

# VIRGINIA GENERAL ASSEMBLY



## 2004 SESSION SUMMARY

## **Published by the Division of Legislative Services**

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# Preface

This publication presents a summary of legislation considered by the Virginia General Assembly at the 2004 Session. Bill summaries are arranged by subject areas corresponding to the appropriate titles in the Code of Virginia. Noncodified bills of a substantive nature are also contained under their proper subject headings. Within each heading, the material is further separated into *Passed*, *Failed*, and *Carried Over* categories. (The General Assembly sometimes incorporates provisions from several bills in one substitute bill. Thus a bill may have failed, but all or some of its provisions have been "incorporated" in another bill. The summary for the bill will so note.) Bills affecting more than one title are printed under the dominant subject area of the legislation.

Other headings contain constitutional amendment resolutions, certain miscellaneous resolutions, charter and authority bills, and miscellaneous noncodified bills. A final category lists studies approved by the General Assembly. An index shows the page number on which the summary of a particular bill may be found.

The major substantive provisions of each measure are summarized. The appropriate bill number and patron are also noted so that one can obtain further information, if needed. A researcher should refer to the enrolled bill, the appropriate chapter of the 2004 Acts of Assembly, or the Legislative Information System on the Internet (<http://leg1.state.va.us/lis.htm>) for detailed information on legislation.

These summaries reflect actions of the 2004 General Assembly through adjournment *sine die* on March 16, 2004. Many of the measures are subject to gubernatorial review and veto. Therefore, some measures may be amended and some may not become law.

This document represents many hours of work and the concerted efforts of all Division of Legislative Services staff. Lisa Gilmer, Special Projects Administrative Assistant, deserves specific mention for coordinating and producing the document. I hope you will join me in thanking the staff for its dedicated service to the legislative process. A special word of thanks goes to the Division of Legislative Automated Systems, which provided technical and printing assistance that contributed greatly to the success of this publication.

E. M. Miller, Jr.  
Director, Division of Legislative Services

# 2004 SESSION SUMMARY

	Introduced	Continued	Passed	Failed
<b>House Bills</b>	<b>1488</b>	<b>260</b>	<b>676</b>	<b>552</b>
<b>House Joint Resolutions</b>	<b>524</b>	<b>36</b>	<b>421</b>	<b>67</b>
<b>House Resolutions</b>	<b>26</b>	<b>0</b>	<b>22</b>	<b>4</b>
<b>House Total</b>	<b>2038</b>	<b>296</b>	<b>1119</b>	<b>623</b>
<hr/>				
<b>Senate Bills</b>	<b>693</b>	<b>123</b>	<b>359</b>	<b>211</b>
<b>Senate Joint Resolutions</b>	<b>258</b>	<b>6</b>	<b>220</b>	<b>32</b>
<b>Senate Resolutions</b>	<b>17</b>	<b>0</b>	<b>17</b>	<b>0</b>
<b>Senate Total</b>	<b>968</b>	<b>129</b>	<b>596</b>	<b>243</b>
<hr/>				
<b>General Assembly Total</b>	<b>3006</b>	<b>425</b>	<b>1715</b>	<b>866</b>

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# Administration of Government

## Passed

**D HB6 State publications.** Reduces from 100 to 20 the maximum copies of state publications that must be submitted to The Library of Virginia. The bill also removes the requirement for the reporting entity to furnish information on publication costs to The Library and clarifies that state reports include reports by agencies, institutions, collegial bodies and other state governmental entities. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill is identical to SB 2.

*Patron - Cox*

**D HB14 Agency reporting requirements.** Eliminates the following obsolete or duplicative agency reports: the Annual Report of the Council on Human Rights, the Use of Earnings of Industrial Schools and Workshop Report by the Department for the Blind and Vision Impaired, the Virginia Parks Standards by the Secretary of Natural Resources, the Chesapeake Bay Resources Report by the Department of Environmental Quality, 2001 Health Insurance Accounts Report by the Department of Human Resource Management, the Public School Teacher Compensation Report by the Director of the Department of Human Resource Management, the Intermediate Sanction Juvenile Boot Camp Annual Evaluation by the Department of Juvenile Justice, Receipts and Expenditures Report to the General Assembly by the State Forester, the Gross Amount Received from the Sale of Special Use Permits Duplicate Report by the State Forester, Unfunded Scholarship Annual Report by Institutions of Higher Learning, Issue of Bulletins and Quarterly Reports by the Virginia Department of Agriculture and Consumer Services, and the Managed Care Health Insurance Plan Certification of Quality Report by the Virginia Department of Health. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Amundson*

**D HB15 Early Intervention Agencies Committee.** Abolishes the Early Intervention Agencies Committee. The committee was created in 1992 to ensure the implementation of a comprehensive system for early intervention services and to make recommendations to the Secretary of Health and Human Resources and the Secretary of Education on issues that require interagency planning, financing, and resolution. Following the committee's creation, an early intervention interagency management team comprised of staff from the affected agencies was informally established to handle the day-to-day operations and management of early intervention services and perform much of the budget approval work of the committee. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill incorporates HB 205.

*Patron - Amundson*

**D HB22 Governor's Employment and Training Department.** Removes obsolete references to the Governor's

Employment and Training Department. This bill is a recommendation of the Code Commission.

*Patron - Landes*

**D HB69 Risk management plans.** Allows attorneys who provide pro bono custody and visitation legal services to eligible indigent persons pursuant to a program approved by the Supreme Court of Virginia or the Virginia State Bar to be covered by the Commonwealth's risk management program for claims arising from their provision of legal services in such programs. The bill provides that the cost of such coverage shall be paid by the Virginia Supreme Court for approved programs of the Supreme Court and the Virginia State Bar.

*Patron - Melvin*

**D HB105 Capitol Square Preservation Act of 2003.** Makes several changes to the Capitol Square Preservation Act of 2003 including (i) increasing the total principal amount of bonds that may be issued for the projects from \$118,570,000 to \$130,978,000 (and increasing the cost of specific projects by an equal amount); (ii) increasing the estimated cost of fixtures and furnishings for the Capitol Building from \$5,972,000 to \$13,825,000 (such amount is to be funded through private donations or other similar means of fundraising) and expanding the items to be funded thereby; (iii) authorizing the Governor to implement his plan to complete the renovations of the Old Finance Building and Washington Building projects; and (iv) requiring the Governor to prepare and present a plan to the Chairmen of the Senate Finance and Rules Committees and House Appropriations and Rules Committees on or before December 1, 2004, for the demolition of derelict buildings and development of office and parking facilities on state-owned property bounded by 8th, 9th, and Broad Streets in the City of Richmond.

*Patron - Morgan*

**D HB168 Freedom of Information Act (FOIA); record exemption; certain park and recreation records.** The bill adds an exemption from the mandatory disclosure requirements of FOIA for records of state or local park and recreation departments to the extent such records contain information identifying a person under the age of 18 years, where the parent or legal guardian of such person has requested in writing that such information not be disclosed. However, nothing in this subdivision shall operate to prohibit the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232 g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations.

*Patron - Sherwood*

**D HB203 Virginia Advisory Commission on Intergovernmental Relations.** Abolishes the Virginia Advisory Commission on Intergovernmental Relations. The Commission was created in 1978 to act as a forum for identifying and discussing areas of mutual concern to local and state officials, including state and federal programs. The Commission no longer has professional staff or appropriations directly assigned or direct appropriations. The duties and responsibilities of the Commission can be assumed by existing entities or specific issue-oriented bodies created as needed. Other avenues for intergovernmental discussions currently exist, including the Virginia Municipal League, the Virginia Association of Counties, and the use of legislative and executive liaisons by local governments. This bill is identical to SB10, which was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental

Entities pursuant to HJR 159 (2002). This bill incorporates HB 203 and HB 252.

*Patron - Athey*

**D HB206 Interagency Coordinating Council on Housing for the Disabled.** Abolishes the Interagency Coordinating Council on Housing for the Disabled. The Council was created in 1986 to provide and promote cross-secretariat inter-agency leadership for comprehensive planning and coordinated implementation of proposals to increase and maximize use of existing low-income housing for the disabled and to develop a state policy on housing for the disabled for submission to the Governor. The Council has been inactive for approximately 10 years. Other entities, including the Disability Commission and the Department of Housing and Community Development, are currently addressing issues faced by the disabled in obtaining housing. This bill is identical to SB 8, which was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Athey*

**D HB302 Department of General Services; state-wide translation contracts.** Requires the Department of General Services, in coordination with the Secretary of Health and Human Resources, to establish a statewide contract for telephonic language interpretation services and other interpretation and translation services to Virginia's limited English-speaking residents, if it determines that such a contract is cost-effective.

