

1999 SESSION HIGHLIGHTS



Session Highlights is designed to provide legislators with a list of significant legislation considered by the 1999 General Assembly, as selected by the staff of the Division of Legislative Services. This brief overview of the Session covers Assembly and Governor's actions through adjournment sine die on Saturday, February 27, 1999.

Abortion

Failed

■ *Informed Written Consent for Abortion.*

Establishes certain conditions for obtaining informed written consent from a pregnant woman, of any age, prior to an abortion, including the requirement that each woman be given, at least 24 hours before the abortion, an explanation of the proposed procedures or protocols, an instruction that she may withdraw her consent, an offer to speak with the physician who is to perform the abortion, a statement of the probable gestational age of the fetus, and an offer to review printed materials developed by the Department of Health.

Agriculture

Passed

■ *Tobacco Indemnification and Community Revitalization Commission and Fund.*

Establishes a commission to administer a portion of the funds received by the Commonwealth pursuant to the tobacco Master Settlement Agreement. This money will be used to make payments to tobacco farmers and for projects in tobacco-dependent communities. The bill also establishes the Virginia Tobacco Settlement Foundation to finance efforts to limit the use of tobacco products by minors.

■ *Cruelty to Animals.* Makes a second or subsequent animal cruelty offense (currently a Class 1 misdemeanor) a Class 6 felony if both offenses resulted in the death or euthanasia of an animal. Allows a court to require any person convicted of an animal cruelty violation to attend an anger management or other treatment program or obtain psychiatric or psychological counseling.

Commerce

Passed

■ *Virginia Electric Utility Restructuring Act.*

Restructures Virginia's electric utility industry by deregulating the generation component of electric service, eventually permitting all Virginia customers to purchase generation service from the provider of their choice. Customer choice of generation suppliers will be phased in, beginning in 2002 and completed by 2004.

■ *Virginia Technology and Biotechnology Investment Act.* Creates a research and development tax credit, not to exceed 15 percent of the amount spent by the taxpayer on an eligible research and development activity. The bill will only become effective if reenacted by the 2000 General Assembly Session.

■ *Small Business Investment Fund.* Creates a program within the Department of Minority Business Enterprise to assist businesses owned and operated by economically disadvantaged individuals by providing loan loss reserves, loan guarantees, and interest rate buy-downs.

Constitutional Amendments

Passed

■ *Lottery Proceeds Fund.* Establishes the fund, to consist of the net revenues from any lottery conducted by the Commonwealth. Fund proceeds will be distributed to counties, cities, and towns to be expended for public education purposes.

Failed

■ *Right to Vote for Certain Felons.* Authorizes the General Assembly to provide by law for the restoration of voting rights for felons convicted of nonviolent felonies.

■ *Governor's Term of Office.* Permits the Governor to succeed himself in office. The amendment allows two terms (either in succession or not in succession) but prohibits election to a third term.

■ *Revenue Stabilization Fund; Taxpayer Refunds.* Provides for the refund of surplus revenues, above the amount required to be deposited to the Revenue Stabilization Fund, to the Commonwealth's income taxpayers, provided such surplus exceeds \$50 million.

Courts

Passed

■ *"Virginia Exile."* Provides that any person convicted of (i) possessing a firearm on school grounds with the intent to use it, or displaying it in a threatening manner, (ii) possessing a firearm after having been previously convicted of a violent felony, or (iii) simultaneously possessing a firearm and drugs with intent to sell, shall not be eligible for probation and shall be sentenced to a minimum, mandatory term of imprisonment of five years, which shall not be suspended in whole or in part and which shall be served consecutively with any other sentence. The maximum mandatory term is reduced to two years if the previously convicted felon's prior felony was nonviolent.

■ *Medical Malpractice Limit.* Raises the amount recoverable from \$1 million to \$1.5 million, exclusive of pre-judgment interest. The \$1 million limit will increase by \$50,000 annually until July 1, 2006, and by \$75,000 for the last two years. The annual increase will apply only to causes of action arising after July 1 of that year.

