a motor vehicle at a speed of 20 miles per hour or more in excess of the maximum speed limit or (ii) driving in excess of 80 miles per hour regardless of the maximum speed limit. HB 1546; CH. 301.

§ 46.2-865.1 amended. **Causing the death of another while engaging in a vehicle race; penalty.** Provides that if a person causes the death of another person while engaging in a vehicle race in a manner so gross, wanton and culpable as to show a reckless disregard for human life, he is guilty of a felony punishable by a term of confinement of not less than one nor more than 20 years, one year of which is a mandatory minimum term of confinement. HB 1042; CH. 348.

§ 46.2-870 amended. **Speed limit on I-85.** Increases the maximum speed limit on Interstate Route 85 to 70 miles per hour. SB 53; CH. 213.

§ 46.2-871 amended. **Maximum speed limit for school buses.** Allows for maximum speed limits for school buses of 45 mph on highways with posted speed limits of 55 mph or less

and 55 mph on highways with posted speed limits greater than 55 mph. HB 650; CH. 416.

§ 46.2-878.2 amended. Maximum speed limit signs. Authorizes maximum speed limit signs to be placed in certain residence districts in towns without the approval of the county in which the town is located. HB 823; CH. 547.

§ 46.2-881 amended. Special speed limitations on interstate highways. Allows the Commonwealth Transportation Commissioner, upon request or on his own initiative, to conduct an investigation of any interstate highway and, on the basis of his findings, set the maximum speed. HB 1179; CH. 139.

§ 46.2-882 amended. Laser speed determination devices. Eliminates the requirement that law-enforcement officers permit motorists to observe the reading on the device. HB 1312; CH. 930.

§ 46.2-916.2 amended. Golf carts on public highways. Allows the Town of Saxis to operate golf carts on public highways within its boundaries. SB 282; CH. 728.

§ 46.2-940 amended. Arrest for traffic misdemeanor. Clarifies language in the motor vehicle code by requiring a magistrate to proceed with a probable cause determination under § 19.2-82 when an arrestee is brought before him following a traffic misdemeanor. Currently, an officer may release a suspected traffic misdemeanant on a summons unless the person refuses to appear, is likely not to appear, or is suspected of committing a felony. Current vehicle code language is not expansive enough to cover those scenarios when the suspect is arrested and taken before a magistrate. HB 1218; CH. 276.

§ 46.2-1020 amended. Fog lights. Provides that not more than two fog lights may be illuminated at any time. HB 917; CH. 122.

§ 46.2-1023 amended. Red or red and white warning lights on certain vehicles. Allows security vehicles of NASA's Wallops Flight Facility to be equipped with red or red and white warning lights. HB 106; CH. 86.

§ 46.2-1051 amended. Local restrictions on operations of certain all-terrain vehicles. Allows the local governing body of any county, city, or town in the Northern Virginia Planning District by ordinance to prohibit operation of any all-terrain vehicle not being used for agriculture or silviculture production on a highway or on public or private property within 500 feet of any residential district. HB 111; CH. 830.

§§ 46.2-1072.1, 46.2-1605, and 46.2-1610 amended. Certain fees charged by the Commissioner. Increases the fees charged by the Commissioner from \$25 to \$125 for examination, verification, or identification of the serial or identification number of any vehicle, motor vehicle, trailer, or semitrailer. Also increases fee from no more than \$25 to \$125 for the examination of repaired and rebuilt vehicles. Fees collected shall be paid into a special fund used to meet the expenses of the vehicle identification number and salvage vehicle inspection programs. HB 1407; CH. 615.

§ 38.2-2212 amended; §§ 38.2-2213.1, 46.2-1088.6, and 46.2-1532.2 added. Recording devices in motor vehicles; ownership of recorded data; insurance policies; disclosure. Defines the vehicle owner as the owner of any data recorded on a recording device installed in a motor vehicle. Recorded data may only be accessed with the vehicle owner's consent, except under the following circumstances: (i) the vehicle owner contracts with a third party subscription service that requires access to the recorded data; (ii) a licensed new motor vehicle dealer or a technician or mechanic at a motor vehicle repair or servicing facility requires access to carry out normal and ordinary diagnostics, servicing, or repair duties; (iii) the recorded data is accessed by an emergency response provider in performing his duties; (iv) upon authority of a court of competent jurisdiction; or (v) the recorded data is accessed by law enforcement in the course of an investigation where there is probable cause to believe the recording device contains evidence relating to a violation of the laws of the Commonwealth or the United States and such access is otherwise constitutionally permissible. The bill prohibits insurance companies from refusing to renew a motor vehicle insurance policy solely because the motor vehicle owner refuses to provide access to recorded data from a recording device. The bill also prohibits insurance companies from certain other actions affecting rates and coverage if a motor vehicle owner refuses to allow the insurer access to recorded data. All automobile manufacturers must disclose the presence of factory-installed recording devices in the owner's manual for all model year 2008 and later automobiles sold or leased in the Commonwealth. HB 816; CH. 851/SB 90; CH. 889.

§ 46.2-1112 amended. Vehicle lengths; exemption. Provides an exemption from the vehicle length limit for tractor-semitrailer combinations where the length of the semitrailer does not exceed 53 feet. Allows the Commonwealth Transportation Commissioner to restrict the operations of such tractor-semitrailer combinations from certain roads based on a safety and engineering analysis. HB 1430; CH. 210/SB 523; CH. 232.

§§ 46.2-1128 and 46.2-1129 amended. Overweight farm vehicles. Provides that vehicles that are registered as farm-use vehicles as provided in § 46.2-698 may operate at the extended weights authorized in § 46.2-1129 without the application for or receipt of a permit or payment of any fee therefor. HB 175; CH. 534.

§§ 46.2-1163 and 46.2-1167 amended. Vehicle safety inspection fees. Increases the maximum fee allowed for vehicle safety inspection by \$1, \$0.50 of which is to be transmitted to the Department of State Police to support the Department's costs in administering the motor vehicle safety inspection program. The bill also requires written notice by the Superintendent of State Police prior to his revocation of the designation of any safety inspection station. HB 22; CH. 620.

§§ 46.2-1177, 46.2-1180, and 46.2-1183 amended. Emissions inspection program; exemption. Exempts vehicles four years old or less from the emissions inspection program. SB 312; CH. 729.

§ 46.2-1207 amended. **Disposal of abandoned vehicles.** Clarifies that localities are eligible for reimbursement from the Commissioner of the Department of Motor Vehicles for the removal of inoperable abandoned motor vehicles left on property, either public or private. HB 948; CH. 603.

§ 46.2-1307.1 added. **Designation of private roads as highways for law-enforcement purposes; Warren County.** Authorizes Warren County to adopt ordinances designating the private roads, within any residential development containing 50 or more lots, as highways for law-enforcement purposes. HB 1119; CH. 870.

§§ 46.2-1500 and 46.2-1537 amended. **Motor vehicle dealers; salesperson.** Amends the definition of “salesperson” to include any person who expects to receive a commission, fee, or any other consideration from the dealer; supervises salespersons; or negotiates with or induces a customer to enter into a security agreement. This bill also provides that any person who is an independent contractor shall not be deemed to be a salesperson and prohibits any person acting in the capacity of a salesperson, but not licensed, to be compensated in any form by a motor vehicle dealer. HB 967; CH. 441.

§§ 46.2-1527.1, 46.2-1527.2, and 46.2-1527.5 amended. **Motor vehicle dealers; bond requirements.** Increases the required bond that motor vehicle dealers must carry for their first three years of operation from \$25,000 to \$50,000. SB 306; CH. 172.

§ 46.2-1530.2 amended. **Motor vehicle dealers’ transaction fees.** Allows motor vehicle dealers to carry out up to 20 “manual transactions” per month with DMV without having to pay an increased fee. HB 259; CH. 536.

§ 46.2-1532.2 added. **Recording devices in motor vehicles; notification required.** Requires manufacturers of new motor vehicles equipped with a recording device and sold or leased in the Commonwealth to disclose that fact in the owner’s manual for that vehicle. SB 89; CH. 888.

§ 46.2-1542 amended. **Temporary registration of vehicles.** Replaces temporary “certificates of ownership,” issued by dealers, with “temporary registrations.” Provision is also made for use of electronic records in connection with temporary registrations. HB 250; CH. 835/SB 194; CH. 897.

§§ 46.2-1558.1, 46.2-1964.1, 46.2-1992.56:1, and 46.2-1993.55:1 added. **Issuance of temporary license plates to dealers by DMV.** Allows DMV to develop a “print-on-demand” alternative to the existing temporary license plate system. HB 793; CH. 545.

§ 46.2-1571 amended. **Motor vehicle dealers; warranty obligations.** Clarifies that damage that occurs to a new motor vehicle following delivery is not exempted from the provisions of the statute. HB 1034; CH. 818/SB 152; CH. 809.

§ 46.2-2099.1 amended. **Operational requirements for contract passenger carriers.** Allows contract passenger carriers to use wireless text dispatching devices in addition to trip

sheets and contract orders to identify passengers who have arranged for use of the motor vehicle. HB 1068; CH. 449.

§§ 46.2-2157, 46.2-2158, 46.2-2161, 46.2-2163, 46.2-2170, and 46.2-2173 amended. **Household goods carriers.** Allows household goods carriers to offer binding estimates and adds bank wire transfer and accepted credit card to the list of payment methods customers may use and household goods carriers must accept to relinquish possession of a customer’s goods. This bill also allows household goods carriers to offer rates lower than those specified in tariffs on file with the Department of Motor Vehicles and requires charges to be stated in dollars and cents rather than cents or dollars and cents per 100 pounds. HB 1249; CH. 609.

TITLE 46.2. MISCELLANEOUS - MOTOR VEHICLES.

Special license plates; Virginia Defense Force. Reauthorizes issuance of special license plates for members of the Virginia State Defense Force. SB 518; CH. 522.

Special license plates; fees. Authorizes issuance of special license plates for supporters of childhood cancer awareness, the United Service Organizations (USO), the National D-Day Memorial Foundation, supporters of United States troops, the National Multiple Sclerosis Society, the Boy Scouts of America, and youth soccer. The bill also authorizes issuance of special license plates for immediate family members of persons who have died in military service to their country, persons who are veterans of U.S. military operations in Afghanistan and Iraq, and 9-1-1 communications professionals. Finally, the bill authorizes issuance of special license plates honoring Robert E. Lee and special license plates bearing the legend “I VOTED.” SB 617; CH. 918.

TITLE 50. PARTNERSHIPS.

§ 50-73.3. See § 13.1-830; SB 587.

§§ 50-73.46:1, 50-73.52:2, 50-73.52:3, 50-73.79, 50-73.108, 50-73.117, 50-73.137:3, and 50-37.137:4. See § 13.1-1002; SB 547.

§ 50-73.70. See § 13.1-615; HB 860.

TITLE 51.1. PENSIONS, BENEFITS, AND RETIREMENT.

§ 51.1-124.4 amended. Retirement; mandatory cash-outs. Provides that if a member does not elect a direct rollover or direct payment of a mandatory cash-out greater than \$1,000, the Board of the Virginia Retirement System shall pay the cash-out amount in a direct rollover to an individual retirement plan designated by the Board. HB 419; CH. 637.

§§ 51.1-126.5 and 51.1-126.6 amended. Retirement benefits; suspension of payments. Provides that reemployment in a covered position for retirement purposes shall not result in the suspension of benefit payments in cases where the benefits are pursuant to an optional retirement plan and the benefit is being paid in an annuity form under a lifetime annuity contract. HB 454; CH. 639.

§ 51.1-138 amended. Retirement benefits; local emergency medical technicians. Adds local emergency medical technicians to the list of local employees for whom localities may provide retirement benefits equivalent to those provided to State Police officers. HB 37; CH. 388.

§ 51.1-138 amended. Virginia Retirement System; vesting requirements. Clarifies the vesting requirements of public safety officers. HB 957; CH. 65.

§ 51.1-142.2 amended. Virginia Retirement System; purchase of prior service credit. Permits any member of the Virginia Retirement System to purchase prior service credit for creditable service at a private institution of higher education if the private institution is merged with a public institution of higher education and graduates of the private institution are then issued new degrees from the public institution. HB 406; CH. 635.

§ 51.1-155 amended. Virginia Retirement System; teaching in critical shortage positions. Allows persons who retired as other than a teacher to teach in a critical shortage position while continuing to receive a retirement allowance, provided the person becomes licensed by the Board of Education to serve as a local school board instructional or administrative employee. Under current law, only those retired persons who served as teachers are eligible to teach in critical shortage positions while continuing to receive a retirement allowance. SB 99; CH. 513.

§ 51.1-161 amended. Virginia Retirement System; transfer of accumulated contributions. Makes a technical correction to allow all members who have a Virginia Retirement System (VRS) member contribution account and who become covered under a VRS Optional Retirement Plan to transfer their accumulated contributions to the optional retirement plan. HB 452; CH. 403.

§ 51.1-505 amended. Life insurance for employees. Makes a technical correction that clarifies the date when reductions in life insurance coverage begin to phase-in. HB 455; CH. 640.

§ 51.1-512 amended. Virginia Retirement System; optional life insurance. Makes a technical amendment to provide that the maximum amount of optional life insurance coverage that can be continued upon retirement shall be reviewed by the VRS actuary at least once every five calendar years. HB 453; CH. 252.

§§ 51.1-605 and 51.1-1304 amended. Virginia Retirement System; annual reports. Specifies December 31 as the date for the Virginia Retirement System to submit its annual reports for the deferred compensation plan and benefit restoration plans. HB 958; CH. 66.

§ 51.1-608 amended. Virginia Retirement System; cash match plan for state employees. Clarifies that the participating employer pays the administrative fees. SB 536; CH. 756.