*Patron - Cox*

**D HB347 Freedom of Information Act (FOIA); record exemption; citizen emergency response teams.** Provides an exemption from the mandatory disclosure requirements of FOIA for records of the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body, to the extent that such records reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

*Patron - Sherwood*

**D HB350 Department of the Treasury; risk management plans; inclusion of guardians.** Includes in the state's risk management plans any natural person serving as a guardian or limited guardian as defined in § 37.1-134.6 for any consumer of a community services board or behavioral health authority or any resident of a state facility operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The bill provides that the Department of Mental Health, Mental Retardation and Substance Abuse Services will pay the costs of coverage for such persons.

*Patron - Albo*

**D HB358 Freedom of Information Act; posting by certain state public bodies; minutes.** Requires all state public bodies created in the executive branch of state government and subject to the Freedom of Information Act (FOIA) to make available certain information to the public upon request and to post such information on the Internet, including (i) a plain English explanation of the rights of a requester under FOIA, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with FOIA; (ii) contact information for the person designated by the public body to (a) assist a requester in making a request for records or (b) respond to requests for public records; and (iii) any policy the public body has concerning the type of public records it routinely withholds from release as permitted by

FOIA. The bill requires the Freedom of Information Advisory Council to assist state public bodies in the development and implementation of this information, upon request. The bill also specifies what information must be included in minutes of open meetings.

*Patron - Suit*

**D HB466 State Treasurer; sale of abandoned property.** Authorizes the sale of abandoned property other than money or other certificates of ownership through the use of electronic media. Expands the forms of notice of a public sale that is to occur outside the Commonwealth to include post, print, visual, telecommunications, or electronic media or any combination of those forms. All sales through the use of electronic media are deemed to be sales outside the Commonwealth.

*Patron - Drake*

**D HB467 State and Local Government Conflict of Interests Act; orientation programs.** Provides for periodic orientation or training sessions for state government personnel on the content of the Act and other ethics provisions and for distribution of copies of the Act to all new state and local personnel. The bill is identical to SB 226.

*Patron - Drake*

**D HB470 Procurement; online auctions and the General Services Administration.** Adds online public auctions and the U.S. General Services Administration (GSA) as procurement sources available to public bodies. Public bodies may only purchase telecommunications and information technology goods and nonprofessional services from any contract maintained by GSA upon the approval of the Chief Information Officer. This bill is identical to SB 95.

*Patron - Nixon*

**D HB508 Virginia Information Technologies Agency; contracts for personal computers.** Allows licensed teachers employed in a full-time teaching capacity in Virginia public schools or in state educational facilities to purchase personal computers for use outside the classroom on state contract. Currently, the ability to buy such personal computers is limited to public school teachers.

*Patron - Marrs*

**D HB525 Health insurance plan for state employees.** Requires that the health insurance plan offered to full-time state employees also be offered to all part-time state employees provided that such part-time employees pay the total cost of such insurance coverage. Part-time state employee is defined in the bill.

*Patron - Hogan*

**D HB527 Comprehensive Services for At-Risk Youth and Families.** Adds the chairman of the state and local advisory team to the State Executive Council for Comprehensive Services for At-Risk Youth and Families. In addition, the bill adds a representative from the Department of Medical Assistance Services to the state and local advisory team.

*Patron - Hogan*

**D HB538 Freedom of Information Act; record exemption; cell phone numbers of law-enforcement personnel.** Provides that records of the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided by a law-enforcement agency to its personnel for use in the performance of their official duties are exempt from the mandatory disclosure requirements of the Freedom of Information Act. The bill is identical to SB 297.

*Patron - May*



**D HB543 Government Data Collection and Dissemination Practices Act; unique identifying numbers limited on public records.** Prohibits filing or creating public records that contain more than the last four digits of any unique identifying number, unless such use is required by law or the record is exempt from disclosure. The bill defines unique identifying number as any alphabetic or numeric sequence, or combination thereof, that is unique and assigned to a specific natural person at that person's request and includes, but is not limited to, social security number, bank account number, credit card number, military service number and driver's license number. The bill excludes from this definition any arbitrarily assigned alphabetic or numeric sequence, or combination thereof, that is assigned to a natural person for purposes of identification, in lieu of social security numbers, and used for a single, specific government purpose. Either preparers or filers of such documents must certify that the document complies with this prohibition before the documents can be filed. The bill contains a reenactment clause.

*Patron - May*

**D HB546 Secretary of Technology; duties.** Assigns to the Secretary of Technology the responsibility for developing and coordinating a comprehensive policy for research and development in the Commonwealth. The bill adds the Virginia Research and Technology Advisory Commission to the list of agencies for which he is responsible. The bill also assigns to the Secretary the tasks of monitoring and analyzing the technology investments and strategic initiatives of other states to ensure the Commonwealth remains competitive; strengthening interstate and international partnerships and relationships in the public and private sectors to bolster the Commonwealth's reputation as a global technology center; developing and implementing strategies to accelerate and expand the commercialization of intellectual property created within the Commonwealth; ensuring the Commonwealth remains competitive in cultivating and expanding growth industries, including life sciences, advanced materials and nanotechnology, biotechnology, and aerospace; and monitoring the trends in the availability and deployment of and access to broadband communications services. The bill adds the Secretary to the cabinet-level committee created to assist the Secretary of Commerce and Trade in the development of the comprehensive economic development policy for the Commonwealth; the Council on Technology Services; the Virginia Workforce Council; the Board of Trustees of the A. L. Philpott Manufacturing Extension Partnership; and the Advisory Council on Career and Technical Education to ensure a comprehensive and integrated policy for the Commonwealth on education, commerce, workforce and technology. This bill incorporates HB1467.

*Patron - May*

**D HB598 Shelter care for juveniles; funding.** Provides that where a juvenile court places a juvenile in a community or facility-based treatment program in accordance with the requirements of subsection B of § 16.1-248.1, the costs of that placement shall be funded out of the state pool of funds for community policy and management teams.

*Patron - Dudley*

**D HB625 Charitable corporations; purposes for which assets are held.** Provides that the assets of a charitable corporation shall be deemed to be held in trust for such purposes as are established in the governing documents of the charitable corporation, the gift or bequest to the corporation, or other applicable law. Existing language providing that the assets are to be held for such purposes as established by the donor's intent as expressed in the corporation's governing doc-

uments is repealed. This provision is stated not to modify the standard of conduct applicable to directors of charitable corporations under existing law.

*Patron - O'Bannon*

**D HB749 Public Procurement Act; cooperative procurement.** Authorizes state and local entities to enter into a cooperative procurement agreement to purchase from any contract of the United States General Services Administration or the contract of any other federal agency. Regarding such contracts, the bill specifically authorizes (i) state entities, with the approval of the Director of the Division Purchases and Supply, to purchase goods and nonprofessional services other than telecommunications and information technology, (ii) state entities, with the approval of the Chief Information Officer, to purchase telecommunications and information technology goods, and (iii) localities to purchase goods and nonprofessional services. This bill is identical to SB 302.

*Patron - Marshall, R.G.*

**D HB782 Council on Indians.** Moves the Council on Indians from the Health and Human Services Secretariat to the Natural Resources Secretariat. The bill also (i) changes the membership of the Council by removing the Secretary of Health and Human Services, who served as an ex officio voting member, (ii) increases the number of at-large members from the Indian population residing in the Commonwealth from two to three, and requires those at-large members to provide verification as an enrolled member of a tribe recognized by either the Commonwealth or another state or territory.

*Patron - McDougle*

**D HB784 Department of Agriculture and Consumer Services; Department of Health; adoption of the Food Code.** Clarifies that the provisions of the Administrative Process Act do not apply to the adoption, amendment or repeal of any regulations by the Boards of Agriculture and Consumer Services and Health that are based on any supplement or more recent edition of the Food and Drug Administration's Food Code. The Boards of Agriculture and Consumer Services and Health are still required to publish an opportunity for public comment prior to adopting, amending or repealing these regulations.

*Patron - McQuigg*

**D HB959 Department of Human Resource Management; state grievance procedure.** Provides that the review by the Director of the Department of Human Resource Management of state employee grievance hearing decisions for consistency with state policy shall be conducted upon the request of a party to the grievance.