■ *Child Support; Shared Custody.* Replaces the use of a specified number of days (110-day threshold) as an automatic trigger for shared custody, and changes the multiplier from 1.25 to 1.4 in order to allow a more gradual decrease in child support for any given number of days of visitation or custody, and thereby reduces the "cliff effect."

■ *Civil Commitment of Sexually Violent Predators.* Authorizes the civil commitment of persons previously convicted of a violent

sex offense whose mental abnormalities render them so likely to commit sexually violent offenses that they constitute a threat to the health and safety of others. Such persons will be committed for an indeterminate period to facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services for treatment and confinement consistent with their needs. Requires reenactment by the 2000 General Assembly.

■ **DUI.** Makes third DUI offense within 10 years a Class 6 felony, with fourth and subsequent offenses carrying a 1-year mandatory minimum jail sentence. Repeals the determination and adjudication provisions of the Habitual Offender Act and adds license revocation language governing involuntary manslaughter and maiming resulting from a DUI.

Failed

■ **Motor Vehicle Offenses.** Raises the fine for driving while intoxicated and transporting a minor to a minimum of \$1,000 and a maximum of \$2,000 (currently \$100 and \$500).

■ **Open Container Law.** Prohibits the possession of any alcoholic beverage in the passenger area of a motor vehicle upon a public highway in other than the manufacturer's unopened, original container. A violation of this law is punishable as a Class 4 misdemeanor.

Economic Development

Passed

■ **Virginia Investment Partnership Act.** Establishes grants to encourage and assist Virginia manufacturers to modernize their production processes, improve their competitiveness, and increase their employment and investment in Virginia.

Failed

■ **Rebate of Income Taxes to Localities.** Provides that localities which have businesses qualifying for the business facility job tax credit will receive from the state a 20 percent rebate of the personal income tax earned as a result of the jobs created by the businesses.

Education

Passed

■ **School Division Participation in Medical Assistance Services.** Requires the Superintendent of Public Instruction and the Director of the Department of Medical Assistance Services or their designees to develop and execute a memorandum of agreement relating to community health centers and special education health services that are delivered by school divisions to public school students.

■ **Regulations for Remediation Programs.** Requires the Board of Education to promulgate emergency regulations for establishing standards for remediation programs. The regulations must require school divisions to evaluate their remediation programs annually in terms of the pass rate on the SOL tests. The

board must collect and analyze the data on remediation programs and report its findings and recommendations to the Governor and General Assembly annually.

■ **Suspended and Expelled Students.** Establishes the Community-Based Program for Suspended and Expelled Students to provide interim instructional programs, intervention, and supervision for students in the public schools who have been suspended, excluded, or expelled from school.

■ **Education Accountability and Quality Enhancement Act of 1999.** Makes a variety of changes to the statutes governing teacher preparation, evaluation, and employment, most having to do with performance standards and incentives for teachers and school administrators.

■ **Student Expulsions for Drug Offenses.** Provides that students must be expelled from school attendance for possession of drugs on school property or at a school-sponsored activity.

Failed

■ **Lottery Proceeds for Educational Capital Projects.** Provides that 100 percent of net lottery proceeds shall be used for capital projects and technology enhancement supporting elementary and secondary education.

■ **Student Participation in Extracurricular Activities.** Requires students to be enrolled full time in public schools and to meet school board guidelines and regulations to participate in school-sponsored extracurricular activities.

Elections

Passed

■ **Voter Identification.** Authorizes a pilot project in 10 or fewer localities to test voter identification procedures at the polls. If a voter cannot present identification, he will be able to vote if he signs a statement, subject to felony penalties, that he is the registered voter he claims to be.

■ **Presidential Primaries.** Permits, but does not require, a political party to elect delegates to its national convention at a presidential primary to be held on the last Tuesday in February.

■ **Absentee Voting.** Allows a person to vote absentee if he anticipates that business or personal obligations may prevent his going to the polls on election day.