§ 51.1-800 amended. Virginia Retirement System; local retirement plans not participating in the Virginia Retirement System. Deletes the requirement that the Virginia Retirement System determine if the retirement plans of localities not participating in the Virginia Retirement System are fulfilling the statutory requirement of providing a service retirement allowance to each employee who retires at age 65 or older that equals or exceeds two-thirds of the service retirement allowance to which the employee would have been entitled had the allowance been computed under the provisions of the Virginia Retirement System. HB 473; CH. 406.

§§ 51.1-1112 and 51.1-1123 amended. Virginia Retirement System; sickness and disability program. Clarifies when long-term disability benefits commence. HB 461; CH. 404.

§§ 51.1-1112 and 51.1-1123 amended. Virginia sickness and disability program. Provides that employees approved for disability benefits on or after age 60 shall be eligible for up to a maximum of five years of disability before having to retire under a service retirement. HB 462; CH. 405.

§§ 51.1-1112, 51.1-1114, 51.1-1123, and 51.1-1125 amended. Virginia Retirement System; sickness and disability program. Clarifies that an employee receiving disability benefits under the Virginia Sickness and Disability Program must apply for Social Security benefits, including reapplying and appealing any denials, if requested to do so by the administrator of the plan. HB 468; CH. 841.

§§ 51.1-1114, 51.1-1123, and 51.1-1125 amended. Virginia Retirement System's sickness and disability program. Clarifies that a member who is applying for disability benefits must also apply for other available benefit programs when directed to do so by the plan administrator. HB 459; CH. 778.

§ 51.1-1139 amended. Virginia Retirement System's sickness and disability program; reporting requirements of certain insurers. Clarifies the information that insurers and administrators of the sickness and disability program must submit to the Virginia Retirement System. HB 460; CH. 641.

§ 51.1-1201. See § 2.2-2101; HB 1579.

§ 51.1-1302 amended. **Virginia Retirement System; benefit restoration plans.** Authorizes localities that provide supplemental benefits to employees covered by the Virginia Retirement System to establish benefit restoration plans. SB 115; CH. 307.

§ 51.1-1400 amended. **Health insurance credits for retired state employees.** Increases the monthly cap for health insurance credits provided to retired state employees by eliminating the cap on the number of years of service used to compute the credit. The bill is contingent on funding in the appropriation act. HB 59; CH. 622 (effective - see bill).

§ 51.1-1403 amended. **Health insurance credits.** Clarifies those employees who are eligible for a health insurance credit if the local government they retire from does not provide the credit. HB 420; CH. 336.

TITLE 51.1. MISCELLANEOUS - PENSIONS, BENEFITS, AND RETIREMENT.

Virginia Retirement System; certain Fairfax County employees. Provides certain retirement benefits for Fairfax County employees who were transferred from their employment with the Commonwealth to Fairfax County in 1995. HB 1313; CH. 610.

TITLE 51.5. PERSONS WITH DISABILITIES.

§ 51.5-25.1 amended. **Statewide Independent Living Council and Statewide Independent Living Fund.** Authorizes the Statewide Independent Living Council to accept grants, gifts, donations, and bequests. Any moneys received shall be credited to the Statewide Independent Living Fund, created in the bill. The Fund is to be used to carry out activities enumerated in the State Plan for Independent Living, developed pursuant to the federal Rehabilitation Act of 1973 (29 U.S.C. § 796 et seq.). HB 743; CH. 110/SB 244; CH. 169.

§§ 2.2-212, 51.5-56, and 51.5-59 amended. **Assistive Technology Loan Fund Authority.** Provides that the Authority is under the Secretary of Health and Human Resources and specifies that the Board of Directors of the Authority is responsible for appointing an executive director who is subordinate to the Board and for ensuring that the executive director complies with all statutory, regulatory and Board directives. The bill also provides that the Board's annual report shall include a complete operating and financial statement covering any loan fund or loan guarantee that the Authority administers or manages and requires the Auditor of Public Accounts to annually audit

the Authority and its loan funds. HB 849; CH. 344/SB 558; CH. 380.

§§ 51.5-115 through 51.5-118 added. **Economic Development for Virginians with Disabilities Grant Program.** Creates a grant fund to be distributed to nonprofit organizations that sell donated goods and spend at least 75 percent of their revenues on program services, including employing or training people with disabilities or people with barriers to self-sufficiency. The term "people with barriers to self-sufficiency" is defined as people who have limited or no work experience, a low level of education or training, physical or mental disabilities, or lack of workplace skills.

The grant funds are to assist with capital costs associated with construction of retail stores and other employment facilities. The program shall be administered by the Secretary of Health and Human Resources. The bill is contingent on funding in the appropriation act. HB 926; CH. 671 (effective - see bill).

§§ 51.5-115 through 51.5-118 added. **Economic Development for Virginians with Disabilities Grant Program.** Creates a grant fund to be distributed to nonprofit organizations that sell donated goods and spend at least 75 percent of their revenues employing or training people with disabilities or people with a workplace disadvantage. The term "people with a workplace disadvantage" is defined as people who have had felony convictions or past alcohol or substance abuse problems.

The grant funds are to assist with capital costs associated with construction of retail stores and other employment facilities. The program shall be administered by the Secretary of Health and Human Resources. This bill is contingent upon the appropriation of funds. SB 400; CH. 741 (effective - see bill).

TITLE 52. POLICE (STATE).

§ 52-31.1. See § 22.1-288.1; HB 1482.

TITLE 53.1. PRISONS AND OTHER METHODS OF CORRECTION.

§ 53.1-10. See § 16.1-300; HB 847/SB 561.

§§ 53.1-115.1, 53.1-116.1, 53.1-121, 53.1-160.1, 53.1-23.2, and 53.1-116.1:01. See § 18.2-370.2; HB 984.

§§ 53.1-23.2, 53.1-115.1, 53.1-116.1, 53.1-116.1:01, 53.1-121, 53.1-136, 53.1-145, and 53.1-160.1. See § 18.2-48; SB 559.

§ 53.1-28 amended. **Discharge of prisoner; records required to be provided to prisoner upon release.** Requires the Director of the Department of Corrections to provide each prisoner with the following documents upon discharge: (i)

verification of the prisoner's work history while in custody; and (ii) verification of all educational and treatment programs completed by the prisoner while in custody. This bill is a recommendation of the Joint Subcommittee Studying the Commonwealth's Program for Prisoner Reentry to Society (2005). HB 691; CH. 108.

§ 53.1-28 amended. Discharge of prisoner; medical records to be provided to prisoner upon release. Requires the Department of Corrections to provide a prisoner with a copy of his medical records upon his discharge, so long as the prisoner requested a copy of the records at least 60 days prior to the expiration of his term. HB 1093; CH. 132.

§ 53.1-41 amended. Child support obligations; incarcerated obligee. Gives a preference in work programs to any parent who agrees to give a minimum of 50 percent of earnings to his child support obligation. HB 401; CH. 98.

§ 53.1-67.4 amended. Community-based correctional facilities; notice. Requires the Department of Corrections to notify the locality and adjacent landowners before acquiring, constructing, or leasing a community-based correctional facility, and to hold a public hearing if requested by the locality. HB 207; CH. 187.

§ 53.1-120 amended. Sheriff; courthouse security. Provides that funds collected through the \$5 assessment in criminal and traffic cases shall only be used to fund courthouse security personnel and equipment used in connection with courthouse security. SB 457; CH. 495.

§§ 53.1-131 and 53.1-131.1 amended. Alternative sentences; noncompliance by offender. Allows a sheriff or jail administrator to revoke an offender's sentence to participate in a work release program or to serve his sentence on nonconsecutive days, if the offender violates the rules of the jail. The sheriff or jail administrator shall notify the court that issued the sentence of the decision to remove the offender from the work release program or to require the offender to serve his sentence on consecutive days, indicating the specific violations that led to the decision. HB 1261; CH. 792.

§§ 53.1-136 and 53.1-145. See § 37.2-900; HB 1038.

§ 53.1-145. See § 37.2-910; HB 1359/SB 318.

§ 53.1-203 amended. Felonies by prisoners; tampering, etc., with fire protection systems; penalty. Makes it a Class 6 felony for a prisoner in a state, local, or community correctional facility to willfully tamper with, damage, destroy, or disable any fire protection or fire suppression system, equipment, or sprinklers. HB 629; CH. 104.

§ 53.1-223 amended. Suits against prisoners; guardian ad litem. Allows suits to be maintained against a prisoner through his committee, a guardian ad litem appointed for the prisoner pursuant to § 8.01-9, or an attorney licensed to practice law in the Commonwealth who has entered of record an appearance for such prisoner. HB 882; CH. 553.

TITLE 54.1. PROFESSIONS AND OCCUPATIONS.

§§ 54.1-113 and 54.1-2505 amended. Prohibition of certain transfers of moneys collected on behalf of health regulatory boards. Requires that all nongeneral funds (except for funds required to be deposited into the nursing scholarship and loan repayment fund) generated by fees collected on behalf of the health regulatory boards and accounted for and deposited into a special fund by the Director of the Department of Health Professions must be held exclusively to cover the expenses of the health regulatory boards, the Health Practitioners' Intervention Program, and the Department and Board of Health Professions and cannot be transferred to any agency other than the Department of Health Professions. Fees collected for and deposited in the Nursing Scholarship and Loan Repayment Fund are exempt from the provisions of this bill. HB 351; CH. 631.

§ 54.1-404.2 added. Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects; continuing education. Requires the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects to promulgate regulations governing continuing education requirements for architects, professional engineers, and land surveyors. Such regulations shall require the completion of the equivalent of 16 hours per biennium of Board-approved continuing education activities as a prerequisite to the renewal or reinstatement of a license issued to an architect, professional engineer, or land surveyor. The bill provides for waivers of this requirement in cases of certified illness or undue hardship. HB 1054; CH. 683.

§ 54.1-409 amended. Landscape architects; acceptance of plans by state and local authorities. Provides that resulting plans and specifications, submitted under the seal, stamp, or certification of a certified landscape architect, shall be accepted for review by local and state authorities in connection with both public and private projects. Currently state and local authorities have the discretion to accept such plans and specifications, but are not required to. HB 521; CH. 643.

§ 54.1-1102 amended. Department of Professional and Occupational Regulation; Board for Contractors; issuance of license. Requires the Board for Contractors to promulgate regulations for educational requirements as a condition for licensure. Under the bill, the regulations shall include the requirement that the designated employee or responsible management personnel of the applicants who are contractors or tradesmen successfully complete an approved basic business course, not to exceed eight hours of classroom instruction. The bill also requires the Board to promulgate emergency regulations to implement these education requirements. HB 1118; CH. 454/SB 72; CH. 475.

§§ 54.1-1122 and 54.1-2114 amended. Department of Professional and Occupational Regulation; Contractor

Transaction Recovery Act; Real Estate Transaction Recovery Act. Streamlines the administrative processing of claims filed under the Contractor Transaction Recovery Act and Real Estate Transaction Recovery Act. Under the bill, the requirement to conduct an informal fact-finding conference (IFF) is eliminated unless the regulant has requested the proceeding. If the regulant has not requested an IFF the Department will present the claim to the Board for Contractors or the Real Estate Board to decide whether to approve or deny the claim. SB 201; CH. 723.

§ 54.1-2105 amended. Real Estate Board; educational requirements for licensure. Provides that as a condition of licensure as a real estate salesperson or broker, an applicant must have at a minimum a high school diploma or its equivalent. The bill also provides that it does not apply to any person holding a valid license as a real estate salesperson or broker issued by the Real Estate Board before July 1, 2006. HB 211; CH. 61.

§§ 54.1-2105, 54.1-2130 through 54.1-2134, 54.1-2138, and 54.1-2141 amended; §§ 54.1-2138.1 and 54.1-2145 added. Real Estate Board; duties of licensees; limited service agents. Adds the definition of "limited service representative" to mean a licensee who acts for or represents a client with respect to real property containing from one to four residential units, pursuant to a brokerage agreement that provides that the limited service representative will not provide one or more of the duties set forth in subdivision A 2 of §§ 54.1-2131, 54.1-2132, 54.1-2133, and 54.1-2134, inclusive. A limited service representative shall have the obligations set out in the brokerage agreement, except that a limited service representative shall provide the client, at the time of entering the brokerage agreement, copies of any and all disclosures required by federal or state law, or local disclosures expressly authorized by state law, and shall disclose to the client the following in writing: (i) the rights and obligations of the client under the Virginia Residential Property Disclosure Act (§ 55-517 et seq.); (ii) if the client is selling a condominium, the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the condominium resale certificate required by §55-79.97; and (iii) if the client is selling a property subject to the Property Owners' Association Act (§55-508 et seq.), the rights and obligations of the client to deliver to the purchasers, or to receive as purchaser, the association disclosure packet required by § 55-512. A limited service representative may act as the agent of the client by so providing in the brokerage agreement. If the brokerage agreement does not so state, the limited service representative shall be deemed as acting as an independent contractor of the client. The bill also clarifies the obligations of licensees vis-a-vis their clients, whether the clients are a buyer, seller, landlord, or tenant. The bill also allows a common source information company to require, as a condition of participation in or use of such common source information, that a licensee providing information through such company disclose the nature of the brokerage relationship with the client of the licensee. The bill requires the Real Estate Board to promulgate regulations to im-

plement the provisions of this bill to be effective on July 1, 2007. Further, the Real Estate Board is required to establish a continuing education curriculum of not less than two hours and, as of July 1, 2007, every applicant for re-licensure as an active salesperson or broker shall complete at a minimum one two-hour continuing education course on the amendments to the real estate agency laws prior to each renewal or reinstatement of his license. If the licensee submits a notarized affidavit to the Real Estate Board which certifies that he does not practice residential real estate and shall not do so during the licensing term, training in limited service agency shall not be required. The bill has a delayed effective date of July 1, 2007. HB 316; CH. 627.