*Patron - Barlow*

**D HB985 State Property Management Reform Act.** Requires the Division of Engineering and Buildings of the Department General Services to establish performance standards for the acquisition, lease and disposition of property and for the management and utilization of such property to maximize use. The bill also requires the Division to report the performance measures to the Governor and the General Assembly by December 1, 2004, and to thereafter prepare, no later than November 30 of each year, reports to the Governor and the General Assembly on the effectiveness of the performance standards. In addition, the bill provides that state public institutions of higher education that have delegated authority to manage aspects of their real property usage and have signed a memorandum of understanding with the Secretary of Administration related to such delegated authority shall be deemed in compliance with the standards set by the Division as long as they abide by the terms of the memorandum of understanding.

The standards established in accordance with the memorandum of understanding shall be reported to the Division by October 1 of each year.

*Patron - Reese*

**D HB1037 Office of the Attorney General; debt collection.** Authorizes the Division of Debt Collection of the Office of the Attorney General to retain as special revenue up to 30 percent of receivables collected on behalf of state agencies and to contract with private collection agents for the collection of debts amounting to less than \$15,000. The bill also provides a procedure for the collection of accounts receivable of \$3,000 or more that are 60 days or more in arrears.

*Patron - Saxman*

**D HB1039 Virginia Public Procurement Act; contracts for professional services.** Provides that state contracts for architectural or professional engineering services, with the exception of those awarded for environmental, location, design and inspection work regarding highways and bridges by the Commonwealth Transportation Commissioner may be renewable for four additional one-year terms. Under current law such contracts are renewable for two additional one-year terms. The bill also increases for state agencies, subject to the approval of the Director of the Department of General Services, the allowable yearly limits on such contracts from \$500,000 to \$1 million and the limit on a project fee for a single project from \$100,000 to \$200,000.

*Patron - Saxman*

**D HB1043 Competitive Government Act.** Requires the Governor to conduct biennially an enterprise-wide examination of the commercial activities that are being performed by state employees to ensure that such activities are being accomplished in a most cost-efficient and effective manner. The examination may be conducted by a commercial source through a solicitation under the Public-Private Education Facilities and Infrastructure Act or the Public Procurement Act. The bill also provides for the Secretary of Administration to submit a report on the initial examination to the Governor and the Chairs of Appropriations and Senate Finance by January 1, 2006, and thereafter every two years. In addition, the bill provides for the Secretaries of Administration, Finance and Technology to update the list of commercial activities established by the Commonwealth Competition Council and to provide guidance to state agencies in outsourcing efforts.

*Patron - Saxman*

**D HB1047 Financial and legal responsibility for special education services for certain individuals with disabilities placed across jurisdictional lines pursuant to the Comprehensive Services Act.** Clarifies that, in any instance in which an individual who is 18 through 21 years of age, inclusive, who is eligible for funding from the state pool and is properly defined pursuant to state education law as a school-aged child with disabilities is placed by a local social services agency that has custody across jurisdictional lines in a group home in the Commonwealth and the individual's individualized education program (IEP), as prepared by the placing jurisdiction, indicates that a private day school placement is the appropriate educational program for such individual, the financial and legal responsibilities for the individual's special education services and IEP shall remain, in compliance with the provisions of federal law, Article 2 (§ 22.1-213 et seq.) of Chapter 13 of Title 22.1, and Board of Education regulations, the responsibility of the placing jurisdiction until the individual reaches the age of 21, inclusive, or is no longer eligible for special education services. The financial and legal responsibilities for such special education services shall remain with the plac-

ing jurisdiction, unless the placing jurisdiction has transitioned all appropriate services with the individual.

*Patron - Nixon*

**D HB1094 State employees; establishment of agency alternative work schedule and telecommuting policy.** Requires the head of each state agency to establish a telecommuting and alternative work policy under which eligible employees of such agency may telecommute, participate in alternative work schedules, or both. The bill also requires each agency head to set target goals for the number of positions eligible for alternative work schedules by July 1, 2009. This bill is identical to SB 468.

*Patron - Moran*

**D HB1124 Division of Engineering and Buildings; surplus real property.** Requires the Division of Engineering and Buildings to at least annually inquire of all state departments and agencies as to the current and proposed use of all state-owned property under their control to determine whether the property should be declared surplus to the needs of the Commonwealth. In addition, the bill also requires the Division to begin the process of selling surplus real property within 120 days after receipt of the Secretary of Natural Resources' review of whether the property to be sold is a significant component of the Commonwealth's natural or historic resources. The bill also provides that the current and future use of real property by state institutions of higher education be reviewed by their individual Board of Visitors and periodically reviewed by the Division.

*Patron - McDonnell*

**D HB1145 Virginia Public Procurement Act; small, women- and minority-owned business participation.** Authorizes the Governor and localities to implement remedial programs when there exists a rational basis for small business enhancement or an analysis that documents statistically significant disparity between the availability and utilization of women- and minority-owned businesses. The bill also provides that any analysis performed by the Governor or a locality as a basis for determining the existence of discrimination based on race or gender in the awarding of contracting opportunities shall comply with the procedural and evidentiary standards established by the United States Supreme Court in *The City of Richmond v. J. A. Croson Company*, 488 U.S. 469, (1985). This bill incorporates HB 262 and HB 520 and is identical to SB 598.

*Patron - McDonnell*

**D HB1194 Virginia Department of Transportation; right-of-way easements; damages to adjacent property.** Provides that performance surety held by the Department of Transportation in association with a land use permit issued to a company to perform work within the Department's right-of-way shall be released until such time as all claims against the company associated with the work have been resolved, provided a claimant has notified the Department of a claim against such company within 30 days after completion of the work. A claimant shall have no more than one year after the notification is received by the Department to complete any action against the company associated with the work for which the claim has been made. After the expiration of the one-year period, the Department may release the performance surety.

*Patron - Scott, J.M.*

**D HB1201 Division of Purchases and Supply; regulations related to outsourcing.** Requires the Division of Purchases and Supply to adopt regulations that require, for single contracts for nonprofessional services not expected to exceed \$10,000 or for term contracts not expected to exceed \$100,000, that state public bodies, excluding two- and four-

year public institutions of higher education, procure such services from the private sector if such service is listed as a commercial activity on the commercial activities list developed by the Commonwealth Competition Council. The bill provides that upon a written determination made in advance by a state public body that the procurement of a service from the private sector is either not practicable or fiscally advantageous, such service may continue to be performed by the state public body.

*Patron - Cline*

**D HB1207 Bad check charges.** Raises from \$25 to up to \$35, the fee that localities and public bodies responsible for revenue collection may charge for the uttering, publishing or passing of any check or draft for payment of taxes or any other sums due, which is subsequently returned for insufficient funds or because there is no account or the account has been closed. This fee was raised to \$35 for general creditors (not local governments) during the 2003 Session, and the bill is aimed at creating consistency in this area.

*Patron - BaCote*

**D HB1212 Establishes the Secretary of Agriculture and Forestry.** The Secretary shall be responsible to the Governor for the following agencies: Department of Forestry, Department of Agriculture and Consumer Services, Virginia Agricultural Council, and Virginia Marine Products Board. The provisions of this bill will become effective no later than the beginning of the term of the Governor elected November 8, 2005; however, if funding for the position and expenses of the Secretary of Agriculture and Forestry are included in the 2004 appropriation act passed by the General Assembly, this bill will become effective beginning on the date set out in the appropriation act. This bill also directs the Governor to appoint a Deputy Secretary of Agriculture and Forestry within the Secretariat of Commerce and Trade to administer the policies affecting agricultural and forestry interests until the position of Secretary of Agriculture and Forestry is filled.

*Patron - Landes*

**D HB1213 Center for Rural Virginia.** Establishes the Center for Rural Virginia as an independent local entity without political subdivision status for the purpose of sustaining economic growth in the rural areas of the Commonwealth. The Center shall be governed by a board of directors whose duties shall include (i) establishing the Center as a 501(c)(3) tax-exempt corporation and (ii) seeking federal funds available to state rural development councils, pursuant to the Farm Security and Rural Investment Act 2002, P. L. 107 -171. This bill is identical to SB 407.

*Patron - Landes*

**D HB1246 Freedom of Information Act (FOIA); record exemption; certain records of the Department of Criminal Justice Services.** Adds a record exemption for confidential investigations of applications for licenses, certification or registration submitted by private security services businesses to the Private Security Unit of the Department of Criminal Justice Services, and records of active investigations connected with such applications or of any such licensee, certificate holder or registrant of the Department.