Failed

■ **Political Party Names on Ballots.** Provides for identification on the ballot of candidates by the name of their political party. Present law prohibits party identification on the ballot except in presidential elections.

■ **Restoration of Voting Rights to Former Felons.** Adds a procedure for the restoration of the right to register to vote to any person convicted of a nonviolent felony in Virginia, upon completion of sentence, probation, and parole.

■ **Blanket Primary.** Provides that a voter may participate in any primary for any office without regard to political affiliation. However, a voter may not vote in more than one primary for a specific office.

Health

Passed

■ **Do Not Resuscitate Orders.** Modifies the provisions on advance directives, Do Not Resuscitate Orders and judicial treatment decisions to clarify judicial health care decision-making authority and to establish a durable Do Not Resuscitate Order which follows the patient to various settings.

■ **COPN.** Eliminates the requirement for a certificate of public need for the replacement of any equipment and requires registration with the Commissioner of Health and the appropriate health systems agency, within 30 days of becoming contractually obligated, of purchases of medical equipment for the provision of various high-tech medical services.

■ **Pharmacists.** Provides authority for pharmacists to enter into collaborative agreements with practitioners of medicine, osteopathy, or podiatry for the purpose of improving patient outcomes.

■ **Health Statistics.** Requires the Virginia Health Department to publish statistics and analyses regarding the health status of minority populations in the Commonwealth as a part of the department's annual report.

Failed

■ **Prescription Drugs for Medicare Beneficiaries.** Authorizes participating licensed pharmacies under agreements with the Board of Pharmacy to issue prescriptions to Medicare beneficiaries at a reduced price.

■ **Pharmacy Benefits Managers.** Defines "pharmacy benefits manager" and requires such persons, whether located in Virginia or elsewhere, to register such information as the Board of Pharmacy prescribes by regulation. The board must promulgate regulations to identify and monitor pharmacy benefits management in Virginia and to ensure the confidentiality of patient records.

Higher Education

Passed

■ **Reduced Tuition and Fees.** Directs the governing bodies of all public institutions of higher education to reduce, by 20 percent, tuition and mandatory educational and general fees in effect on June 30, 1999, for in-state undergraduate students for the year beginning July 1, 1999, and ending June 30, 2000.

■ **Income Tax Deduction for Savings Trust Accounts.** Authorizes the Board of the Higher Education Tuition Trust Fund to create a savings trust account program to be offered in addition to the existing prepaid tuition contracts. Amounts contributed to a savings trust account up to \$2,000 per year may be deducted from state income tax.

■ **University of Virginia Branch Campus in Qatar.** Authorizes the board of visitors of the University of Virginia to establish, operate, and govern a branch campus in the State of Qatar.

■ **Clinch Valley College.** Renames Clinch Valley College the University of Virginia's College at Wise.

Failed

■ **Commonwealth of Virginia Higher Education and Related Educational Facilities Bond Act of 1999.** Subject to approval by the voters, authorizes the issuance of bonds in an amount not exceeding \$300,000,000.

Insurance

Passed

■ **Managed Care Health Insurance Plans.** Implements comprehensive reforms in managed health care, including (i) external independent review of adverse decisions, (ii) an ombudsman to intervene in health care coverage disputes, (iii) required patient notification of changes in benefits, (iv) required and extended continuation of care for a covered person by a provider who is no longer a participating provider, (v) standing referrals to specialists and access to specialists as primary care physicians, (vi) prohibitions in provider contracts that allow incentives for refusing health care, (vii) accessibility to nonformulary prescription drugs, and (viii) 24-hour availability of personnel to authorize medical treatments.

■ **Fair Business Practices.** Establishes fair business practices standards applicable to the claim reimbursement practices of health insurance carriers, health services plans and HMOs. The section requires carriers to (i) pay simple claims within 40 days of claim receipt, (ii) contact health care providers within 30 days if they desire further information or documentation, and (iii) establish reasonable policies giving providers notice of and detailed information concerning carriers' required administrative claims processing procedures.