§ 54.1-2400.2 amended. Information to be provided by the Board of Medicine to individuals filing complaints against physicians. Requires that whenever an individual files a written complaint against a person licensed, certified, or registered by a health regulatory board and the board has concluded that a disciplinary proceeding will not be instituted, the board may send the person an advisory letter. The board may also inform the individual that (i) an investigation has been conducted, (ii) the matter was concluded without a disciplinary proceeding, and (iii), if appropriate, an advisory letter from the board has been communicated to the person who was the subject of the complaint or report. In providing such information, the board shall inform the source of the complaint or report that he is subject to confidentiality and discovery requirements. HB 1501; CH. 155/SB 702; CH. 184.

§ 54.1-2409 amended. Health professions; mandatory suspension or revocation of license, certificate, or registration; reinstatement hearing. Increases the time between receipt of an application for reinstatement and the relevant health regulatory board's reinstatement hearing after a mandatory suspension or revocation of a health professional's license, certificate, or registration. The bill provides that the hearing shall be not later than the next regular meeting of the board after the expiration of 60 days from receipt of the application. This is a 30-day increase in the time allowed to the boards. SB 214; CH. 367.

§ 54.1-2521 amended. Prescription Monitoring Program. Modifies the reporting requirements under the Prescription Monitoring Program to reflect recent changes in federal law and to ensure that the Commonwealth is eligible to receive federal funds. This bill contains a second enactment clause requiring the Department of Health Professions to promulgate regulations within 280 days of enactment. SB 187; CH. 167.

§ 54.1-2604 added. Provisional license in audiology; authorized. Authorizes the Board of Audiology and Speech-Pathology to issue a provisional license to an applicant who has met educational and exam requirements for licensure. The provisional license allows for clinical experience while under supervision in accordance with the Board's regulations. HB 354; CH. 97.

§ 54.1-2715 amended. Health professions; temporary permits for certain clinicians. Expands the authority of the Board

of Dentistry to issue temporary licenses to dentists meeting certain criteria who will serve as clinicians in dental clinics operated by the Virginia Department of Corrections. SB 416; CH. 176.

§§ 54.1-2721 and 54.1-2727 amended. Dentists and Dental Hygienists; display of licenses. Provides that the display requirements for dentists and dental hygienists do not apply to those dentists and dental hygienists while volunteering for a Virginia charitable organization that provides dental services to the indigent and uninsured. SB 281; CH. 823.

§§ 54.1-2722 and 54.1-3408 amended. Dental hygienists administering certain Schedule VI analgesia and anesthesia. Allows a dentist to authorize dental hygienists to administer, under his direction, Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia. The Board of Dentistry must adopt regulations establishing the education and training requirements for dental hygienists to administer the Schedule VI analgesia and anesthesia. HB 996; CH. 858.

§§ 54.1-2729.2, 54.1-2729.3, and 54.1-3408 amended. Dialysis patient care technician; definition. Authorizes a person who has completed a training program in dialysis patient care to practice provisionally, under direct and immediate supervision of a licensed registered nurse, in order to obtain practical experience. The bill provides authorization for up to 24 months, or until such person has taken and received the results of any examination required by a certifying organization approved by the Board, whichever occurs sooner. The bill allows trainees to perform dialysis care as a part of a training program provided that they are identified as "trainees" while working in the dialysis facility. The bill contains an emergency clause. HB 618; CH. 75 (effective 3/10/06).

§§ 54.1-2800, 54.1-2803, 54.1-2806, 54.1-2813, and 54.1-2817 amended. Professions and occupations; funeral service interns. Changes the term "resident trainee" to "funeral service intern." Also allows the Board of Funeral Directors and Embalmers to adopt a more flexible reporting schedule for funeral service interns. HB 151; CH. 56.

§ 54.1-2819 amended. Exemptions from surface transportation and removal services. Exempts emergency medical services agencies holding a permit issued by the Commissioner of Health from registration as surface transportation and removal services to remove and transport dead human bodies. The requirement that a licensed funeral service establishment receive the registration as a part of its license has been removed. The bill provides that no funeral services establishment will be required to receive such registration "in addition" to its funeral service establishment license. However, funeral service establishments must continue to comply with Board regulations governing transportation and removal services.

Currently, emergency medical services agencies must apply for and receive a registration from the Board of Funeral Directors and Embalmers to remove and transport dead human bodies. Emergency medical services agencies are assessed a

fee for this registration. Licensed funeral service establishments receive this registration as a part of their funeral service establishment license, without an additional charge for the registration. HB 1145; CH. 555.

§§ 54.1-2901 and 54.1-2957 amended; § 54.1-2957.03 added. Certified nurse midwives. Clarifies the relationship between licensed physicians and nurse practitioners, categorized as certified nurse midwives, as one of collaboration and consultation, rather than as one of supervision. The bill also directs the Board of Medicine and the Board of Nursing to jointly promulgate regulations specifying collaboration and consultation to include (i) development, periodic review and revision of a written protocol, (ii) development of guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient, and (iii) periodic joint evaluation of services delivered. In addition, the bill also emphasizes that no person other than the certified nurse midwife who provided care to the patient will be liable for the nurse midwife's negligent, grossly negligent or willful and wanton acts or omissions; however, no other licensed midwife, doctor of medicine or osteopathy, nurse, prehospital emergency medical personnel or hospital will be exempt from liability for their own subsequent and independent negligent acts or omissions. A second enactment clause requires the Boards of Medicine and Nursing to promulgate emergency regulations to implement these provisions. SB 488; CH. 750.

§ 54.1-2928.1 added. Board of Medicine. Grants authority to the Board for the issuance of restricted volunteer licenses to practitioners of the healing arts. The restricted volunteer license will qualify the practitioners to volunteer in the clinics organized in whole or in part for the delivery of health care services without charge. HB 1487; CH. 881.

§ 54.1-2957.01 amended. Nurse practitioners; prescriptive authority. Expands the prescriptive authority of nurse practitioners to include Schedule II controlled substances. Nurse practitioners currently have the authority to prescribe Schedule III through VI controlled substances. SB 456; CH. 494.

§ 54.1-3005 amended. Health professions; nursing education programs. Requires the Board of Nursing to set guidelines for collection of data by nursing education programs and to compile the data in an annual report. The data shall include enrollment, graduation rate, attrition rate, and number of qualified applicants that are denied admission. HB 332; CH. 190.

§§ 54.1-3005 and 54.1-3408 amended. Prescription medications; child day programs. Allows a person employed in day care centers to administer prescription medication to a child in a child day program, as defined in § 63.2-100 and regulated by the State Board of Social Services or the Child Day Care Council, if the person (i) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist; (ii) has obtained written authorization from a parent or guardian; (iii) administers drugs only to the child identified on the prescrip-

tion label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (iv) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be administered by a parent or guardian to the child. HB 1147; CH. 686.

§ 54.1-3013.1 added. Board of Nursing; instruction in child abuse recognition and intervention. Requires the Board of Nursing, on and after July 1, 2007, to require that approved nursing education programs provide instruction in child abuse recognition and intervention. SB 703; CH. 528.

§§ 54.1-3303 and 54.1-3408. See § 32.1-126.4; HB 851.

§§ 2.2-4006 and 54.1-3307 amended. Board of Pharmacy; specific powers and duties. Directs the Board of Pharmacy to limit the implementation of its pedigree system to those drugs that have left the normal distribution channel. "Normal distribution channel" is defined as (i) a chain of custody for a prescription drug from initial sale by a pharmaceutical manufacturer, through acquisition and sale by one wholesale distributor, until final sale to a pharmacy or other person dispensing or administering the controlled substance; or (ii) a chain of custody for a prescription drug from initial sale by a pharmaceutical manufacturer, through acquisition and sale by one wholesale distributor to a chain pharmacy warehouse to its intracompany pharmacies; or (iii) a chain of custody for a prescription drug from initial sale by a pharmaceutical manufacturer to a chain pharmacy warehouse to its intracompany pharmacies. The bill also exempts from the Administrative Process Act the Board's amendments to the list of drugs susceptible to counterfeiting. However, the Board is required to establish a process in regulation for amending the list that provides notice and opportunity for public comment and may make exceptions to the pedigree requirements for emergency medical reasons, as defined in regulation. HB 355; CH. 632.

§ 54.1-3320 amended. Registered pharmacy technicians. Authorizes registered pharmacy technicians, working under the direct supervision of a qualified nuclear pharmacist, to accept oral prescriptions for diagnostic, nonpatient specific radiopharmaceuticals. HB 299; CH. 626.

§§ 54.1-3401, 54.1-3414, 54.1-3415, 54.1-3450, 54.1-3452, and 54.1-3454 amended. Anabolic steroids; electronic ordering of Schedule II drugs; additions to Schedules IV and V. Revises the definition of anabolic steroids to remove the reference to promoting muscle growth and to add dehydroepiandrosterone. In addition, the bill amends provisions of the Drug Control Act to (i) reflect the changes made in federal regulations concerning electronic ordering of Schedule II drugs, (ii) add various anabolic steroids to Schedule III, (iii) include Zopiclone on Schedule IV, and (iv) add Pregabalin to Schedule V. HB 937; CH. 346.

§ 54.1-3408.01 amended. Prescriptions written for patients residing in certain institutions. Provides an exception to the requirement that prescription order forms must be for only one

prescription to allow for submission of a single document containing multiple prescriptions written for patients residing in adult and juvenile detention centers, local or regional jails, or work release centers operated by the Department of Corrections. Exceptions are already provided for chart orders in hospitals and long-term care facilities, for home infusion patients, and hospice patients and for the orders through pharmacies operated by various state agencies, including the Department of Juvenile Justice and the Department of Corrections. HB 622; CH. 195.

§ 54.1-3434.1 amended. Inspections of nonresident pharmacies seeking registration to conduct business in the Commonwealth. Deems an inspection report submitted by a nonresident pharmacy to be current if the inspection was conducted within the past five years. However, if the nonresident pharmacy has not been inspected by the regulatory or licensing agency of the jurisdiction in which it is licensed within the past five years, the Board may accept an inspection report or other documentation from another entity that is satisfactory to the Board or the Board may cause an inspection to be conducted by its duly authorized agent and may charge an inspection fee in an amount sufficient to cover the costs of the inspection. Technical amendments clarify that the nonresident pharmacy must disclose that it maintains a current unrestricted license in its home jurisdiction. HB 302; CH. 397.

§ 54.1-3703 amended. Practice of social work. Increases the membership of the Board of Social Work from seven to nine, to be appointed by the Governor. Also, an enactment clause provides that the Board of Social Work shall consult with relevant stakeholders, including educators, professionals, and appropriate agencies and organizations, to determine (i) if current education and training requirements for social workers are adequate to assure the public of professional competency and (ii) whether current exemptions from the requirements for licensure best serve the citizens of the Commonwealth. HB 1146; CH. 685.

§§ 2.2-2818, 22.1-178, 32.1-46, 32.1-50, 32.1-60, 32.1-138, 32.1-325, 45.1-161.70, 45.1-161.292:43, 46.2-208, 46.2-322, 54.1-3812, 59.1-297, 59.1-298, 63.2-1716, and 63.2-1808 amended. Physician assistants; forms and certificates. Provides that physician assistants 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, required examinations of school bus drivers, prenatal tests, examinations of nursing home residents, release of certain privileged information, release of certain veterinary records, competency for driver's licenses, and assisted living facility residents. HB 300; CH. 396.

§ 54.1-3902 amended. Practice of law, legal entities. Allows persons who are legally authorized to practice law in Virginia but who are not active members of the Virginia State Bar to be members of a professional corporation, professional limited liability company or registered limited liability partnership that renders professional legal services in the Commonwealth. Un-

der current law only active members of the Virginia State Bar may practice law in Virginia through a limited liability entity. HB 776; CH. 198/SB 482; CH. 230.

§ 54.1-4412. See § 13.1-543; HB 952/SB 108.

TITLE 55. PROPERTY AND CONVEYANCES.

§ 55-20.2 amended. **Tenants by the entireties in real and personal property; transferred into trusts.** Amends statute to allow any property owned as tenants by the entireties to be transferred into joint, separate, revocable or irrevocable trusts. Currently only the principal family residence can be transferred into a trust while maintaining tenants by the entireties' immunity. The changes also eliminate the requirements that the property has to be transferred in equal shares if being transferred to separate trusts. HB 1319; CH. 281.

§ 55-50.2 added. **Utility easements.** Provides that in the case of utility easements, the easement is considered to touch and concern the servient estate and shall run with the land whether or not the easement is appurtenant or in gross. The bill applies to easements expressly granted by an instrument recorded on or after July 1, 2006. HB 1575; CH. 795.

§§ 55-66.3 and 55-66.5 amended; §§ 55-66.8 through 55-66.13 added. **Mortgage satisfaction.** Imports into the Virginia Code provisions of the Uniform Residential Mortgage Satisfaction Act relating to definitions, notifications, rescinding erroneously recorded certificates of satisfaction, requirements on secured creditors, and the form and effect of satisfaction. Current Code provisions relating to payoff statements, mortgage satisfaction via settlement agents and court proceedings, and penalties for errors or omissions in satisfaction procedures are retained. The Virginia Information Technologies Agency ("VITA") is required to submit a project budget to the Compensation Board and the Compensation Board is authorized to pay VITA for services provided. The bill was passed by the 2005 Session, but was required to be reenacted. SB 433; CH. 907.

§§ 55-79.40, 55-79.74:3, 55-79.79, and 55-79.90 amended. **Condominium Act; actions for breach of warranty; notice of declarant.** Provides that no cause of action for breach of warranty shall be commenced on or after January 1, 2007, unless a written statement by the claimant or his agent, attorney or representative, of the nature of the alleged defect has been to the sent to the declarant, by registered or certified mail, at his last known address, as reflected in the records of the Real Estate Board, more than six months prior to the commencement of the action giving the declarant an opportunity to cure the alleged defect within a reasonable time. The bill provides that sending the required notice shall toll the statute of limitations for commencing a breach of warranty action for a period not to exceed six months. The bill also contains technical amendments. HB 558; CH. 646.