*Patron - Scott, J.M.*

**D HB1330 Security of state government databases and data communications.** Requires the director of every department in the executive branch of state government to report to the Chief Information Officer (CIO) all known incidents that threaten the security of the Commonwealth's databases and data communications resulting in exposure of data protected by federal or state laws, or other incidents compromising the security of the Commonwealth's information

technology systems with the potential to cause major disruption to normal agency activities, computer viruses and worms, denial of service attacks, unauthorized uses and intrusions, and such other security threats. Such reports shall be made to the CIO within 24 hours from when the department discovered or should have discovered their occurrence. The bill also requires the CIO to promptly receive these reports and to take such actions as are necessary, convenient or desirable to ensure the security of the Commonwealth's databases and data communications. The bill has a delayed effective date of January 1, 2005.

*Patron - Miles*

**D HB1357 Freedom of Information Act (FOIA); exclusions.** Provides that public access to meetings of the General Assembly, except floor sessions, committee or subcommittee meetings and conference committee meetings, shall be governed by rules established by the Joint Rules Committee. Floor sessions and committee and subcommittee meetings will continue to be open to the public. The Joint Rules Committee must hold regional public hearings at least 60 days before the adoption of the rule. The bill provides that meetings of political party caucuses of either house of the General Assembly are excluded from the meeting provisions of FOIA.

*Patron - Griffith*

**D HB1360 Information technology and telecommunications procurement; Virginia Information Technologies Agency (VITA).** Adds the requirement that VITA conduct procurements in accordance with the regulations implementing the electronic and information technology accessibility standards of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), in addition to other requirements. Such procurements may not exceed the Rehabilitation Act of 1973 regulations.

*Patron - Nixon*

**D HB1364 Freedom of Information Act (FOIA); record exemption; certain emergency service records.** Provides an exemption from the mandatory disclosure requirements of FOIA for subscriber data, which for the purposes of the exemption, means the name, address, telephone number, and any other information identifying a subscriber of a telecommunications carrier, provided directly or indirectly by a telecommunications carrier to a public body that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system, if the data is in a form not made available by the telecommunications carrier to the public generally. The bill provides that nothing shall prevent the release of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

*Patron - Jones, S.C.*

**D HB1396 Freedom of Information Act (FOIA); record and meeting exemptions for the Virginia Commission on Military Bases.** Provides an exemption from the mandatory disclosure provisions of FOIA for the Commission on Military Bases created by the Governor pursuant to Executive Order No. 49 (2003) for records that contain information relating to vulnerabilities of military bases located in Virginia and strategies under consideration or developed by the Commission to limit the effect of or to prevent the realignment or closure of federal military bases located in Virginia. The bill also contains an open meeting exemption for the Commission when discussing these records. The bill provides that its provisions will expire on July 1, 2006. The bill contains an emergency clause.

*Patron - Cosgrove*

**D HB1398 Urban issues.** Makes several amendments to provisions that call for a report on the condition of the Commonwealth's urban areas. The report will be developed during the first year of each new gubernatorial administration and a cabinet-level committee shall be established to assist with such report.

*Patron - Bland*

**D HB1405 Small Business Financing Authority; board membership; voting.** Adds the Director of the Department of Business Assistance to the board of directors of the Small Business Financing Authority. The bill clarifies that all members of the Board shall have full voting privileges.

*Patron - Plum*

**D HB1441 Department of General Services; Division of Purchases and Supply; direct purchase by charitable corporations.** Clarifies that free clinics are eligible to purchase from cooperative procurements in which the Division of Purchases and Supply participates, so long as it is not prohibited by the terms of the procurement.

*Patron - Brink*

**D HB1447 Department of Accounts; recovery audits of state contracts.** Requires the Department of Accounts to contract with one or more private contractors to conduct systematic recovery audits of state agency contracts. The bill contains a provision that authorizes the contractor to retain a percentage of any payment error that is recovered by such contractor, not to exceed 10 percent of the amount recovered. The recovery audits shall include identifying payment errors made by state agencies to vendors and other entities resulting from (i) duplicate payments, (ii) invoice errors, (iii) failure to apply applicable discounts, rebates, or other allowances, or (iv) any other errors resulting in inaccurate payments.

*Patron - Scott, E.T.*

**D HB1475 Vietnamese-American Heritage Flag.** Recognizes the flag of the former Republic of Vietnam, with three horizontal red stripes on a field of golden-yellow, as the Vietnamese American Heritage Flag.

*Patron - Hull*

**D HB1480 Virginia-Asian Advisory Board; purpose.** Amends the purpose of the Virginia-Asian Advisory Board to include advising the Governor on issues affecting the Asian-American community.

*Patron - McDonnell*

**D HR12 Budget information from agency heads.** Requests agency heads to provide certain budget information to the Virginia House of Delegates.

*Patron - Marshall, R.G.*

**D HR13 Budget information from the Governor.** Requests the Governor to provide certain budget information to the Virginia House of Delegates.

*Patron - Marshall, R.G.*

**D SB2 State Publications.** Reduces from 100 to 20 the maximum copies of state publications that must be submitted to The Library of Virginia. The bill also removes the requirement for the reporting entity to furnish information on publication costs to The Library and clarifies that state reports include reports by agencies, institutions, collegial bodies and other state governmental entities. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental

Entities pursuant to HJR 159 (2002). This bill is identical to HB 6.

*Patron - Martin*

**D SB3 Dormant special funds.** Repeals certain dormant special funds, and the associated program, if no appropriation is made to the associated program by July 1, 2004. This bill repeals the Blue Ridge Economic Development Revolving Fund, the Alternative Water Supply Assistance Fund, the Workforce Development Training Fund, the Advantage Virginia Incentive Fund, Program, and Foundation, the Reading Incentive Grants Fund and Program, the Virginia Educational Excellence Incentive Reward Fund and Program, the Families in Education Incentive Grants Fund and Program, the Community-Based Intervention Program for Suspended and Expelled Students and its special fund, the Artists in the Classroom Grants Fund and Program, the Virginia Undergraduate Career and Technical Incentive Scholarship Fund and Program, the Virginia Higher Education Incentive Fund and Program, the Information Technology Employment Performance Grant Fund and Program, and the Landfill Cleanup and Closure Fund. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Martin*

**D SB6 Distribution of reports.** Replaces the automatic distribution of paper copies of annual and biennial agency reports to certain state officials with an on-demand electronic notification and retrieval system of reports available from the General Assembly's website. Members of the General Assembly would also have the option of receiving paper copies of reports upon request. Under current law, the Division of Purchases and Supply of the Department of General Services (DGS) is assigned the responsibility of providing agencies with advice on publishing their reports and maintaining a distribution list for those reports. However, the provisions relating to the duties of DGS are obsolete because agencies have assumed responsibility for the publication and distribution of their own reports. The bill also requires the Division of Legislative Automated Systems to notify persons who are currently entitled to receive annual and biennial reports regarding the change to the new system. The bill clarifies that agency reports include reports by institutions, collegial bodies and other governmental entities. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Martin*

**D SB7 General provision; collegial body.** Defines the term collegial body to mean a governmental entity whose power or authority is within its membership. The term appears in 17 sections in multiple titles of the Code, but has never been defined. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Martin*

**D SB8 Interagency Coordinating Council on Housing for the Disabled.** Abolishes the Interagency Coordinating Council on Housing for the Disabled. The Council was created in 1986 to provide and promote cross-secretariat interagency leadership for comprehensive planning and coordinated implementation of proposals to increase and maximize use of existing low-income housing for the disabled and to develop a state

policy on housing for the disabled for submission to the Governor. The Council has been inactive for approximately 10 years. Other entities, including the Disability Commission and the Department of Housing and Community Development, are currently addressing issues faced by the disabled in obtaining housing. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill is identical to HB 206.

*Patron - Ruff*

**D SB10 Virginia Advisory Commission on Intergovernmental Relations.** Abolishes the Virginia Advisory Commission on Intergovernmental Relations. The Commission was created in 1978 to act as a forum for identifying and discussing areas of mutual concern to local and state officials, including state and federal programs. The Commission no longer has professional staff or appropriations directly assigned or direct appropriations. The duties and responsibilities of the Commission can be assumed by existing entities or specific issue-oriented bodies created as needed. Other avenues for intergovernmental discussions currently exist, including the Virginia Municipal League, the Virginia Association of Counties, and the use of legislative and executive liaisons by local governments. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill is identical to HB 203.