■ **Coverage for Hospice Care.** Requires health insurers, HMOs, and corporations providing accident and sickness subscription contracts to provide coverage for hospice care.

Local Government

Passed

■ **Local Telecommunications Services.** Grants localities, electric commissions or boards, and industrial development and economic development authorities the ability to lease on nondiscriminatory terms, for a term not to exceed 10 years, certain telecommunications infrastructure to one or more certificated local exchange telephone companies, authorized providers and to not-for-profit educational schools and institutions, hospitals, health clinics and medical facilities for use in serving its not-for-profit purposes.

■ **Annexation Moratorium.** Extends the annexation moratorium to July 1, 2010; however, the extension is contingent upon appro-

priation of "599 funding" in accordance with § 9-183.13 et seq.

■ **Advanced Communications Assistance Fund.** Creates the Advanced Communications Assistance Fund, to be administered by the Innovative Technology Authority, to help underserved localities in the Commonwealth take full advantage of advanced communications services.

■ **Special Use Permits for Residential Uses.** Provides that no local ordinance shall require as a condition of approval of a subdivision plat, site plan, or plan of development, or issuance of a building permit, that a special use permit be obtained for construction of residential dwellings at the use and density permitted by right under the ordinance.

Mental Health

Passed

■ **Persons with Mental Retardation, Developmental Disabilities, or Mental Illness.** Revises the internal and external human rights systems for such persons.

■ **Comprehensive Services Act.** Requires each community and policy management team to have as a member at least one elected official from a participating locality.

Natural Resources

Passed

■ **Caps on Landfill Disposal.** Caps the amount of municipal solid waste that may be disposed of in a landfill at 2,000 tons per day or the documented average actual amount disposed of in 1998, whichever is greater.

■ **Solid Waste.** Makes numerous changes to Virginia's laws regulating solid waste. The bill expands the required review and determinations that must be made by the Department of Environmental Quality (DEQ) when it considers permit applications related to solid waste management facilities and the siting of new landfills, including prohibiting new landfills in seven types of environmentally or geologically sensitive areas.

■ **Water Transport of Wastes.** Provides for the prohibition, to the fullest extent possible, consistent with limitations posed by the U.S. Constitution and as is necessary to protect health, safety and welfare and the environment, the commercial transport of certain types of solid wastes, by ship, barge or other vessel, on the Rappahannock, James and York Rivers.

■ **Solid Waste Management and Enforcement.** Prohibits the issuance of permits for the siting of new municipal solid waste landfills in certain environmentally sensitive areas.

■ **Regulation of Wastes Transported on Water.** Adds to the directives on the types of regulations to be developed for containers carrying certain wastes by ship, barge or other vessels. To the extent allowable under federal law, the regulations are to include provisions related to: (i) container testing; (ii) manifests on waste suitability for destination disposal facili-

ties; and (iii) the number of containers that can be stacked upon each other and how the containers are secured. Facilities may not receive commercially transported wastes from a ship, barge or other vessel until the regulatory program has been developed. Fees for facilities receiving the wastes from a ship, barge or other vessels are to be increased to cover the cost of at least a quarterly inspection program by the Department of Environmental Quality.

■ **Solid Waste Environmental Stewardship Fund.** A \$1 per ton base assessment is established with a sliding scale increase up to \$2 per ton based on daily volume of municipal solid waste disposed of in a landfill. The fund created by the assessment may be used for (i) clean up, remediation and proper closure of post-closure landfills and abandoned landfills and (ii) grants to local governments for closure of landfills without proper liner and leachate control systems.

■ **Poultry Waste Management.** Requires the State Water Control Board to establish a regulatory program for poultry waste management, which will require that growers with more than 200 animal units of poultry (about 20,000 chickens) obtain coverage under a general permit and have and implement nutrient management plans. The plans will limit poultry litter land application rates based on crop nutrient needs and crop nutrient uptake. The bill also requires commercial poultry growers to file plans with DEQ detailing the ways in which they will provide assistance to the poultry growers with whom they contract to ensure that poultry waste is properly stored and managed and transported to areas where it can be used.