§§ 15.2-852, 15.2-2289, and 55-79.43 amended. **Condominium Act; authorizing condominium association to be applicants in land use matters; disclosure.** Provides that the declarant is authorized to execute, file, and process any subdivision, site plan, zoning, or other land use applications or disclosures related to the condominium during the period that the condominium is under his control. The bill also provides that once the condominium is no longer under the control of the declarant, the authority to execute such land use applications shall belong to the executive organ of the unit owners' association or a representative appointed by the unit owners' association. In addition, the bill clarifies the owner of condominiums for purposes of compliance with the disclosures in land use proceedings pursuant to § 15.2-852 and disclosures of real parties in interest pursuant to § 15.2-2289. HB 128; CH. 9/SB 430; CH. 317.

§ 55-79.92 amended. **Condominium Act; conversion condominiums; notice to locality.** In the case of receipt of an application for a condominium that is a conversion condominium, the agency shall, within five business days, also issue a notice of filing to the chief administrative officer of the county or city in which the proposed condominium is located, which notice shall include the name and address of the applicant and the name and address or location of the proposed condominium. SB 269; CH. 726.

§§ 55-142.10, 55-142.11, 55-142.12, 55-142.14, and 55-142.15 added. **Uniform Real Property Electronic Recording Act.** Reenacts the Uniform Act which was passed in 2005 with the requirement that it be reenacted by the 2006 Session. The Act authorizes circuit court clerks to record land transaction records electronically, and to convert paper records into electronic records. The bill also states that in any circumstance where the law requires that a land records document be an original that an electronic land records document satisfying this Act satisfies the law. SB 448; CH. 745.

§§ 17.1-275 and 55-218.1 amended. **Fee for recording name of registered agent.** Increases the clerks' filing fee for appointment of a resident agent for a nonresident property owner from \$1 to \$10. SB 446; CH. 318.

§ 55-237.1 amended. **Property; authority of sheriffs to store and sell personal property removed from certain leased or rented premises.** Includes commercial property that has been leased or rented within the scope of the statute that allows a landlord, pursuant to an action of unlawful detainer or ejectment and after proper notice, to remove and place the personal property of the tenant into the public way. HB 244; CH. 91.

§§ 8.01-156, 55-237.1, and 55-248.38:2 amended. **Sheriff's duty to remove property pursuant to an ejectment proceeding.** Makes it clear that a sheriff does not have to remove the property of a defendant in an ejectment proceeding, but he must oversee the removal of such property. The bill also provides that the sheriff and owner of the real property do not have liability for the loss for any removed personal property. HB 1025; CH. 129.

§§ 8.01-471, 55-248.9:1, 55-248.15:2, 55-248.21:1, and 55-248.34:1 amended. **Virginia Residential Landlord and Tenant Act; confidentiality of tenant records; interest on security deposits.** Adds two exceptions to a landlord's holding a tenant's records confidential, which exceptions are for information requested (i) pursuant to a subpoena in a civil case and (ii) by a contract purchaser of the landlord's property, provided the contract purchaser agrees in writing to maintain the confidentiality of such records. The bill also sets out the rate of interest to be paid on security deposits for the years 2004, 2005, and 2006. The bill also contains technical amendments. HB 907; CH. 667.

§ 55-248.9:1 amended. **Virginia Residential Landlord Tenant Act; confidentiality of tenant records.** Authorizes a tenant to designate a third party to receive a duplicate copy of a summons in an unlawful detainer action and any other written notices from the landlord. The bill provides that it shall not be construed to grant standing to any third party designated by a tenant to challenge actions of the landlord for which notice was mailed. The bill also provides that the failure of the landlord to provide the copy to the designated third party does not affect the validity of any judgment entered against the tenant. SB 427; CH. 491.

§ 55-248.31 amended. **Virginia Residential Landlord and Tenant Act; noncompliance with rental agreement; recovery of damages by landlord.** Allows a landlord to seek the award of costs or attorney's fees under § 8.01-27.1 and other civil recovery under § 8.01-27.2 as a part of other damages requested and an unlawful detainer action. Under current law the landlord would be required to seek such damages separately. HB 320; CH. 628.

§ 55-248.31 amended. **Landlord and tenant duties and responsibilities; evictions; domestic violence.** Provides that a tenant may not be evicted because of family abuse against the tenant that occurs on the leased premises where the perpetrator has been barred from the dwelling unit or subjected to a protective order if the tenant makes certain timely notifications to the landlord. SB 118; CH. 717.

§ 55-248.38:3 added. **Virginia Residential Landlord and Tenant Act; property of deceased tenants.** Authorizes the landlord to dispose of the property of a deceased tenant provided the landlord gives at least 10 days written notice to the contact person authorized by the tenant in the rental agreement or to the estate of the tenant in accordance with law. HB 1536; CH. 820.

§ 55-248.45:1 amended. **Charges for utility services in manufactured home parks.** Authorizes manufactured home park owners the same authority as residential and commercial building owners to charge residents for actual utility costs and other reasonable service charges outlined in a rental agreement or lease. Currently, manufactured home park owners are prohibited from charging amounts in addition to the actual utility costs. HB 1584; CH. 303.

§ 55-288.1. See § 2.2-2609; HB 1010.

§§ 55-370, 55-373, 55-374, 55-374.1, 55-375, 55-383, and 55-394.1 amended; §§ 55-370.01 and 55-376.2 added. **Virginia Real Estate Time-Share Act; nonjudicial foreclosure; termination of time-share program; public offering statement; resale certificate.** Provides for nonjudicial foreclosure of liens by the time-share association and sets out the process therefor. The bill, among other things, also (i) provides that, without permission of such member, the name, address, telephone number and other personal information about a time-share owner or member of the association are not open to inspection by association members; (ii) provides that the association is not required to produce records that are a matter of public record or are otherwise readily available from another source; (iii) allows the developer to terminate a time-share project if he is the sole owner of all of the time-shares; (iv) provides that the offering or sale of any product that is registered with the Real Estate Board is exempt from the Wet Settlement Act; (v) allows a developer to post a letter of credit or cash with the Real Estate Board for the protection of escrowed purchase deposits; (vi) gives the developer 180 days after a sale to record the deed; and (vii) provides that if the developer has substantially complied in good faith with the Virginia Time-Share Act, a nonmaterial error or omission is not actionable and the purchaser cannot cancel his purchase contract after the expiration of the cancellation period. Finally, the bill contains technical amendments. HB 693; CH. 653.

§ 55-518 amended. **Virginia Residential Property Disclosure Act; disclosure of previous mining operation and the presence of abandoned mines.** Provides that for the sale of new dwellings the builder or owner, if the builder is not the owner, must disclose to the purchaser whether the builder or owner has any knowledge of (i) whether mining operations had previously been conducted on the property or (ii) the presence of abandoned mines, shafts, or pits. The disclosure requirement is limited to property located wholly or partially in the Town of Ashland, City of Richmond and Counties of Charles City, Chesterfield, Goochland, Hanover, Henrico, New Kent, and Powhatan. HB 1562; CH. 706.

§ 55-519. See § 15.2-2242; HB 93/SB 224.

§ 55-519 amended. **Virginia Residential Property Disclosure Act; disclosure of pending enforcement actions under the Uniform Statewide Building Code.** Provides that disclosure and disclaimer forms under the Virginia Residential Property Disclosure Act shall contain a notice to purchasers that the owner represents that there are no pending enforcement actions pursuant to the Uniform Statewide Building Code that affect the safe, decent, and sanitary living conditions of the property of which the owner has been notified by the locality. HB 286; CH. 247.

§ 55-519 amended. **Virginia Residential Property Disclosure Act; Notice of historic district.** Provides that the disclosure and disclaimer forms required under the Virginia Residential Property Disclosure Act contain a notice to purchasers that the property is located in a historic district if the owner has knowledge of such designation. Otherwise, the no-

tice shall advise purchasers to exercise whatever due diligence deemed necessary prior to settlement. HB 1554; CH. 705.

§ 55-519 amended. Virginia Residential Property Disclosure Act; disclosure of resource protection areas. Provides that the owner of residential real property makes no representation whether the property is located in any resource protection areas or other environmentally protected zones that are subject to governmental regulation. The bill requires the notice to advise purchasers to use whatever due diligence to determine if the property is located in such an area, including review of any official maps. SB 670; CH. 767.

§ 55-544.08 amended. Trust for care of animal. Amends the Uniform Trust Code to provide that trust assets can be used for burial or other postdeath expenditures of the pet if provided for in the trust instrument and more clearly defines the trustee's duties and rights. Also delineates that excess funds shall be distributed pursuant to the residuary clause of the settlor's will. HB 906; CH. 666.

TITLE 56. PUBLIC SERVICE COMPANIES.

§§ 56-1 and 56-580. See § 15.2-5401; HB 1187/SB 406.

§§ 56-1 and 58.1-3813.1 amended; §§ 56-1.3, 56-484.12:1, and 56-484.12:2 added. Voice-over-Internet protocol service; E-911 notice. Eliminates the jurisdiction of the State Corporation Commission to regulate voice-over-Internet protocol service. Voice-over-Internet protocol service is excluded from the scope of the definitions of telephone service, telecommunications service, local exchange telephone service, and interexchange telephone service. Voice-over-Internet protocol service means any service that: (i) enables real-time, two-way voice communications; (ii) requires a broadband connection from the user's location; (iii) requires Internet protocol-compatible customer premises equipment (CPE); and (iv) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. Providers of voice-over-Internet protocol service or wireless telecommunications service that do not include enhanced 911 (E-911) service are required to provide to their affected subscribers any notice of the absence of E-911 service that is required by the Federal Communications Commission (FCC). Consumers of voice-over-Internet protocol service will be subject to the special local tax for E-911 service. If the FCC requires providers to prepare and file a plan setting forth how providers of voice-over-Internet protocol service propose to develop and implement the capability for voice-over-Internet protocol service users to have E-911 service, the providers shall submit a copy of the plan to the State Corporation Commission and Wireless E-911 Services Board. Providers are not liable for damages for acts or omissions resulting from rendering service related to emergency calls unless the act or omission results from its gross negligence or willful misconduct. HB 1198; CH. 691.

§ 56-1. See § 13.1-1002; SB 547.

§ 56-16.2 added. Public utility lines crossing railroads. Establishes a procedure for the State Corporation Commission to determine matters pertaining to the construction and operation of municipal water, sewer, and telecommunications lines, wires, pipes, and conduits that cross railroads. The application shall include standard railroad liability protection insurance. If the Commission grants an application requiring the railroad to grant to the municipality a license for such crossing, it may require the payment to the railroad company of damages and a fee, which fee shall not exceed the actual costs reasonably expected to be incurred by the railroad company as a result of the crossing and the periodic inspection of such works, but shall take into consideration the system-wide administrative and other costs of implementing crossing agreements. SB 688; CH. 383.

§§ 56-232 and 56-265.1 amended. Public utilities; propane air. Clarifies that a propane-air facility that is not organized as a public service company and that sells or delivers propane air only to one or more public utilities is not a public utility. Such facilities shall nevertheless be subject to the State Corporation Commission's jurisdiction relating to gas pipeline safety and enforcement. HB 599; CH. 411.

§ 56-235.6 amended. Gas utilities; performance-based regulation. Provides that performance-based ratemaking of a gas utility may include fixed or capped rates and reduction or elimination of regulatory requirements, in addition to existing elements. A performance-based ratemaking methodology for a gas utility means a method of establishing rates and charges that are in the public interest and that departs from cost-of-service ratemaking methodology. In deciding whether to approve a request for such methodology, the State Corporation Commission shall include, but not be limited to, in its consideration, measures that are reasonably estimated to preserve or improve system reliability, safety, supply diversity, and transportation options, and other customer benefits that are reasonably estimated to accrue from the proposal. The measure does not apply to plans for performance-based regulation pending on January 1, 2006. SB 380; CH. 574.

§ 56-264.2 added. Sewage treatment facilities; governing board. Requires that certain entities that provide sewerage services to residents of the Commonwealth and to another state be managed by a governing board that is comprised of an equal number of residents of Virginia and of the other state. The requirement applies to such entities that operate a sewage treatment facility located in Virginia that has a capacity of at least five million gallons per day and was financed through the Virginia Revolving Loan Fund. The number of members of the governing board is determined based on the number of Virginia localities in which the entity provides sewerage services, with the governing body of each such locality appointing two members. If the members of the governing board deadlock on an issue pertaining to the management of the entity's business and affairs, one-half of the members of the board may petition the State Corporation Commission to arbitrate the issue over

which the board is deadlocked. If the articles of incorporation, bylaws, charter, or other organic document of such an entity that was in existence prior to July 1, 2006, is not amended by January 1, 2008, to comply with the requirements regarding the governing board, then the locality wherein the sewage treatment facility is located is authorized to acquire the facility and related property, which acquisition may be by condemnation for the purpose of providing sewerage service to persons residing within the Commonwealth and the Bluestone watershed. HB 439; CH. 591/SB 507; CH. 576.

§§ **56-265.4:4, 56-466.1, and 56-502.** See §15.2-2160; HB 1404/SB 706.

§ **56-446.1 added. Passenger rail service liability.** Authorizes an authority, comprised of two or more political subdivisions of the Commonwealth that provide public rail transportation services, to contract with a railroad company to allocate financial responsibility for claims related to passenger rail services. The measure limits the aggregate liability of the authority and the railroad company for claims arising from a single accident or incident related to passenger rail services to \$250 million per incident or accident. Willful and wanton conduct, felonious criminal conduct, and gross negligence are not subject to the cap. The bill provides for an adjustment to the cap for inflation starting in 2011. HB 317; CH. 774/SB 652; CH. 807.

§§ **56-484.12 through 56-484.15 and 56-484.17 amended. Enhanced Public Safety Telephone Services Act.** Expands the powers and duties of the Wireless E-911 Services Board to include developing a statewide enhanced 9-1-1 plan for voice-over-Internet service and future communications technologies accessing E-911 for emergency purposes. The formula for distribution of money in the Wireless E-911 fund is revised to provide that 60 percent will be provided to public safety answering points (PSAPs), 30 percent will be provided for payment of Wireless E-911 CMRS costs, and the remaining 10 percent will be provided for needs-based grants to be defined by the Board for PSAPs. The bill also increases the size of the Board from 14 to 15 members. SB 395; CH. 739.