*Patron - Ruff*

**D SB11 Agency reports on the costs of federal mandates.** Eliminates the requirement for agencies to report the cost of federal mandates to the Department of Planning and Budget on Form FM. An agency's estimate of the cost of a mandate may not have been accurate if the mandate is conditioned upon an event that has not happened or there exist overlaps in compliance. The bill also deletes a provision superseded by the creation of the Virginia Information Technology Agency in 2003 and the requirement for each agency head to designate an existing employee to act as the agency's information technology resource. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Ruff*

**D SB12 Virginia Recycling Markets Development Council.** Revises the duties of the Virginia Recycling Markets Development Council to refocus the Council's primary mission on (i) assisting agencies, authorities, and localities to meet their recycling needs, if requested, and (ii) identifying and evaluating existing or proposed state statutes, policies, regulations, and procedures that may attract or deter new businesses or the expansion or retention of existing businesses that can use recycled or recovered materials. The Council's annual reporting requirement is replaced with the duty to report if requested by the Governor, a resolution of the General Assembly, a standing or joint study committee of the General Assembly, the Secretary of Natural Resources or the Department of Environmental Quality. The bill also establishes term limits for the citizen members of the Council. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Whipple*

**D SB95 Virginia Public Procurement Act; online auctions and the General Services Administration.** Adds online public auctions and the United States General Services Administration (GSA) as procurement sources available to public bodies. The bill also provides that state public bodies may purchase telecommunications and information technology goods and nonprofessional services from any contract maintained by GSA upon the approval of the Chief Information Officer. This bill is identical to HB 470.

*Patron - Devolites*

**D SB126 Virginia-North Carolina Interstate High-Speed Rail Compact.** Establishes a Virginia-North Carolina Interstate High-Speed Rail Compact to study, develop, and promote a plan for the design, construction, financing, and operation of interstate high-speed rail service through and between points in the Commonwealth of Virginia and the State of North Carolina and adjacent states; to coordinate efforts to establish high-speed rail service at the federal, state, and local governmental levels; to advocate for federal funding to support the establishment of high-speed interstate rail service within and through Virginia and North Carolina and to receive federal funds made available for rail development; and to provide funding and resources to the Virginia-North Carolina High-Speed Rail Compact Commission from funds that are or may become available and are appropriated for that purpose.

*Patron - Watkins*

**D SB149 Freedom of Information Act (FOIA); record exemption; certain client lists.** Adds an exemption from the mandatory disclosure requirements of FOIA for records containing the names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

*Patron - Deeds*

**D SB161 Department of General Services; disposition of surplus computer equipment.** Removes the limitation on the amount of surplus materials that may be donated in the case of computer equipment and related items to Virginia public schools. The bill also makes two technical amendments that raise the market value of surplus materials that may be donated from \$200 to \$500 and the limitation on the percentage from five to 25 percent of the revenue generated. These changes were previously enacted by Chapter 615 of the 2000 Acts of the General Assembly but were not carried over by the recodification of Title 2.1 that passed during the 2001 session.

*Patron - Potts*

**D SB186 Virginia-Asian Advisory Board; purpose.** Amends the purpose of the Virginia-Asian Advisory Board to include advising the Governor on issues affecting the Asian-American communities in the Commonwealth.

*Patron - Miller*

**D SB201 State grievance procedure; penalty.** Makes several amendments to the state grievance procedure. The bill (i) provides that the parties to a grievance have a duty to search their records to ensure that all relevant records are provided to the opposing party, (ii) specifies that hearing officer fees be reasonable in accordance with guidelines established by the Department of Employment Dispute Resolution (DEDR), (iii) entitles a grievant to recover reasonable attorneys' fees in grievances challenging a discharge if the grievant substantially prevails on the merits and special circumstances make such an award unjust, and (iv) provides for all awards of

relief by a hearing officer to be in accordance with rules established by DEDR. The bill provides that its provisions relating to the award of attorneys' fees shall not apply to any local governing body or agency thereof that is otherwise subject to the state grievance procedure. The bill also contains technical amendments.

*Patron - Reynolds*

**D SB226 State and Local Government Conflict of Interests Act; orientation programs.** Provides for periodic orientation or training sessions for state government personnel on the content of the Act and other ethics provisions and for distribution of copies of the Act to all new state and local personnel. This bill is identical to HB 467.

*Patron - Bolling*

**D SB262 Milk Commission.** Merges the Milk Commission with the Department of Agriculture and Consumer Services, as directed by Item 127 of Chapter 1042 of the 2003 Acts of Assembly (budget bill).

*Patron - Hawkins*

**D SB289 Department of General Services; State Asset Management Review Act.** Requires the Department of General Services to establish performance standards for the use of the state's real property and requires an annual report to the Governor and the General Assembly. The bill provides that state public institutions of higher education that have delegated authority to manage aspects of their real property usage and have signed a memorandum of understanding with the Secretary of Administration related to such delegated authority shall be deemed in compliance with the standards set by the Division of Engineering and Buildings as long as they abide by the terms of the memorandum of understanding. Standards established in accordance with the memorandum of understanding shall be reported to the Division by October 1 of each year.

*Patron - O'Brien*

**D SB297 Freedom of Information Act; record exemption; cell phone numbers of law-enforcement personnel.** Provides that records of a law-enforcement agency, to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties, are exempt from the mandatory disclosure requirements of the Freedom of Information Act. This bill is identical to HB 538.

*Patron - O'Brien*

**D SB302 Public Procurement Act; cooperative procurement.** Authorizes state and local entities to enter into a cooperative procurement agreement to purchase from any contract of the United States General Services Administration or the contract of any other federal agency. Regarding such contracts, the bill specifically authorizes (i) state entities, with the approval of the Director of the Division Purchases and Supply, to purchase goods and nonprofessional services other than telecommunications and information technology, (ii) state entities, with the approval of the Chief Information Officer, to purchase telecommunications and information technology goods, and (iii) localities to purchase goods and nonprofessional services. This bill is identical to HB 749.

*Patron - O'Brien*

**D SB304 Drug treatment and job training programs; performance-based budgeting.** Creates the position of Special Advisor for Workforce Development, which reports directly to the Governor. The Special Advisor will have policy and program responsibilities for several federal and state workforce training programs and resources administered within sev-

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

*Patron - O'Brien*

**D SB352 Freedom of Information Act; reorganization of record exemptions.** Reorganizes current § 2.2-3705, the listing of records that are not subject to the mandatory disclosure requirements of the Freedom of Information Act. The bill would repeal § 2.2-3705 and in its place create seven new sections grouping the exemptions by general subject area. The proposed groupings would include exemptions of general application, exemptions relating to public safety, exemptions relating to administrative investigations, exemptions relating to educational records and educational institutions, exemptions relating to health and social services, exemptions relating to proprietary records and trade secrets, and exemptions applicable to specific public bodies. Like a title revision, the reorganization of § 2.2-3705 involves only technical changes and makes no substantive changes. The bill contains other technical amendments to correct cross references to § 2.2-3705, which is being repealed by this bill. The bill is a recommendation of the Virginia Freedom of Information Advisory Council.

*Patron - Houck*

**D SB354 Freedom of Information Act; applicability; sexually violent predator commitment review committee.** Provides that the records of the Commitment Review Committee involving the commitment of sexually violent predators under Article 1.1 (§ 37.1-70.1 et seq.) of Chapter 2 of Title 37.1 are exempt from disclosure under the Freedom of Information Act. The bill further provides that in no case shall records relating to the victims of sexually violent predators be disclosed. The bill also contains an open meeting exemption for the Commitment Review Committee when discussing or considering records excluded by the bill. Currently, the Commitment Review Committee is not subject to the Freedom of Information Act. The bill is a recommendation of the Virginia Freedom of Information Advisory Council.

*Patron - Houck*

**D SB363 Migrant and seasonal farmworkers; state agency changes.** Transfers the Migrant and Seasonal Farmworkers Board from the Department of Labor and Industry to the Virginia Employment Commission, which has federal funding available to support staffing the Board. Currently, Labor and Industry personnel support the Board, but without dedicated funding or staff. The bill also transfers the Inter-agency Migrant Worker Policy Committee from Labor and Industry to the Virginia Employment Commission.

*Patron - Watkins*

**D SB382 Department for the Aging; powers and duties of the Commissioner and the Department.** Establishes the Commissioner of the Department for the Aging as the Governor's principle advisor on aging issues and provides for the Commissioner to recommend policies, legislation and other actions appropriate to meeting the needs of an aging society. The bill also requires the Department for the Aging to develop and maintain a four-year plan for aging services in the Commonwealth.

*Patron - Puller*

**D SB394 Freedom of Information Act; record exemption; economic development.** Clarifies that the record exemption for proprietary information and other records related to economic development efforts applies to those enumerated state and local or regional economic development agencies to whom such information is provided or used.