Failed

■ **Medical Waste Penalties.** Specifies that it is a felony, punishable by one to five years in prison or up to \$25,000 or both, to knowingly transport regulated medical waste to an unpermitted facility; to knowingly transport, treat, store or dispose of regulated medical waste without, or in violation of, a permit; or to knowingly make a false statement on any documentation used for purposes of regulated medical waste compliance programs.

■ **Landfill Closure.** Requires the closure of landfills that do not have the most modern liner and leachate control systems.

■ **Commonwealth of Virginia Parks and Recreational Facilities Bond Act of 1999.** Subject to approval by the voters, authorizes the issuance of bonds in an amount not exceeding \$111,410,000.

State Government

Passed

■ **Virginia Retirement System; "30 and Out."** Provides for unreduced retirement benefits at age 50 with 30 years of service. Under current law members must be at least 55 with 30 years of service.

■ **Deferred Compensation Benefits for State Employees.** Provides that the Common-

wealth shall make contributions to state employees deferred compensation accounts.

■ **Health Insurance Credits for Retired State Employees and Teachers.** Increases the health insurance credit for retired state employees and teachers by approximately 60 percent.

■ **Virginia Law Officers' Retirement System.** Establishes a separate retirement benefits system for certain law-enforcement officers with benefits actuarially the same as benefits provided to State Police through the State Police Officers' Retirement System.

■ **Freedom of Information.** Rewrites the Freedom of Information Act to clarify definitions, procedures, and requirements of public officials. Increases penalties for violations of FOIA.

Failed

■ **Deferred Retirement Option Program.** Establishes a deferred retirement option program for state employees, state police officers, local government employees, and teachers.

Taxation

Passed

■ **Sales Tax on Food.** Reduces the state sales tax rate on food purchased for human consumption one-half percent each year for four years beginning January 1, 2000, for a total reduction of two percent by April 1, 2003. Food is defined as it is under the federal Food Stamp Act.

■ **Income Tax Reduction for Military.** For taxable years beginning on or after January 1, 2000, allows a subtraction of \$15,000 from income tax for military basic pay, reduced dollar-for-dollar when the taxpayer's military basic pay exceeds \$15,000 and no subtraction allowed if such basic pay equals or exceeds \$30,000.

■ **Taxation of Electric Utilities.** Eliminates the state gross receipts tax, the State Corporation Commission special assessment tax, and the local gross receipts tax on electric suppliers. In place of these taxes, consumers of electricity will pay a declining block consumption tax and electricity suppliers will be subject to the corporate income tax.

■ **Income Tax Credit for Taxes Paid Other States.** Provides a credit to Virginia residents on their income tax when they pay tax to another state for any gain on the sale of a capital asset, effective for taxable years beginning on and after January 1, 2000.

■ **Income Tax Subtraction for Unemployment Benefits.** Provides a subtraction from federal adjusted gross income for unemployment benefits when computing Virginia taxable income.

■ **Income Tax Deduction For Long Term Health Care Insurance.** Provides a deduction, from federal adjusted gross income in calculating Virginia taxable income, for long term health care insurance premiums, for taxable years beginning on and after January 1, 2000, provided the individual has not claimed a deduction for federal income tax purposes.

■ **Income Tax Credit for Political Contributions.** Grants a tax credit to individuals who make contributions to candidates for state or local political office of 50 percent of the amount of the contribution, subject to a \$25 limit for individuals and a \$50 limit for married taxpayers filing jointly, effective January 1, 2000.

■ **Grant for Care Provided to Impaired Elderly Relatives.** Provides a \$500 grant to individuals or couples whose Virginia adjusted gross income does not exceed \$50,000 who provide unreimbursed care to an impaired elderly relative who required assistance with two or more activities of daily living during more than half the year.

■ **Tax Credits for Preservation of Land.** Provides an income tax credit for individuals and corporations donating land for preservation purposes, effective January 1, 2000.