§§ **33.1-23.03:1, 56-557, 56-558, 56-560, 56-563, 56-564, 56-566, 56-567.1, 56-573.1, 58.1-811, 58.1-3203, and 58.1-3703 amended; §§ 33.1-23.03:9 and 58.1-3606.1 added. Public-Private Transportation Act; “concessions.”** Authorizes “concession” agreements under the Public-Private Transportation Act of 1995. SB 666; CH. 922.

§§ **56-573.1, 56-573.1:1, 56-575.16, and 56-575.17.** See § 2.2-3705.6; SB 76.

§ **56-580 amended. Electric utility restructuring; municipal utilities.** Provides that a municipal electric utility will not become subject to the provisions of the Electric Utility Restructuring Act as a result of serving an area that was served by an incumbent electric utility as of July 1, 1999, if the change in service areas is made pursuant to mutual agreement between the municipality and the affected incumbent electric utility in accordance with a provision in the Utility Facilities Act. HB 1220; CH. 819/SB 613; CH. 811.

§ **56-594 amended. Electric utility restructuring; net energy metering.** Expands the definition of an eligible customer-generator to include a customer that contracts with other persons to own, operate, or both, an eligible electrical generating facility. Currently, the customer must own and operate the generating facility. The measure also allows such facilities to have any renewable energy as their total source of fuel; currently, only facilities that use solar, wind, or hydro energy are eligible. Finally, the measure allows a facility that is located on the customer’s premises and is connected to the wiring on the customer’s side of its interconnection with the distributor to qualify for net energy metering; currently, the facility must be located on the customer’s premises. HB 1541; CH. 470.

TITLE 58.1. TAXATION.

§§ **2.2-3803, 58.1-3, and 58.1-202 amended. Department of Taxation; earned income tax credit information.** Requires the Department of Taxation to obtain information from each income tax taxpayer on whether he claimed a federal earned income tax credit and the amount claimed and permits the Department of Taxation to provide this and other information to the Department of Social Services regarding clients of the Department of Social Services, and permits the Department of Social Services to provide related information to the Department of Taxation. HB 407; CH. 590/SB 42; CH. 159.

§§ **3.1-336.4, 3.1-336.8, and 58.1-3 amended. Tobacco Products Manufacturers.** Requires certain tobacco sales reports and documents to be filed directly with the Attorney General. Currently, the Commissioner of Agriculture and the Attorney General receive the reports. HB 1277; CH. 31.

§ **58.1-301 amended. Conformity of taxation with Internal Revenue Code; emergency.** Provides that any reference to federal income tax laws in Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 refers to the federal law as it exists on December 31, 2005. Current law specifies that such references refer to federal law as it existed on January 7, 2005. This bill contains an emergency clause. HB 531; CH. 63 (effective 3/7/06)/SB 69; CH. 162 (effective 3/23/06).

§§ **58.1-311, 58.1-312, and 58.1-1823 amended; § 58.1-311.1 added. Tax administration; amended return filing after change in another state.** Allows taxpayers one year from the final determination of a change made by any other state to file an amended return in the Commonwealth; requires taxpayers to file amended returns to report a reduction in credit for taxes paid to another state due to changes made by the other state; and reconciles inconsistent statutory periods for filing amended returns resulting from federal changes. SB 583; CH. 234.

§ **58.1-322 amended; § 58.1-339.11 added. Individual income taxes; credit for purchase of long-term care insurance.** Provides a credit against individual income taxes

for certain long-term care insurance premiums paid by the individual during the taxable year. The amount of the credit shall equal 15 percent of the amount paid during the taxable year by the individual in long-term care insurance premiums for long-term care insurance coverage for himself, not to exceed over the life of any policy 15 percent of the amount of the first 12 months of premiums. The credit would be available beginning with the 2006 taxable year. Any unused credit may be carried over in the next five taxable years. HB 786; CH. 599.

§ 58.1-322 amended. Income tax; subtraction for certain death benefit payments. Allows a beneficiary taxpayer to subtract the death benefit payments received from an annuity contract, when calculating Virginia taxable income, that are subject to federal income taxation, for taxable years beginning on or after January 1, 2007. HB 1535; CH. 617.

§§ 58.1-322 and 58.1-402 amended. Income taxes; payments to producers of quota tobacco and tobacco quota holders. Provides a subtraction from income, for taxable years beginning on or after January 1, 2006, in computing individual and corporate income taxes for payments to producers of quota tobacco and tobacco quota holders pursuant to the American Jobs Creation Act of 2004. SB 70; CH. 214.

§ 58.1-322 amended; § 58.1-339.11 added. Individual income taxes; credit for purchase of long-term care insurance. Provides a credit against individual income taxes for certain long-term care insurance premiums paid by the individual during the taxable year. The amount of the credit shall equal 15 percent of the amount paid during the taxable year by the individual in long-term care insurance premiums for long-term care insurance coverage for himself, not to exceed over the life of any policy 15 percent of the amount of the first 12 months of premiums. The credit would be available beginning with the 2006 taxable year. Any unused credit may be carried over in the next five taxable years. SB 287; CH. 570.

§ 58.1-339.3 amended. Income tax; agricultural best management practices tax credit. Adds taxpayers who have equines that create needs for agricultural best management practices to those who are engaged in agricultural production for market who may qualify for the agricultural best management practices tax credit, for taxable years beginning on or after January 1, 2007. HB 963; CH. 440.

§ 58.1-344.3. See § 44-102.2; HB 628/SB 139.

§§ 58.1-433.1 and 58.1-439.2 amended. Coal tax credits. Provides that the \$3-per-ton coal employment and production incentive tax credit may be allocated amongst coal producers and electricity generators. The allocation would be pursuant to a contract between such parties. Any amount allocated to a coal producer could be used as credit against the corporate income tax or any other tax imposed by the Commonwealth. Credits on or after January 1, 2006, and prior to July 1, 2011, that exceed the taxpayer's tax liability could be redeemed by the Tax Commissioner. Finally, the carryover period is extended from five to 10 years. HB 1043; CH. 788/SB 365; CH. 803.

§ 58.1-439.1 amended. Job creation tax credits. Adds to the type of jobs for which the job creation tax credit can be taken, the manufacturing of components that produce, store, and dispense hydrogen as a vehicle fuel. The sunset clause applicable to this section is extended from December 31, 2006, to December 31, 2011. SB 690; CH. 238.

§ 58.1-485.1 added. False claims of employment status; penalty. Makes it unlawful for a person to knowingly coerce, induce, or threaten an individual to falsely declare his employment status for the purpose of evading the withholding or payment of individual income tax. This bill also makes it unlawful for an employer to falsely claim the employment status of an individual employed by him for the purpose of evading the withholding or payment of individual income tax. "Employment status" has the same meaning as defined by the United States Internal Revenue Code. The penalty for violation is a Class 1 misdemeanor. HB 168; CH. 393.

§§ 58.1-602 and 58.1-609.3 amended. Sales and use tax; semiconductor production exemption. Provides a sales and use tax exemption for tangible personal property used in semiconductor manufacturing as well as other semiconductor equipment. HB 530; CH. 541/SB 475; CH. 519.

§§ 58.1-602, 58.1-3833, and 58.1-3840 amended. State and local sales and use tax and local taxes on meals; gratuities or service charges on meals. Excludes from the sales price of meals all gratuities or service charges for purposes of calculating the sales and use tax and the local tax on meals; however the mandatory service charges or gratuities in excess of 20 percent would still be subject to the sales and use tax and the local meals tax. HB 896; CH. 602/SB 85; CH. 568.

§ 58.1-608.3 amended. Sales and use tax revenue in certain public facilities in the City of Norfolk; dedication of revenue. Adds the City of Norfolk to the list of cities permitted to retain the sales and use tax revenue generated in certain public facilities for which Norfolk issues bonds. The retention of the tax revenue expires when the bonds are retired. The bill also provides that public facilities shall not include residential condominiums, townhomes, or residential units. HB 1235; CH. 608.

§ 58.1-608.3 amended. Entitlement to certain sales tax revenues. Entitles the City of Norfolk 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 35 years, and all such sales tax revenues shall be applied to repayment of the bonds. The bill also clarifies that a public facility does not include any residential condominiums, townhomes, or residential units. SB 655; CH. 581.

§§ 58.1-609.2 and 58.1-609.10 amended. Sales and use tax exemption; medicines for farm animals. Exempts medicines for commercial farm animals from sales and use tax. HB 69; CH. 331.

§§ 58.1-609.2 and 58.1-609.10 amended. Sales and use tax exemption; certain medicines and drugs. Exempts from sales and use tax medicines and drugs (i) used by veterinarians in treating agricultural production animals; (ii) sold to farmers for direct use in producing an agricultural product for market; or (iii) used by a veterinarian for agricultural production animals and dispensed or sold on prescription by the veterinarian. SB 73; CH. 361.

§ 58.1-609.3 amended. Sales and use tax; exemption for gas and oil. Extends the sunset date from July 1, 2006, to July 1, 2011, for the sales and use tax exemption for equipment and materials used in drilling and refining natural gas and oil. HB 1539; CH. 618.

§ 58.1-609.3 amended. Sales and use tax exemption; semiconductor wafers. Exempts from sales and use tax semiconductor wafers for use or consumption by a semiconductor manufacturer. SB 601; CH. 524.

§ 58.1-609.3 amended. Retail sales and use tax; commercial and industrial exemptions. Makes permanent certain retail sales and use tax exemptions related to the refining and processing of oil and natural gas and extends the sunset for exemption related to extraction and processing of natural gas and oil from July 1, 2006, to July 1, 2011. SB 714; CH. 385.

§§ 58.1-609.5 and 58.1-3122.2. See § 2.2-1201; SB 21.

§ 58.1-609.10 amended. Sales and use tax; exemption for certain church property. Expands the current exemption for tangible personal property purchased by nonprofit churches to include that which is used in any form for recording and reproducing services. HB 576; CH. 338.

§ 58.1-609.10 amended. Sales tax exemptions; medicines and drugs. Provides that medicines and drugs purchased by nursing homes, clinics, and similar entities are exempt from sales tax. Currently, only medicines purchased by hospitals and nonprofit nursing homes are exempt from the tax. SB 110; CH. 217.

§ 58.1-609.12 amended. Sales and use tax; Tax Commissioner's exemption reports. Clarifies the process by which the Tax Commissioner creates and submits sales and use tax exemption reports to the chairmen of the House and Senate Finance Committees. HB 1370; CH. 559.

§§ 58.1-625 and 58.1-626 amended; § 58.1-611.2 added. Sales and use tax exemption; school supplies and clothing and footwear. Provides a sales and use tax exemption, beginning in 2006, for certain school-related items purchased during a specific three-day period during August each year. The exempt items are (i) school supplies, where the selling price of each item is \$20 or less, and (ii) footwear and clothing where the selling price of each item is \$100 or less. The bill also authorizes dealers to absorb the sales and use tax on all other items sold during the same time period and thereby relieve the purchaser of the obligation to pay such tax. Dealers who absorb such taxes are liable for payment of the same to the Tax Commissioner. HB 532; CH. 593/SB 571; CH. 579.

§ 58.1-641 amended. Tire recycling fee; extension of time. This bill would extend from July 1, 2006, to July 1, 2008, the \$1.00 fee imposed on the sale of each new tire. Beginning July 1, 2008, the fee would decrease to \$0.50 per tire. HB 522; CH. 407.

§§ 58.1-811, 58.1-3203, 58.1-3703, and 58.1-3606.1. See § 56-557; SB 666.

§§ 3.1-336.8, 58.1-1000, 58.1-1001, 58.1-1003, and 58.1-1021.01 amended; § 58.1-1003.1 added. Tobacco taxes; roll-your-own tobacco. Makes roll-your-own tobacco subject to the cigarette excise tax instead of the tobacco products tax. The cigarette tax on roll-your-own tobacco, however, would be imposed at the same rate and in the same manner as the tobacco products tax. Distributors of roll-your-own tobacco would be considered cigarette stamping agents and would be required to prepare an invoice describing the manufacturer, brand, and quantity in ounces of roll-your-own tobacco included in each shipment to dealers located within the Commonwealth. A copy of the invoice would be attached to the shipment and would be deemed to be the cigarette revenue stamp. Accordingly, Nonparticipating Manufacturers (NPMs) would be required to include sales of roll-your-own tobacco when determining their required annual escrow deposit. The bill is effective January 1, 2007. SB 729; CH. 768.

§ 58.1-1003 amended; § 58.1-1003.1 added. Cigarette tax; deduction of bad debts from taxes owed. Permits stamping agents to deduct the cost of the tax stamps on cigarettes they have sold but for which payment is uncollectible. HB 612; CH. 64/SB 418; CH. 229.

§§ 58.1-1013 and 58.1-1017 amended. Cigarette tax; penalty for failure to properly affix stamps. Increases from \$250 to \$500 the penalty for failure to affix tax stamps to 100 or more packs of cigarettes. If the number of unstamped packs exceeds 500, it shall be prima facie of intent to defraud. If a person sells, transports, receives or possesses 3,000 or more packages of unstamped cigarettes, the Tax Department may impose a penalty, not to exceed \$2,500 per pack. HB 569; CH. 409.

§ 58.1-1709. See § 10.1-1422; HB 448.

§§ 15.2-4504, 15.2-4529, and 58.1-1720 amended. Sales tax on motor fuels. Sets the effective date for sales tax on fuels in certain transportation districts. HB 1148; CH. 354.

§ 58.1-1826 amended. Tax administration; judicial appeals of assessments. Precludes circuit courts from granting relief to taxpayers seeking correction of erroneous assessments in cases in which the erroneous assessment was attributable to the taxpayer's willful failure or refusal to provide necessary information as required by law. HB 772; CH. 342.