*Patron - Norment*

**D SB407 Center for Rural Virginia.** Establishes the Center for Rural Virginia as an independent local entity without political subdivision status for the purpose of sustaining economic growth in the rural areas of the Commonwealth. The Center shall be governed by a board of directors whose duties shall include (i) establishing the Center as a 501(c)(3) tax-exempt corporation and (ii) seeking federal funds available to state rural development councils, pursuant to the Farm Security and Rural Investment Act 2002, P. L. 107 -171. This bill is identical to HB 1213.

*Patron - Ruff*

**D SB412 Veterans Services.** Clarifies that the Commissioner of the Department of Veterans Services shall report directly to the Governor and requires the Commissioner to establish an advisory board to assist in the administration of veterans care centers established in the Commonwealth. The bill also (i) increases the membership of the Board of Veterans Services from 17 to 19 by adding the Chairmen of the Board of Trustees of the Veterans Services Foundation and the Joint Leadership Council of Veterans Service Organizations and (ii) adds the Chairman of the Board of Veterans Services as a member of the Board of Trustees of the Veterans Services Foundation and the Joint Leadership Council of Veterans Service Organizations.

*Patron - Edwards*

**D SB468 State employees; establishment of agency alternative work schedule and telecommuting policy.** Requires the head of each state agency to establish a telecommuting and alternative work policy under which eligible employees of such agency may telecommute, participate in alternative work schedules, or both. The bill also requires each agency head to set target goals for the number of positions eligible for alternative work schedules by July 1, 2009. This bill is identical to HB 1094.

*Patron - Whipple*

**D SB525 Virginia Public Procurement Act; design-build construction management contracts.** Raises the limit on design-build construction contracts from \$500,000 to \$1 million. The bill provides that for contracts under \$1 million, local public bodies do not have to obtain the approval of the Design-Build Review Board.

*Patron - Hanger*

**D SB543 Establishes the Secretary of Agriculture and Forestry.** The Secretary shall be responsible to the Governor for the following agencies: Department of Forestry, Department of Agriculture and Consumer Services, Virginia Agricultural Council, and Virginia Marine Products Board. The provisions of this bill will become effective no later than the beginning of the term of the Governor elected November 8, 2005; however, if funding for the position and expenses of the Secretary of Agriculture and Forestry are included in the 2004 appropriation act passed by the General Assembly, this bill will become effective beginning on the date set out in the appropriation act. This bill also directs the Governor to appoint a Deputy Secretary of Agriculture and Forestry within the Secretariat of Commerce and Trade to administer the policies affecting agricultural and forestry interests until the position of Secretary of Agriculture and Forestry is filled.

*Patron - Hawkins*

**D SB562 Freedom of Information Act; record exemption; investigations of local auditors.** Expands the current record exemption for investigative notes, correspondence and information furnished in confidence to certain state auditors to the same records of designated internal auditors of any school board or local governing body having the authority by charter, statute or ordinance to conduct confidential investigations, including committees established pursuant to § 15.2-825, of any officer, department or program of such body.

*Patron - Lambert*

**D SB565 Secretary of Health and Human Services; development of health-related database.** Requires the Secretary of Health and Human Services to develop a reference database of statewide health-related data elements. In order to develop the reference database, each agency within the Health and Human Resources Secretariat shall submit to the Secretary (i) a list of the names and a general narrative description of its existing automated systems containing statewide health-related data; (ii) the hardware and software platforms upon which each identified system is running; and (iii) a data dictionary describing the data fields comprising the system, which data dictionary shall include a narrative description of each data field. The Secretary shall ensure that each agency within the Secretariat uses the database information to the greatest extent possible to improve the overall efficiency and cost-effectiveness of the services rendered by such agencies.

*Patron - Lambert*

**D SB591 Virginia Economic Development Partnership Authority; membership of the board of directors.** Increases the membership of the board of directors of the Virginia Economic Development Partnership Authority from 13 to 18 by adding three members appointed by the Speaker of the House of Delegates and two members appointed by the Senate committee on Rules. Under the bill, the five members appointed by the General Assembly shall reside in regions of the Commonwealth that have unemployment reported at a rate of at least one and one-half times that of the state unemployment average as reported by the Virginia Employment Commission for the preceding four years from the date of

employment. The bill also provides for staggered initial terms of the new members.

*Patron - Wampler*

**D SB598 Virginia Public Procurement Act; small, women- and minority-owned business participation.** Authorizes the Governor and localities to implement remedial programs when there exists (i) a rational basis for small business enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women- and minority-owned businesses. The bill also provides that any analysis performed by the Governor or a locality as a basis for determining the existence of discrimination based on race or gender in the awarding of contracting opportunities shall use the standards established by the United States Supreme Court in *The City of Richmond v. J. A. Croson Company*, 488 U.S. 469 (1985), or any subsequent decision of the Court or other binding authority concerning such standards. The bill is identical to HB 1145.

*Patron - Williams*

**D SB646 Biotechnology Commercialization Loan Fund; Innovative Technology Authority.** Creates the Biotechnology Commercialization Loan Fund to finance technology transfer and commercialization activities related to biotechnology inventions made, solely or in cooperation with other organizations, at qualifying institutions. The maximum amount of the fund is \$3,000,000 and the maximum amount that any institution can have outstanding is \$500,000. Applications will be made to and decisions will be made by a panel consisting of the President of the Center for Innovative Technology, the Director of the Department of Planning and Budget and the Executive Director of the Virginia Economic Development Partnership, or their designees. Loans are to be repaid at a rate and time determined in the bill. The bill also provides that a record transmitted or delivered by a loan applicant or a loan recipient to a public body, in carrying out its duties under the bill, are excluded from disclosure under the Virginia Freedom of Information Act to the extent such record reveals certain proprietary information.

*Patron - Howell*

## Failed

**: HB165 Public Procurement Act; consolidation of contracts.** Provides that to the maximum extent practicable, public bodies shall facilitate the maximum participation of small business concerns as prime contractors, subcontractors, and suppliers. Before proceeding with a procurement of goods, services or construction that could lead to a contract containing consolidated procurement requirements (also known as contract bundling), a public body shall conduct market research to determine whether consolidation of the requirements is necessary and justified. For the purposes of the bill, consolidation of the requirements may be determined as being necessary and justified if, as compared to the benefits that would be derived from contracting to meet those requirements if not consolidated, the public body would derive from the consolidation measurably substantial benefits, including, but not limited to cost savings; quality improvement; reduction in acquisition cycle times; better terms and conditions; and any other benefit.

*Patron - Albo*

**: HB178 Department of General Services; small business participation in state and local procurement transactions.** Directs the Department of General Services, with the assistance of the Department of Business Assistance and the Department of Minority Business Enterprise and in compliance with the provisions of subsection B of § 2.2-4310,

to ensure that a fair proportion of the total purchases and contracts for property and services for state and local agencies are placed with small business enterprises and that every acquisition of goods and services by a public body anticipated to be under \$100,000 is set aside exclusively for small businesses unless the purchasing officer has a reasonable expectation of fewer than two bids by small businesses. The bill also requires the Department of General Services to make such changes in eVA as are necessary to enhance participation by small businesses, including (i) establishing a graduated scale of fees for registration of vendors with eVA and for transactions fees charged for participation in eVA, taking into account the financial resources of small businesses; (ii) modifying eVA to require purchasing officers to select only small businesses as vendors for purchases under \$100,000, unless there are fewer than two small businesses registered who can provide the needed goods or services; and (iii) modifying eVA to ensure that before completing any transaction, purchasing officers are required to certify that they have included small woman- and minority-owned businesses in the pool from which bids are sought or purchases negotiated or made.

*Patron - Baskerville*

**: HB190 Prescription drug purchasing option for insured state employees.** Directs the Department of Human Resource Management, in consultation with the Office of the Attorney General and the Executive Director of the Board of Pharmacy, to evaluate and permit their implementation, if feasible and cost effective and consistent with federal law and regulation, of a process for purchasing reduced-cost prescription drugs from Canada in order to lower pharmacy costs for state employees in the State Health Benefits Program. The Department may consult with the federal Food and Drug Administration and other federal officials in conducting such evaluation and shall examine the relevant federal regulations concerning both the legality and safety of importation of drugs from Canada prior to implementing any such importation program. This legislation shall be known as the Free Trade Prescription Act.