■ **Capital Gains Tax Relief for Land Dedicated to Open Space.** Excludes from the income of individuals and corporations the gain on the sale of land or an easement which dedicates the land or easement to an open-space use.

■ **Car Tax Relief; Reimbursement of Administrative Costs.** Provides that 100 percent of the fair and reasonable administrative costs incurred by the localities in implementing the car tax relief shall be reimbursed to them.

■ **Meals Taxes.** Prevents cities and towns from imposing meals tax on items sold by a grocery store delicatessen or convenience store except prepared sandwiches, beverages prepared on premises, and single-meal platters. Similar restrictions currently exist with respect to county food and beverage taxes.

■ **Sales and Use Tax Exemptions.** Extends the expiration date for existing sales and use tax exemption provisions for certain nonprofit organizations to June 30, 2001. Beginning July 1, 2000, nonprofit organizations, except churches, exempt from the sales and use tax will be required to submit the same information currently required of organizations requesting a new exemption.

Failed

■ **Income Tax Credits for Educational Expenses and Contributions.** Establishes nonrefundable income tax credits for tuition and other instructional fees charged by a public or private school and for certain fees and costs incurred in association with home schooling.

■ **Distribution of Recordation Tax to Cities and Counties.** Increases the amount of annual distributions of recordation tax to cities and counties from \$40 million to \$70 million.

■ **Exemptions from Motor Vehicle Sales and Use Tax.** Exempts purchases of vehicles from the tax if the purchaser was leasing the vehicle and paid the tax on the vehicle when he leased it.

Transportation

Passed

■ **U.S. Route 58/Northern Virginia Transportation Bonds.** Authorizes the issuance of Transportation Revenue Bonds in the amount of

\$104.3 million each for Route 58 and Northern Virginia.

■ **Vehicle Registration Fees.** Increases to three dollars or four dollars (from present two dollars) the surcharge on vehicle registrations used for emergency medical services purposes (the so-called "two for life" fee).

■ **Hampton Roads HOV Lanes.** Prohibits designation of HOV lanes on any portion of Va-44, I-64, or I-264 within Virginia Beach, Norfolk, or Chesapeake.

■ **Special License Plates; Sons of Confederate Veterans.** Authorizes the issuance of special license plates, without any logo or flag.

Failed

■ **Special License Plates; Choose Life.** Authorizes the issuance of special license plates bearing the legend: Choose Life, Choose Adoption (or some variant thereof).

■ **Defective Truck Equipment.** Prohibits operation of any motor vehicle, trailer, or semitrailer with defective brakes, tires, wheels, or steering mechanism that is likely to cause an accident. Violations discovered through "out-of-service" inspections are to be punished by (i) a one-year driver's license suspension and/or a fine up to \$2,500 for a first offense, a fine up to \$5,000 for a second or subsequent offense.

■ **Seat belts.** Provides that failure to wear seat belts in the front seat is a primary, rather than secondary, offense. Law-enforcement officers may not search or inspect a motor vehicle or its contents, the driver, or the passenger solely because of a seat belt violation.

Other

Passed

■ **Volunteer Firefighters' and Rescue Squad Workers' Pension Fund.** Establishes a voluntary defined contribution retirement plan for certain eligible volunteer firefighters and rescue squad workers to be administered and managed with the assistance of the Virginia Retirement System.

■ **Michele Finn.** Provides for the payment of \$48,000 to Michele Finn and of \$10,000 to John Finn to reimburse them for costs incurred in court actions related to her actions as guardian of her late husband, Hugh Finn.

Failed

■ **Public Assistance.** Provides that local departments of social services may place a VIEW participant, subject to his consent, in a vocational educational program targeted to skills required for local employment if the participant is in need of job skills and would benefit from immediate job skills training.

■ **Commonwealth of Virginia Cultural Facilities Bond Act of 1999.** Subject to approval by the voters, authorizes the issuance of bonds in an amount not exceeding \$90,100,000.