§§ 58.1-2201, 58.1-2211, 58.1-2215, 58.1-2241, 58.1-2246, 58.1-2247, 58.1-2272, 58.1-2273, and 58.1-2280 amended. Motor fuels tax; DMV suggested changes; penalties. Eliminates registered and certified mail requirements for assessments; requires certified mail for license cancellation no-

tices; prohibits use of letters of credit as security; allows for license denial or cancellation for failure to obtain a new or additional certificate of deposit; requires persons who transport motor fuel for hire to file monthly returns; and establishes a Class 1 misdemeanor for willfully and intentionally applying for or collecting a refund on taxable fuel or for willfully and intentionally using fuel for a taxable purpose after a refund for the fuel has been issued. It also grandfathers licensed persons who have an irrevocable letter of credit with DMV prior to June 30, 2006, so they will not be required to replace such letters. HB 534; CH. 594.

§ 58.1-2201. See § 13.1-1002; SB 547.

§ 58.1-2403 amended. **Motor vehicle sales and use tax; exemptions.** Includes registration certificates issued by the United States Armed Forces as valid documents that can be used by military personnel who have owned a vehicle for more than 12 months or paid sales tax to another state on such vehicle to obtain an exemption from the motor vehicle sales and use tax. The bill would also exempt from the motor vehicle sales and use tax motor vehicle sales to local government group self-insurance pools. HB 976; CH. 604.

§ 58.1-2508. See § 10.1-603.16; HB 596/SB 624.

§ 58.1-2606 amended. **Property taxes; generating equipment of electric suppliers.** Provides that generating equipment of electric suppliers utilizing wind turbines may be taxed at a rate or rates that exceeds the real estate rate, but does not exceed the personal property rate. The bill has an effective date of January 1, 2007. SB 404; CH. 517.

§ 58.1-3211 amended. **Real property tax exemption; elderly and disabled.** Changes certain provisions regarding real estate tax exemptions for the elderly and disabled by: (i) for localities in Northern Virginia, increasing from \$340,000 to \$540,000 the maximum financial worth cap a locality may impose and adding Clarke, Fauquier, and Stafford Counties to the localities in Northern Virginia for which the higher cap is applicable; and (ii) for certain other localities in central Virginia and Tidewater, increasing such cap from \$200,000 to \$350,000, and adding cities of Norfolk and Richmond to the localities for which the higher cap is applicable. HB 121; CH. 585.

§ 58.1-3219.2 repealed. **Real estate taxes; computation of deferral.** Repeals the requirement that the deferral amount be calculated using a base-line amount equivalent to the real estate tax in the first full tax year of ownership by the taxpayer after the adoption of the deferral program by the locality, multiplied by 105 percent, or such higher percentage adopted by the locality in each tax year until the current tax year. HB 1231; CH. 356.

§ 58.1-3219.4 added. **Real property tax exemption in redevelopment or conservation areas or rehabilitation districts.** Authorizes local governing bodies to provide for the partial exemption from taxation of (i) new structures located in redevelopment or conservation areas or rehabilitation districts and (ii) other improvements to real estate located in redevelopment or conservation areas or rehabilitation districts. The

partial exemption would be a percentage of the increase in assessed value as a result of the new structure or improvement or an amount not to exceed 50 percent of the construction cost of such structure or improvement. The local governing body would be allowed to establish criteria for qualifying real estate including, but not limited to, the square footage for new structures. The bill is contingent on a constitutional amendment authorizing the exemption. SB 358; CH. 572.

§ 58.1-3230 amended. **Real estate tax assessments for open space property; golf courses.** Clarifies that golf courses are included in the category of open-space land for purposes of special assessments for real estate tax purposes. HB 916; CH. 817.

§ 58.1-3241 amended. **Use value assessment and taxation; roll-back taxes.** Provides that, at the option of the locality, roll-back taxes under local use value assessment ordinances shall not apply to a subdivision, separation, or split-off of property which results in parcels that do not meet minimum acreage requirements, provided that title to the subdivided parcels is held in the name of an immediate family member for at least the first 60 months following the subdivision. SB 186; CH. 221.

§ 58.1-3245.1. See § 36-2; HB 699.

§ 58.1-3295 added. **Real property assessments; affordable housing.** Provides that (i) certain federal, state or local restrictions, as well as special expenses be considered in determining the fair market value and the capitalization rate for certain real property designated as affordable housing, and (ii) federal and state income tax credits with respect to real property shall not be considered real property or income attributable to real property. HB 1173; CH. 688.

§ 58.1-3303 amended. **Department of Taxation; electronic receipts of certain transactions.** Requires the Department of Taxation to accept, in lieu of a printed paper copy of recordation receipts from clerks of court, a monthly electronic transfer of the recordation receipt copy on magnetic tape or other media acceptable to the Department. This is a recommendation of the Committee on District Courts. HB 1217; CH. 355.

§ 58.1-3330 amended. **Real estate reassessment; notice.** Requires localities to add onto the notice to taxpayers of real estate reassessments the amount of the immediately prior assessment amount, and if the tax rate that will apply to the new assessed value has been established, then the notice shall include such rate, the total amount of the new tax levy, and the percentage change in the new tax levy from the immediately prior one. If the tax rate that will apply to the new assessed value has not been established, then the notice shall include the time and place of the next meeting of the local governing body at which public testimony will be accepted on any real estate tax rate changes. Finally, if such meeting is more than 60 days from the date of the reassessment notice, the notice will include information about when the date of the meeting will be set and where it will be publicized. HB 491; CH. 255/SB 731; CH. 509.

§§ 58.1-3503, 58.1-3504, and 58.1-3523. See § 46.2-100; SB 191.

§ 58.1-3506 amended. **Personal property tax; classification of watercraft used for business purposes.** Creates separate classes of personal property for rate purposes of watercraft based on the weight of the watercraft and whether it is used for business purposes. HB 327; CH. 400.

§§ 58.1-3506 and 58.1-3916 amended. **Personal property tax; classification of certain aircraft.** Creates a separate classification for personal property tax rate purposes for aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned and operated by scheduled air carriers recognized under federal law. Localities are thereby authorized to set a tax rate for such aircraft at any rate that does not exceed that applicable to the general class of tangible personal property. HB 862; CH. 200 (effective 3/24/06).

§§ 58.1-3506 and 58.1-3916 amended. **Tangible personal property; classifications.** Establishes a separate class of tangible personal property for aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned or operated by scheduled air carriers recognized under federal law. SB 521; CH. 231.

§ 58.1-3660. See § 67-100; SB 262.

§ 58.1-3660 amended. **Taxation of certified pollution control equipment and facilities; development of five-year plan.** The Virginia Economic Development Partnership Authority, with other agencies, is required to prepare and execute a specific five-year plan to assist local governments that are dependent upon manufacturing facilities to diversify their economies. The bill also provides that certain certified pollution control equipment and facilities are exempt from state and local taxation, pursuant to Section 6 of Article X of the Constitution of Virginia. SB 417; CH. 375.

§§ 58.1-3700.1 and 58.1-3706 amended. **Local license tax; retailers of certain fuels.** Provides that when the Department of Mines, Minerals and Energy (DMME) determines that the weekly U.S. Retail gasoline price has increased by 20 percent or more in one week, and does not fall below that rate for 28 days, then the gross receipts taxes on fuel sales of a gas retailer made in the following licensing year shall not exceed 110 percent of the gross receipt taxes on fuel sales made in the license year of the increase. DMME must report its findings no later than January 30 each year to VML, VACO and the Virginia Petroleum, Convenience and Grocery Association. SB 597; CH. 763.

§ 58.1-3703.1 amended. **Local license taxes.** Permits localities to select a due date for businesses to apply for annual local licenses between March 1 and May 1 and they must do so no later than the 2007 license year. Under current law the due date is March 1. HB 869; CH. 119/SB 522; CH. 181.

§§ 58.1-3703.1 and 58.1-3983.1 amended. **Tax administration; “jeopardized by delay” definition.** Makes a technical change to the definition of “jeopardized by delay” in the BPOL

tax and local business tax provisions so it conforms to the state income tax definition. HB 1366; CH. 611.

§§ 58.1-3713 and 58.1-3713.01 amended. **Virginia Coalfield Economic Development Authority Tax.** Allows localities to use a portion of the revenues for improving water and sewer systems. HB 1505; CH. 78.

§§ 58.1-3713 and 58.1-3713.01 amended. **Coal and Gas Road Improvement Fund.** Allows localities that comprise the Virginia Coalfield Economic Development Authority to use revenue from their Coal and Gas Road Improvement Fund to repair or enhance existing water and sewer systems and lines to meet the needs of the public. SB 506; CH. 497.

§ 58.1-3813.1. See § 56-1; HB 1198.

§ 58.1-3819 amended. **Transient occupancy tax; Montgomery County.** Adds Montgomery County to the list of counties permitted to impose a transient occupancy tax of up to 5 percent, with any amount generated over 2 percent to be spent for tourism purposes. HB 1323; CH. 67/SB 463; CH. 376.

§ 58.1-3823 amended. **Transient occupancy tax; Historic Triangle area.** Eliminates the January 1, 2008, sunset date for the additional transient occupancy tax in the Counties of James City and York and makes other technical changes. SB 468; CH. 377.

§ 58.1-3843 added. **Local transient occupancy tax; cities and towns.** Provides that the transient occupancy tax shall be imposed only for the occupancy of any room or space suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes. In 2005 the General Assembly passed a substantially similar restriction for county transient occupancy taxes. SB 86; CH. 216.

§ 58.1-3851 added. **Local tourism zones.** Allows any county, city, or town to establish, by local ordinance, a local tourism zone with tax incentives and regulatory flexibility. HB 518; CH. 642.

§ 58.1-3916 amended. **Local taxes; cap on penalty.** Provides that the penalty for failing to pay a local tax or assessment shall in no case exceed the amount of the tax assessed. HB 1283; CH. 459.

§§ 58.1-3919.1 and 58.1-3934 amended. **Local taxes; use of collection agents.** Prohibits localities from referring delinquent accounts for collection to an attorney, the sheriff, or other delinquent tax collector unless the treasurer has sent written notification of the delinquency to the taxpayer’s address as contained in local tax records, or, if the treasurer has reason to believe such address is not current, to such other address that the treasurer may obtain. SB 302; CH. 372.

§§ 58.1-3967 and 58.1-3975 amended. **Real property tax; nonjudicial sale of tax delinquent properties.** Clarifies, with regard to nonjudicial sales of tax delinquent properties, (i) the status of other liens against such properties, which are unaffected by the sale; (ii) the means (Treasurer’s Deed) by which

title is transferred; and (iii) the treatment of excesses and shortfalls in the proceeds of the sale. HB 1421; CH. 616.

§ 58.1-3969 amended. Tax sales of real estate. Deletes the deposition requirement and replaces it with the written report of the real estate appraiser where there is no dispute as to title or value of the property in order for the court to appoint a special commissioner to sell the property and execute the deeds. This change is intended to make tax sales less costly. HB 194; CH. 333.

§§ 58.1-4006, 58.1-4007, 58.1-4009, 58.1-4014, 58.1-4018, and 58.1-4021 amended; §§ 58.1-4014.1 and 58.1-4018.1 added. Lottery; penalty. Makes changes that will enhance the ability of the Lottery to continue as a strong revenue producer for the Commonwealth, such as allowing licensed agents to provide other surety besides a bond that is satisfactory to the Lottery Director; allows lottery ticket sales be in cash or by debit card; creating a Class 5 felony for making, printing, or otherwise producing a document purporting to be Lottery correspondence; and reduces certain other penalties from a Class 2 to a Class 3 felony. HB 784; CH. 598.

§ 58.1-4007.2 added. State Lottery Department. Prohibits the sale of lottery tickets over the Internet. The bill provides that nothing shall be construed to prohibit (i) the use of the Internet to relay information or data relating to sales made to purchasers by licensed sales agents, their employees, or employees of the Department or (ii) the sale by the Department of prepaid subscriptions for the purchase of lottery tickets or shares for subsequent prize drawings. HB 1129; CH. 352.

TITLE 58.1. MISCELLANEOUS - TAXATION.

Communications tax reform. Completely revises the taxation of communications services as follows. Applies a statewide communications sales and use tax to retail communication and video services on a competitively neutral basis. The communications sales and use tax rate will be 5 percent on the following: Local Exchange; Paging; Inter-Exchange (Both interstate and intrastate); Cable Television; Satellite Television; Wireless; Voice over the Internet (VoIP).

A \$0.75 "911 Tax" will be applied to each local exchange line (landline) and the current \$0.75 "911 Fee" will continue to be applied to each wireless number.

The state communications sales and use tax, and state 911 fees and taxes replace the following currently billed taxes and fees: Local Consumer Utility Tax (LCUT); Local Gross Receipts Tax (BPOL) - (Only the portion above 0.5 percent currently billed to customers, where applicable); Local E-911; Virginia Relay Fee; Cable Franchise Fee.

A statewide rights-of-way use fee will be applied to all cable TV service lines as is currently applied on all local exchange telephone lines. The rate of the fee will be the same as deter-

mined annually by the Virginia Department of Transportation in accordance with § 56-468.1 of the Code of Virginia.

The sales and use tax, 911 tax, and the cable rights-of-way fee assessed on consumers of video services from a single provider will be remitted to the Virginia Department of Taxation, which will administer the distribution of the Communications Sales and Use Tax Trust Fund within 30 days of receipt of the collections for a given month. The rights-of-way use fee assessed on consumers of both cable video services and voice services from a single provider will be remitted in accordance with subsection I of § 56-468.1. The 911 fees will be remitted directly to the Wireless 911 Board for administration.

The redistribution of taxes and fees is intended to be revenue neutral to localities and the Wireless 911 Board and shall cover the current cost of the Virginia Relay Center. The provisions of the act will be effective on January 1, 2007. HB 568; CH. 780.