*Patron - Black*

**: HB205 Early Intervention Agencies Committee.** Abolishes the Early Intervention Agencies Committee. The committee was created in 1992 to ensure the implementation of a comprehensive system for early intervention services and to make recommendations to the Secretary of Health and Human Resources and the Secretary of Education on issues that require interagency planning, financing, and resolution. Following the committee's creation, an early intervention interagency management team comprised of staff from the affected agencies was informally established to handle the day-to-day operations and management of early intervention services and performs much of the budget approval work of the committee. The bill includes a technical correction to properly cite the federal authority for early intervention services. This bill, without the technical correction, is identical to HB15, which was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill is incorporated into HB 15.

*Patron - Athey*

**: HB252 Virginia Advisory Commission on Intergovernmental Relations.** Abolishes the Virginia Advisory Commission on Intergovernmental Relations. The Commission was created in 1978 to act as a forum for identifying and discussing areas of mutual concern to local and state officials, including state and federal programs. The Commission no longer has professional staff or appropriations directly assigned or direct appropriations. The duties and responsibili-



ties of the Commission can be assumed by existing entities or specific issue-oriented bodies created as needed. Other avenues for intergovernmental discussions currently exist, including the Virginia Municipal League, the Virginia Association of Counties, and the use of legislative and executive liaisons by local governments. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill is incorporated into HB 203.

*Patron - McQuigg*

: **HB262 Virginia Public Procurement Act; women- and minority-owned business participation.** Authorizes the Governor and localities to implement remedial programs whenever an analysis performed to determine the existence of discrimination based on race or gender in the awarding of state agency contracting opportunities documents that a statistically significant disparity exists between the availability and utilization of women- and minority-owned businesses. The bill also provides that any analysis performed by the Governor or a locality as a basis for determining the existence of discrimination based on race or gender in the awarding of contracting opportunities shall comply with the procedural and evidentiary standards established by the United States Supreme Court in *The City of Richmond v. J. A. Croson Company*, 488 U.S. 469 (1985). This bill is incorporated into HB 1145.

*Patron - Jones, D.C.*

: **HB355 Virginia Economic Development Partnership; board of directors; membership.** Increases the membership of the board of directors of the Virginia Economic Development Partnership from 15 to 20 by increasing the members who are appointed as citizens at large from two to seven. The bill also includes technical amendments.

*Patron - Bryant*

: **HB384 Financial and management review of all state agencies.** Directs the Governor to initiate, within 120 days of taking office, a financial and management review of all executive branch state agencies, except public institutions of higher education, with total agency appropriations of two percent or more of the total state appropriated funds. The review shall be conducted by a private management consulting firm and evaluated by a joint subcommittee of the House Appropriations and Senate Finance Committees. The review shall place special emphasis on personnel, real estate whether leased or owned by the Commonwealth, procurement, and technology policies and practices. The joint subcommittee shall make recommendations to improve the efficiency of each agency within 45 days of its receipt of the private firm's report.

*Patron - Lingamfelter*

: **HB388 Office of the Attorney General; settlement of disputes; limitation.** Provides that where the settlement of any dispute, claim or controversy involves an issue that is or is planned to be (i) the basis for regulatory action by an agency of the Commonwealth or (ii) the subject of legislation before the General Assembly, confidentiality clauses shall be prohibited in any such settlement agreement. This bill is incorporated into HB 357.

*Patron - Lingamfelter*

: **HB389 Freedom of Information Act (FOIA); elected officials; when subject to Act.** Provides that any person elected or reelected shall be subject to the provisions of FOIA upon certification of his election results by the state or local electoral board, as appropriate.

*Patron - Lingamfelter*

: **HB396 Comptroller; school division efficiency reviews.** Directs the Comptroller, upon written request by a local school board, or the division superintendent, to conduct a review of the relevant school division's central operations. The review will examine noninstructional expenditures and will identify opportunities to improve operational efficiencies and reduce costs for the division; the review will not address the effectiveness of the educational services being delivered. Reviews are free of charge to the division and are to be conducted within two years of the request. The Department of Accounts must provide a report of its findings to the reviewed school division. The Comptroller shall conduct the reviews within two calendar years of such request and shall, in his discretion, determine the sequence, timing, and duration of such reviews.

*Patron - Amundson*

: **HB425 Virginia Biotechnology Macro Partnership Authority.** Authorizes the creation of the Virginia Biotechnology Macro Partnership Authority to advance biotechnological research and development among public and private entities. The Authority is governed by a board of directors consisting of the Secretary of Commerce and Trade and eight members appointed by the Governor subject to confirmation by the General Assembly.

*Patron - Watts*

: **HB520 Virginia Public Procurement Act; small, women- and minority-owned business participation.** Authorizes the Governor and localities to implement remedial programs when there exists a rational basis for small business enhancement or an analysis that documents statistically significant disparity between the availability and utilization of women- and minority-owned businesses. The bill also provides that any analysis performed by the Governor or a locality as a basis for determining the existence of discrimination based on race or gender in the awarding of contracting opportunities shall comply with the procedural and evidentiary standards established by the United States Supreme Court in *The City of Richmond v. J. A. Croson Company*, 488 U.S. 469 (1985). This bill is incorporated into HB 1145.

*Patron - Jones, D.C.*

: **HB528 Comprehensive Services for At-Risk Youth and Families.** Adds the chairman of the state and local advisory team to the State Executive Council for Comprehensive Services for At-Risk Youth and Families.

*Patron - Hogan*

: **HB541 Center for Innovative Technology; statewide focus for the development of an entrepreneurial support network.** Directs the Center for Innovative Technology (CIT) to develop a statewide focus for a coordinated entrepreneurial support network. This focus shall include (i) reviewing the Commonwealth's university, federal laboratory and industry assets and using this review to develop a plan for state and federal investments; (ii) assessing the commercial potential of research underway at these facilities in leading-edge areas such as nanotechnology; (iii) developing and assessing alternative commercialization approaches through pilot projects that concentrate on specific research areas or researchers; (iv) creating, with the assistance of outside investment experts, an investment program designed to attract additional investors into the first financing round, secure additional follow-on investment for startups, and provide a return on funds invested by the Commonwealth; (v) implementing, with the assistance of the Department of Business Assistance, a public awareness program designed to profile the Commonwealth's focus on entrepreneurial support; (vi) examining opportunities to leverage

state funds with private angel investor funds to yield a five-to-one leveraged investment fund and a seed stage program; (vii) developing a plan with assistance from the Department of Business Assistance and the Virginia Economic Development Partnership to provide researchers and emerging companies in these areas with business development and mentoring resources; and (viii) developing an annual program review to determine the effectiveness of these initiatives. CIT shall also develop a benchmark to determine whether any of these initiatives should be transitioned to private sector management. The Department of Business Assistance and the Virginia Economic Development Partnership shall provide technical assistance. CIT shall report its findings to the Governor and the General Assembly by November 30, 2004.

*Patron - May*

: **HB544 Department of Business Assistance (DBA); Virginia Economic Development Partnership (VEDP); marketing campaign.** Directs DBA and VEDP to develop a "Virginia is for Technology" marketing campaign to attract venture capital-backed businesses and emerging technologies businesses to the Commonwealth. This campaign shall include developing (i) a welcome program that facilitates speedy completion of necessary business startup functions, including licensing, facilities location, employee relocation guides and business support services; (ii) a recruitment campaign designed to identify industry segments for pursuit and potential incentives for relocation/location of these companies that showcases attractions such as economic incentives, regional living condition profiles and asset profiles, including universities, technology councils, venture firms and research institutes; and (iii) a budget and necessary legislation to carry out such a campaign. The Center for Innovative Technology shall provide technical assistance. DBA and VEDP shall report their findings to the Governor and the General Assembly by November 30, 2004.

*Patron - May*

: **HB612 State police officers; salary increases.** Specifies that it is the policy of the Commonwealth to provide adequate and consistent salary increases to state police officers and directs the Department of Human Resource Management to determine annually any instances where Virginia officers are compensated at less than the average of their counterparts in surrounding states. The Governor shall propose sufficient funds in the Budget Bill to correct any such deficiencies.

*Patron - Carrico*

: **HB620 Comprehensive Services Act; local financial obligation.** Limits to 25 percent the amount by which the financial obligation of any county or city under the Comprehensive Services Act (CSA) may increase over the immediately preceding year, unless otherwise mandated by federal law. CSA is a program designed to help troubled youths and their families, through which state and local agencies, parents, and private service providers work together to plan and provide services.

*Patron - Carrico*

: **HB842 Virginia Information Technologies Agency (VITA); use of open source software.** Clarifies that nothing prohibits VITA from the utilization of free, open-source software available on the Internet as an alternative to competitively bid contracts.