Transient occupancy tax on certain rentals. Raises the maximum amount of transient occupancy tax that Nelson County may charge for the rental of condominiums, apartments, townhouses, or like buildings from 2 percent to 5 percent, and requires any additional revenue to be spent on tourism. HB 779; CH. 111.

TITLE 59.1. TRADE AND COMMERCE.

§ 59.1-148.3 amended. Purchase of service handguns; retired state law-enforcement officers. Allows any state-level law-enforcement officer who retires after 20 years of state service to purchase his service handgun for \$1, even if a portion of his service was with another state agency. SB 717; CH. 185.

§ 59.1-200. See § 6.1-474; HB 324.

§ 59.1-204 amended. Virginia Consumer Protection Act; choice of remedies. Provides that a person who accepts a cure offer under the Virginia Consumer Protection Act may not bring another legal action that is substantially based on the same allegations of fact on which the action under the Act was based. HB 1103; CH. 453.

§§ 59.1-297 and 59.1-298. See § 54.1-3812; HB 300.

§§ 59.1-475 and 59.1-477.1 amended. Structured Settlement Protection Act; workers' compensation benefits. Exempts all payments in settlement of workers' compensation claims, including transfers of workers' compensation claims, awards, benefits, settlements or payments made or payable pursuant to Title 65.2, from the provisions of the Structured Settlement Protection Act. HB 942; CH. 786.

§ 59.1-526 amended. Virginia Post-Disaster Anti-Price Gouging Act. Provides that the duration of a "time of disaster," which currently is the shorter of the period of a declared state of emergency or the 30 days following the natural disaster or other occurrence that resulted in the Governor's or President's declaration of the state of emergency, may be extended

to include the 30 days that follow an extension or renewal of the state of emergency. It is unlawful for a supplier, during the time of disaster, to sell necessary goods and services at an unconscionable price within the area for which a state of emergency has been declared. SB 77; CH. 362.

§ 59.1-529.1 added. Virginia Post-Disaster Anti-Price Gouging Act. Authorizes the Governor, upon finding that during a disaster a supplier is selling necessary goods or services at such an unconscionable price that it presents an imminent and substantial danger to the public welfare by creating public panic, to issue 30-day emergency orders requiring the supplier to reduce the price to the prevailing price in the local market. HB 1094; CH. 451.

§ 59.1-547 amended. Enterprise zone job creation grant program; grant eligible position. Provides that personal service providers would not be eligible for enterprise zone grants. HB 909; CH. 668.

TITLE 60.2. UNEMPLOYMENT COMPENSATION.

§ 60.2-602 amended. Unemployment compensation; maximum weekly benefit. Increases the maximum weekly benefit from \$330 to \$347 for claims effective on or after July 3, 2006. HB 567; CH. 258.

TITLE 62.1. WATERS OF THE STATE, PORTS AND HARBORS.

§ 62.1-44.19:7 amended. Impaired waters. Allows an aggrieved party to conduct a use attainability analysis in order to demonstrate that the attainment of the designated use for an impaired water body is not feasible. This analysis would be submitted to, and reviewed by, the State Water Control Board. The Board would then determine whether the development or implementation of the total maximum daily load should be delayed. HB 1457; CH. 154.

§ 62.1-44.38:1 amended. Regional water supply plans. Allows a town to enter into a regional water supply plan with an adjacent county. HB 552; CH. 18.

§§ 62.1-44.117 and 62.1-44.118 added. Chesapeake Bay and Virginia Waters Clean-up and Oversight Act. Requires the Secretary of Natural Resources to develop a clean-up plan for the Chesapeake Bay and Virginia waters that have been designated as impaired. The plan will include measurable objectives, a description of the strategies to meet the plan's objectives, time frames for accomplishing the objectives, and a plan for disbursing funds for point and nonpoint pollution projects. The plan will also include an analysis of alternative

funding mechanisms. The Secretary is to submit the plan by January 1, 2007, and is to submit a progress report on the cleanup semiannually. HB 1150; CH. 204.

§ 62.1-67. See § 3.1-22.8; HB 1186/SB 330.

§ 62.1-98. See § 25.1-100; HB 132.

§ 62.1-132.12:1 added. Virginia Port Authority police. Allows the Authority to enter into agreements with private terminal operators to permit special police officers to provide and enforce safety and security on the operator's property. SB 173; CH. 220.

§ 62.1-203. See § 10.1-603.16; HB 596/SB 624.

TITLE 62.1. MISCELLANEOUS - WATERS OF THE STATE, PORTS AND HARBORS.

Local consent to State Water Control Board permits. Requires an application for a new or modified individual Virginia Pollutant Discharge Elimination System permit or new or modified coverage under a general Virginia Pollutant Discharge Elimination System permit, authorizing direct or indirect discharge of stormwater runoff from a new municipal solid waste landfill into a local watershed protection district established and designated as such by city ordinance prior to January 1, 2006, to contain a certification from the local governing body of the city in which the discharge is to take place, that the discharge is consistent with the city's ordinance establishing and designating the local watershed protection district in order to be considered complete. The bill does not apply to any municipal solid waste landfill in operation on or before January 1, 2006. The bill expires on July, 1, 2026. SB 106; CH. 478.

TITLE 63.2. WELFARE (SOCIAL SERVICES).

§ 63.2-100. See § 16.1-228; HB 1066.

§ 63.2-105. See § 37.2-900; HB 1038.

§ 63.2-105. See § 18.2-48; SB 559.

§ 63.2-304 amended. Social services; constitution of local board for a city. Allows a city council to appoint one of its members to the local social services board for that city. HB 73; CH. 84/SB 25; CH. 158

§ 63.2-703 amended. Social services; faith-based organizations. Directs the Department of Social Services to coordinate offers of assistance from faith-based organizations during natural disasters. HB 1213; CH. 142/SB 730; CH. 386.

§ 63.2-900 amended; § 63.2-900.1 added. Kinship Foster Care. Requires a local board of social services, before making a foster care placement, to first seek out kinship foster care.

The Board of Social Services shall adopt regulations for determining whether the child has a relative who is eligible to become a kinship foster parent. Kinship foster care placements are subject to the requirements, and receive the benefits, of other foster care placements, including payments for the care of the child. SB 48; CH. 360.

§ 63.2-901.1 amended. Foster care; criminal background checks. Requires a nationwide, rather than statewide, criminal background check for any individual with whom the local board or agency is considering placing a child on an emergency, temporary, or permanent basis, including the birth parent of a child in foster care placement. In emergency circumstances, a statewide Virginia Criminal Information Network search may still be performed to satisfy the background check requirement, provided that a national search is also performed afterwards. The child shall be removed from the home immediately if any adult resident, within three days of the child's placement, fails to provide fingerprints and written permission to perform a national criminal history record check when requested. HB 1317; CH. 558.

§§ 63.2-1200, 63.2-1201, 63.2-1202, 63.2-1205, 63.2-1208, 63.2-1210, 63.2-1213, 63.2-1222, 63.2-1223, 63.2-1227, 63.2-1228, 63.2-1231 through 63.2-1234, 63.2-1237, 63.2-1241, and 63.2-1243 amended; §§ 63.2-1242.1 through 63.2-1242.3 added. Administrative changes to adoption laws. Expands jurisdiction and venue choices for parties involved in adoption, reduces the review time of an adoption petition, and adds factors for the court to consider when determining whether or not to grant an adoption petition. Additionally, the bill sets out the procedure for close relative adoptions. The bill also makes several other administrative changes to the adoption laws to make navigating through the adoption process easier and to facilitate use of the process by all involved. HB 727; CH. 848.

§§ 16.1-277.01, 17.1-275, 63.2-1200, 63.2-1201, 63.2-1202, 63.2-1205, 63.2-1208, 63.2-1210, 63.2-1213, 63.2-1222, 63.2-1223, 63.2-1225 through 63.2-1228, 63.2-1231 through 63.2-1234, 63.2-1237, 63.2-1241, and 63.2-1243 amended; §§ 63.2-1242.1 through 63.2-1242.3 and 63.2-1249 through 63.2-1253 added. Adoption laws; putative father registry. Makes procedural and administrative changes to adoption laws, creates a "designated adoption", and establishes a putative father registry. The bill removes a provision that Virginia law applies to entrustment agreements executed in the Commonwealth by agencies outside the Commonwealth. Acknowledged, adjudicated, presumed and registered fathers whose identity is not reasonably ascertainable are entitled to notice of an adoption. Consent is not required of a birth father who denies paternity under oath and in writing or a birth parent who, without just cause, has neither visited nor contacted the child for six months. Unmarried birth fathers may consent to the termination of parental rights prior to the birth of the child. The amount of time to object to proceedings is decreased from 21 to 15 days after the notice is mailed. Failure to appear at a hearing waives the right to consent to the adoption. The length of time during which an entrustment agreement can be revoked

by the birth parents is reduced from until the child is 25 days old and 15 days have elapsed since execution to until the child is 10 days old and seven days have elapsed. Current law requires that a child be 10 days old before consent to a parental placement adoption can be executed in juvenile court, this bill allows such consent on the third day of the child's life. Consent is revocable for 10 days instead of the current 15 and is not revocable at all after the child is 10 days old. The bill creates a new form of adoption where a birth parent may designate adoptive parents but may use agency adoption and the exchange of certain identifying information does not have to occur. A Putative Father Registry is established and will be administered by the Department of Social Services and funded by an additional \$50 filing fee. Any man who has engaged in sexual intercourse with a woman is deemed to be on legal notice that a child may be conceived and may register with the Registry which will entitle him to notice if the child is placed for adoption. Provisions related to adult and step-parent adoption are revised. SB 534; CH. 825 (effective - see bill).

§ 63.2-1205.1 added. Adoption; sexually violent offenders. Prohibits sexually violent offenders and offenders who are required to register pursuant to § 9.1-902 from adopting a child. SB 691; CH. 384.

§§ 63.2-1225, 63.2-1226, and 63.2-1232 amended. Birth parent recommendation of adoptive parents. Creates a new adoption procedure that allows the birth parent to recommend adoptive parents. Additionally, the birth parent can choose between more open parental placement adoption procedures or maintain privacy through use of the agency adoption procedures. HB 729; CH. 654.

§§ 63.2-1249 and 63.2-1254 added. Creation of a mutual consent adoption registry; sunset. Creates a mutual consent adoption registry that allows birth parents and adoptees to exchange identifying information after the adoptee has reached 21 years of age. Requires the Board of Social Services to establish the registry and assess a fee for registrants. The fee is to be the lowest fee that will cover the costs associated with operating the registry, but it shall not exceed \$50 per registrant. The bill includes a sunset of July 1, 2009. The provisions of the bill are subject to an appropriation of funds in the General Appropriation Act. HB 730; CH. 849 (effective - see bill).

§ 63.2-1509 amended. Mandatory reporting of child abuse and neglect by eligibility workers. Requires any person employed by a local department of social services who determines eligibility for public assistance to report suspected child abuse or neglect to the local department or the Department of Social Services' toll-free child abuse and neglect hotline. The bill is effective on January 1, 2007 and the Department of Social Services must provide training to implement its provisions. HB 56; CH. 530.

§ 63.2-1509 amended. Mandatory reporting of child abuse and neglect. Requires any adult who has received training in the detection of child abuse and neglect to report it to the local department of social services or the Department of Social Services' toll-free hotline. The bill exempts from the mandatory

reporting requirement information required by the doctrine of the religious organization or denomination to be kept in a confidential manner and information that the practitioner would not be required to disclose in court testimony pursuant to other Code provisions. SB 253; CH. 801.

§ 63.2-1605 amended. Adult services; reporting of suspected abuse, neglect, or exploitation. Requires local departments of social services or the adult protective services hotline, upon receiving the initial report pursuant to § 63.2-1606, to notify the local law-enforcement agency directly in any cases of (i) sexual abuse as defined in § 18.2-67.10, (ii) serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect, or (iii) any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm. HB 1351; CH. 149.

§ 63.2-1612 amended; § 63.2-104.1 added. Sexual and domestic violence; confidentiality of records. Requires providers of sexual or domestic violence services to keep victim records confidential and requires the Director of the Department of Social Services to work with the Statewide Domestic Violence Coalition to develop policies and implement methods to ensure the confidentiality of victim records and records pertaining to the address or location of any shelter or facility assisted under the Family Violence Prevention and Services Act, 42 U.S.C. § 10401 et seq. HB 1156; CH. 135.

§ 63.2-1715 amended. Child day program exemption from licensure. Allows an exemption from licensure for programs of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. The programs shall be subject to safety and supervisory standards established by the local governments. SB 257; CH. 725.

§§ 63.2-1716 and 63.2-1808. See § 54.1-3812; HB 300.

§ 63.2-1720. See § 32.1-126.01; HB 1398/SB 620.

§§ 32.1-126.01, 32.1-162.9:1, 63.2-1720, 63.2-1721, 63.2-1724, and 63.2-1725 amended. Child care facilities; criminal background checks; civil penalty. Requires all businesses and organizations that provide care to children, the elderly, or disabled to request a national criminal background check of all employees and volunteers, and punishes failure to do so with a \$500 civil penalty and, in some cases, a Class 3 misdemeanor for a second offense. SB 421; CH. 744.

§ 63.2-1721 amended. Background checks; adoption. Provides that a child-placing agency may approve as an adoptive or foster parent a person who was convicted of felony drug possession provided that 10 years have elapsed since conviction and his civil rights have been restored by the Governor. HB 1534; CH. 885.

§ 63.2-1727 amended. Family day homes; sex offenders prohibited; penalty. Makes it a Class 1 misdemeanor for a person to operate a family day home if he knows that any of his

employees or volunteers are convicted sex offenders. HB 1589; CH. 796/SB 420; CH. 804.

§ 63.2-1737. See § 37.2-408; HB 577.

§ 63.2-1737. See § 22.1-329; SB 190.

§ 63.2-1809.1 added. Family day homes; notice of liability insurance; civil penalty. Requires any person who operates a family day home approved by a licensed family day system, a licensed family day home, or a voluntarily registered family day home to furnish a written notice to the parent or guardian of each child under the care of the family day home stating (i) the amount of liability insurance in force covering operation of the family day home or (ii) the fact that there is no liability insurance in effect. The bill also requires that such notice be acknowledged in writing and requires the operator to notify parents and guardians in the event the amount of insurance coverage decreases. Any person who fails to give the required notice shall be subject to a civil penalty of up to \$500 for each such failure. SB 704; CH. 923.

§ 63.2-1916. See § 20-60.3; HB 1108.

§ 63.2-1916. See § 20-60.3; SB 169.

TITLE 64.1. WILLS AND DECEDENTS' ESTATES.

§§ 64.1-105, 64.1-106, 64.1-107, 64.1-108, and 64.1-110 through 64.1-115 amended; § 64.1-106.1 added; §§ 64.1-105.1, 64.1-105.2, and 64.1-109 repealed. Persons presumed dead. Clarifies existing law and determines the date of death under various presumptions, provides for survivorship matters and beneficiary designations for persons presumed dead, provides for the appointment of a curator when the presumption of death is not applicable, and eliminates surety bond requirements. HB 1115; CH. 351.

§§ 37.2-1000 and 64.1-118 amended. Guardianship and conservatorship; appointment of administrators. States that a tax-exempt charitable organization that has been designated by the Virginia Department for the Aging as a public conservator or guardian may serve in that capacity for other individuals. It further provides that a non-profit charitable organization may serve as an administrator of an estate of an individual if 45 days have elapsed since the decedent's death and no distributee has notified the clerk. Such charitable organization must establish that it made a diligent search for any distributee. SB 217; CH. 724.

§ 64.1-132.2 amended. Virginia Small Estate Act. Modifies the collection of personal property by affidavit provision by increasing from \$15,000 to \$50,000 the allowable value of the personal probate estate. The effective date will be January 1, 2007. HB 1303; CH. 280 (effective 1/1/07).

TITLE 65.2. WORKERS' COMPENSATION.

§ 65.2-101 amended. Workers' compensation; sole shareholders and members. Authorizes the sole shareholder of a stock corporation with one shareholder and the sole member of a limited liability company with one member to elect to be included as employees under the workers' compensation coverage of the business. The same election is currently afforded to sole proprietors and to all of the partners of a business. HB 326; CH. 629.

§ 65.2-200. See § 12.1-6; HB 432.

§ 65.2-502 amended. Workers' compensation; temporary partial disability benefits. Provides that the post-injury average weekly wage, in the case of a temporary partial disability of 13 weeks or less, shall be computed by dividing the employee's total earnings during the first two weeks of partial incapacity by two, and that such average is subject to retroactive adjustment for the 90 days preceding an application for an adjustment. If the duration of the partial disability is longer than 13 weeks, it will be computed by dividing the total earnings during the period of partial incapacity by the number of weeks in the period. These provisions apply to commissioned employees, self-employed income, and income from an employer in which the injured worker or a family member has an ownership interest. The provisions may also apply to other employments in the discretion of the Workers' Compensation Commission. HB 865; CH. 660.

§ 65.2-801 amended. Workers' compensation liability; self-insurance. Corrects the statement of the minimum ratio of debt to equity that an employer is required to demonstrate prior to obtaining certification as a self-insurer. The minimum ratio is currently codified as 2:2, and the 1996 Acts of Assembly stated the ratio as 2.2; this measure restates the ratio as 2.2:1. HB 941; CH. 265.

TITLE 66. JUVENILE JUSTICE.

§ 66-3.2. See § 16.1-300; HB 847/SB 561.

§ 66-24. See § 37.2-408; HB 577.

§ 66-24. See § 22.1-329; SB 190.

TITLE 67. VIRGINIA ENERGY PLAN.

§§ 23-135.7:6, 45.1-390, and 58.1-3660 amended; §§ 67-100, 67-101, 67-102; 67-200 through 67-203; 67-300, 67-400 through 67-403; 67-500 and 67-501; 67-600 through 67-604; 67-700 and 67-701; 67-800 and 67-801, 67-900 through

67-903, 67-1000 through 67-1003 added. Virginia Energy Plan. Establishes an energy policy of the Commonwealth and directs the Division of Energy of the Department of Mines, Minerals and Energy, in consultation with the State Corporation Commission, Department of Environmental Quality, and Virginia Center for Coal and Energy Research, to prepare, by July 1, 2007, a ten-year comprehensive Virginia Energy Plan to implement the Commonwealth's energy policy. With respect to offshore energy resources, the bill (i) declares that it is the policy of the Commonwealth to encourage the members of the State Congressional Delegation and federal executive agencies to develop, support, and enact federal legislation, and to take appropriate federal executive action that will provide an exemption to the moratorium that prevents until 2012 any surveying, exploration, development, or production of potential natural gas deposits in areas off the Commonwealth's Atlantic shore that are under federal jurisdiction, and to develop, support, and enact federal legislation that will enable the Commonwealth to exercise exclusive jurisdiction with respect to offshore wind energy resources; (ii) directs royalties and other moneys paid by the federal government as a result of the development of offshore energy resources to be deposited in a State Offshore Energy Revenue Fund and allocated among the Virginia Water Quality Improvement Fund, the Transportation Trust Fund, clean coal technology research, a Coastal Energy Research Consortium and other alternative energy initiatives, and grants for producing and using clean and efficient energy; (iii) directs all agencies, boards and commissions of the Commonwealth to ensure that any permits or approvals that are required for the exploration and production of hydrocarbons within federal jurisdictional areas off the Commonwealth's Atlantic shore provide that such exploration and production will be undertaken in a manner protective of the environment and public safety; (iv) prohibits the drilling of any wells for natural gas or oil in areas off the Commonwealth's Atlantic shore within 30 miles of the shoreline; and (v) prohibits the construction of onshore natural gas exploration and production facilities on the Eastern Shore. Other initiatives (a) establish a Clean Coal Technology Research Fund, to be administered by the Virginia Center for Coal and Energy Research and used to finance research initiatives at state institutions of higher education and to encourage qualified state educational institutions to apply for federal grants to finance a center of excellence for advancing new clean coal technologies; (b) require designs for state buildings to incorporate reasonable cost-effective energy conservation measures and alternative energy systems; (c) direct the Commonwealth Transportation Board to encourage the use of biodiesel and other alternative fuels, to the extent practicable, in vehicles used to provide public transportation; (d) create the Virginia Coastal Energy Research Consortium, to include Old Dominion University, the Virginia Institute of Marine Science, the Virginia Tech Advanced Research Institute, James Madison University, and Norfolk State University, to serve as an interdisciplinary study, research, and information resource on coastal energy issues, including wave or tidal action, currents, offshore winds, thermal differences, and methane hydrates; (e) prohibit community associations from

enacting any provisions restricting solar power or the use of solar energy collection devices on units or lots that are part of the development, except to the extent provided in the applicable instruments, declaration or rules, and authorizes community associations to prohibit or restrict the installation and use of such solar energy collection devices on the common elements or common areas; and (f) declare it to be the policy of the Commonwealth to encourage the members of the State Congressional Delegation and federal executive agencies to develop, support, and enact federal legislation, and to take appropriate federal executive action, that will increase the Corporate Average Fuel Efficiency standards from the current standard by promoting performance-based tax credits for advanced technology, fuel-efficient vehicles to facilitate the introduction and purchase of such vehicles and by advocating for market incentives and education programs to build demand for high-efficiency, cleaner vehicles, including tax incentives for highly efficient vehicles. The bill directs the State Corporation Commission to develop a system for scoring parcels in the Commonwealth for their suitability as wind energy facilities, liquefied natural gas facilities, nuclear energy facilities, and solar energy facilities, upon recommendation by the Department of General Services for state-owned land, local governing bodies with the consent of the parcel's owner, or the owner of a parcel. Parcels that are scored as being optimal sites for such low-emission energy facilities would be eligible to use a one-stop permitting process, as may be adopted by the General Assembly. The State Corporation Commission and Secretary of Natural Resources are directed to prepare a proposal for a one-stop permitting process for low-emission energy facilities, which proposal shall be presented by December 1, 2006. The bill also provides grant awards for producing and using clean and efficient energy including grant awards in the amount of 0.85 cents for each kilowatt hour of electricity produced by a corporation from certain renewable energy resources and grants to individuals and corporations equal to 15 percent of the cost incurred in installing photovoltaic property, solar water heating property, or wind-powered electrical generators. The grants are limited to \$2,000 for each system of photovoltaic property, \$1,000 for each system of solar water heating property, and \$1,000 for each system of wind-powered electrical generators. Finally, the measure exempts from property taxation certified pollution control equipment and facilities used in collecting, processing, and distributing landfill gas and other gas recovered from waste products. SB 262; CH. 939 (effective - see bill).

APPROPRIATIONS AND BONDS.

Commonwealth of Virginia Higher Educational Institutions Bond Act of 2006. Authorizes the Treasury Board to issue bonds in an amount not to exceed \$395,428,570 pursuant to Article X, Section 9(c) of the Constitution of Virginia, for paying costs of acquiring, constructing, and equipping revenue-producing capital projects at institutions of higher

education of the Commonwealth and repeals certain prior authorizations for the issuance of bonds to the extent that the maximum amount of such bonds has not been issued. The bill has an emergency clause and is in effect upon passage. HB 77; CH. 532 (effective 4/4/06)/SB 28; CH. 511 (effective 4/4/06).

Virginia Public Building Authority; financing for the State Agency Radio System. Authorizes the Virginia Public Building Authority to issue bonds in an amount not to exceed \$201,900,000 to pay the costs of the State Agency Radio System (Phase II) for the Department of State Police. HB 83; CH. 245.

CLAIMS.

Relief for purchasers of property sold at treasurers' sales. Provides a legal right to certain persons who purchased real property prior to June 1, 1973, at delinquent tax sales conducted by local treasurers. Prior to 1973, the law in effect provided that real property for which real estate taxes were delinquent was to be sold by the treasurer in December of each year at a tax sale. The purchaser at the tax sale then would have been eligible after a number of years to make application to obtain clear title. However, a statute that would have kept the process in place for the purchaser to obtain clear title was repealed in 1984 pursuant to the recodification of Title 58 of the Code of Virginia because it was deemed "obsolete." The bill would allow certain enumerated individuals who purchased property prior to June 1, 1973, at a treasurer's tax sale, who have not received deeds for the properties purchased, to institute a court proceeding under the provisions of former law to obtain a deed to the property. The bill has a sunset date of July 1, 2010. The bill also contains an emergency clause. HB 214; CH. 588.

Davidson, Willie Neville. Provides relief for Willie Neville Davidson in the amount of \$168,775 to be paid by August 1, 2006. Mr. Davidson was convicted of rape, burglary and two counts of forcible sodomy in 1981 and sentenced to 20 years' imprisonment. He was released on parole in 1992 after serving approximately 11 and one-half years of his sentence. Subsequent to his release, DNA tests conducted on the biological evidence contained in his case file excluded him as a suspect in the crimes for which he was convicted. On December 22, 2005, the Governor granted Mr. Davidson an absolute pardon. HB 1379; CH. 612.

Hopkins, Troy D. Provides relief for Troy D. Hopkins in the amount of \$229,419 to be paid by August 1, 2006. Mr. Hopkins was convicted of murder in 1990 and sentenced to 28 years' imprisonment. Subsequently, another individual admitted to committing the murder. In 1992, Adrian Epps signed an affidavit confessing to the crime for which Mr. Hopkins had been convicted. Mr. Hopkins was paroled in 2001 and granted an absolute pardon on August 5, 2005. SB 609; CH. 506.

Thurman, Phillip. Provides relief for Phillip Thurman who was convicted of rape, assault and battery, and abduction in 1985 and sentenced to 31 years' imprisonment. He was released on parole on November 17, 2004, after serving approximately 20 years of his sentence. Subsequent to his release, DNA tests conducted on the biological evidence contained in his case file excluded him as a suspect in the crimes for which he was convicted. On December 22, 2005, the Governor granted Mr. Thurman an absolute pardon. Under the bill, the Commonwealth will provide a lump-sum payment to Mr. Thurman of \$100,000 to be paid by August 1, 2006, and pay \$338,598 to purchase a non-assignable annuity for the benefit of Mr. Thurman providing for equal monthly payments to him for 15 years. HB 1380; CH. 613.

tion that will permit localities to provide a partial exemption from real property taxes for real estate and associated new structures and improvements in conservation, redevelopment, or rehabilitation areas. SB 357; CH. 173.

CONSTITUTIONAL AMENDMENTS.

Constitutional amendment (voter referendum); marriage. Provides for a referendum at the November 2006 election on approval of a proposed constitutional amendment to define marriage. The proposed amendment provides that "only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions." The proposed amendment also prohibits the Commonwealth and its political subdivisions from creating or recognizing "a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance, or effects of marriage." Further, the proposed amendment prohibits the Commonwealth or its political subdivisions from creating or recognizing "another union, partnership, or other legal status to which is assigned the rights, benefits, obligations, qualities, or effects of marriage." HB 101; CH. 72/SB 526; CH. 828.

Constitutional amendment (voter referendum); powers of the General Assembly; limitations on powers including incorporation of churches. Provides for a referendum at the November 2006 election on approval of a proposed constitutional amendment relating to incorporation of churches. The proposed amendment deletes language that prohibits the General Assembly from granting charters of incorporation to churches. This prohibition was held to be unconstitutional in 2002 by the United States District Court for the Western District of Virginia in *Falwell v. Miller* (203 F.Supp. 2d 624). The Court held that the prohibition against incorporation of churches violated the plaintiff church's First Amendment right to the free exercise of religion. Since that case, the State Corporation Commission has granted charters to churches. This amendment deletes the now obsolete language and makes no change in current law. HB 1382; CH. 68.

Constitutional amendment (voter referendum); property exempt from taxation. Provides for a referendum at the November 2006 election on approval of a proposed constitutional amendment relating to property tax exemptions. The proposed amendment authorizes the General Assembly to enact legisla-

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