*Patron - Van Yahres*

: **HB888 Commonwealth Integrated Transportation Planning Fund.** Establishes the Commonwealth Integrated Transportation Planning Fund in the office of the Secretary of Transportation for the purpose of making competi-

tive grants to regional planning commissions to develop or update regional transportation plans that integrate local land-use plans with multi-modal transportation plans.

*Patron - Plum*

: **HB944 Division of Engineering and Buildings; utility metering of state-owned buildings.** Provides that effective July 1, 2005, all state-owned buildings and facilities shall be separately metered for electricity and gas. The Division of Engineering and Buildings shall monitor the amount of electricity and gas used in state-owned buildings and facilities to ensure that such buildings and facilities are maintained and operated in the most energy efficient manner. The Division may implement such energy conservation measures as it deems necessary.

*Patron - Pollard*

: **HB1040 Virginia Public Procurement Act; public notice of Request for Proposals.** Removes the requirement for newspaper publication of notices of Requests for Proposal.

*Patron - Saxman*

: **HB1100 Budget Bill; state special funds.** Prohibits the Governor from including in any Budget Bill or amendment thereto, the appropriation of any amount from any special fund established by the General Assembly for any purpose other than the purpose for which the fund was created.

*Patron - Moran*

: **HB1101 Budget Bill; amounts appropriated from any state special fund.** Provides that whenever a budget presented by the Governor or the General Assembly proposes to use any money in any state special fund established for any purpose other than the purposes for which the fund was created, as amended, then such proposed budget must include a proposal plan for repayment of funds diverted within three years of such use.

*Patron - Moran*

: **HB1280 Virginia School Assistance Foundation; income tax credit; estate tax.** Creates the Virginia School Assistance Foundation to make grants to assist in paying tuition for children to attend a school in Virginia. Allows certain taxpayers to receive income tax credits for their contribution to the Foundation. Repeals Virginia's estate tax effective January 1, 2009.

*Patron - Marshall, R.G.*

: **HB1281 Venture capital investments.** Creates a program under which the Commonwealth makes investment return guarantees for certain investments in venture capital funds that invest in technology firms located in the Commonwealth. The Virginia Economic Development Partnership Authority shall administer the program. A venture capital fund eligible under the program must have an office in the Commonwealth, an established history of investing in businesses or industries that are in the early stages of development, and must enter into a contract with the Authority under which it promises to use its best efforts to invest three times the amount of principal it receives in technology firms located in Virginia. Pension funds, endowments, and other institutions investing in eligible venture capital funds shall receive investment return guarantees from the Commonwealth. The Commonwealth guarantees a 10 percent average annual rate of return over a 10-year horizon to such institutions incorporated or having administrative headquarters located in the Commonwealth. The Commonwealth guarantees to all other institutions that they will not lose any of their principal investment over the 10-year period. The financial guarantees are in the form of supplement-

tal appropriations to such institutions such that the guaranteed rates of return are realized.

*Patron - Purkey*

: **HB1298 Budget Bill; revenues.** Prohibits the Governor in his Budget Bill from relying on (i) general fund revenues in excess of those contained in the six-year revenue plan submitted in the prior calendar year, or (ii) any taxes or fees that are contingent on legislative action.

*Patron - Reese*

: **HB1334 State employees; supplemental pay for state employees called to active duty military service.** Provides that any state employee who has been granted a military leave of absence because such employee has been called to active service in the armed forces of the United States shall be paid his regular base salary reduced by any amount received from the United States as pay or allowance for military service performed during the same pay period. The bill also includes an emergency clause and is identical to HB 1352.

*Patron - Spruill*

: **HB1352 State employees; supplemental pay for state employees called to active duty military service.** Provides that any state employee who has been granted a military leave of absence because such employee has been called to active service in the armed forces of the United States shall be paid his regular base salary reduced by any amount received from the United States as pay or allowance for military service performed during the same pay period. The bill also includes an emergency clause and is identical to HB 1334.

*Patron - Ward*

: **HB1370 Lobbying; special reports.** Requires entities that seek to influence actions on legislation and that raise or expend more than \$50,000 between December 15 and adjournment sine die of the ensuing General Assembly session to register, file biweekly reports of their receipts and expenditures, and file the annual Lobbyist's Disclosure Statement.

*Patron - Cole*

: **HB1412 Secretary of Health and Human Resources to develop a health insurance plan.** Directs the Secretary to develop a health plan for certain unemployed residents of Virginia based upon stated criteria. The plan is to be established on a statewide basis to obtain the lowest possible rates and requires financial participation by the insured.

*Patron - Armstrong*

: **HB1467 Secretary of Technology; broadband trends.** Requires the Secretary of Technology to monitor the trends in the availability and deployment of and access to broadband communications services, which include, but are not limited to, competitively priced, high-speed data services and Internet access services of general application, throughout the Commonwealth and monitor advancements in communications technology for deployment potential. The Secretary shall report annually by December 1 to the Governor and General Assembly on those trends and advancements. This bill is incorporated into HB 546.

*Patron - Scott, J.M.*

: **HB1487 Department of Minority Business Enterprise; powers of Director.** Establishes the Director of the Department of Minority Business Enterprise as the Governor's principal advisor on issues relating to minority business enterprise and as the special assistant to the Governor for Minority Business Enterprise Policy reporting directly to the Governor.

*Patron - Jones, D.C.*

: **SB36 Capitol Square Preservation Act of 2003.** Makes several changes to the Capitol Square Preservation Act of 2003 including (i) increasing the total principal amount of bonds that may be issued for the projects from \$118,570,000 to \$140,783,000 (and increasing the cost of specific projects by an equal amount); (ii) increasing the estimated cost of fixtures and furnishings for the Capitol Building from \$5,972,000 to \$13,825,000 (such amount is to be funded through private donations or other similar means of fundraising) and expanding the items to be funded thereby; (iii) authorizing the Governor to implement his plan to complete the renovations of the Old Finance Building and Washington Building projects; and (iv) requiring the Governor to prepare and present a plan to the Chairmen of the Senate Finance and Rules Committees and House Appropriations and Rules Committees on or before December 1, 2004, for the demolition of derelict buildings and development of office and parking facilities on state-owned property bounded by 8th, 9th, and Broad Streets in the City of Richmond.

*Patron - Trumbo*

: **SB59 Charitable Gaming Board; membership.** Changes the membership of the Charitable Gaming Board by (i) adding two members who are members of a charitable organization that is in good standing with the Department of Charitable Gaming, and (ii) reducing the number of citizen members of the board from five to three.

*Patron - Potts*

: **SB87 Virginia Public School Authority; grants for school construction.** Authorizes the Virginia Public School Authority to issue bonds to fund grants to local school divisions in the total amount of \$1 billion to pay the costs of school construction, school renovation, and other school infrastructure projects. One-half of the grants (\$500 million) shall be distributed to each school division in an equal amount of \$3,676,471. The remaining one-half shall be distributed to each local school division on a set per pupil amount based on each school division's actual September 30, 2002, fall membership data as a proportion of total actual September 30, 2002, fall membership data for all school divisions.

*Patron - Puller*

: **SB293 Administration of government; acceptance of foreign personal identification cards.** Provides that for the disbursement of those public services, including law-enforcement services, in the Commonwealth that require recipients to produce personal identification, no department, agency, commission, or other public entity in the Commonwealth, or a political subdivision thereof, shall accept or recognize any identification document unless such document was issued by a state or federal authority, and is verifiable by federal law enforcement, intelligence, or homeland security agencies. No public entity in the Commonwealth may authorize acceptance of other than such verifiable identification, nor may any public official acting in his capacity as a public official accept, acknowledge, or recognize other than such verifiable identification, nor may any public entity in the Commonwealth or political subdivision of the Commonwealth rely on or utilize in any manner other than such verifiable identification for the purpose of issuing to any person any form of identification, license, permit, or official document. This bill is incorporated into SB 521.

*Patron - O'Brien*

: **SB295 Government fees; disclosure.** Requires the Governor to designate an agency to serve as a central repository for information relating to the nature of state taxes, fees and other charges. The designated agency shall develop and

provide to each agency a list of requested reporting data relating to such fees. The list of requested reporting data includes (i) the authority pursuant to which the fee is imposed; (ii) the purpose of the fee; (iii) the use of the funds generated by the fee; and (iv), in the event the fee is being levied by more than one governmental entity within the Commonwealth, the percentage of the fee attributable to each such governmental entity. Each state agency shall, for each fee the agency assesses or imposes, provide to the designated agency all information identified in the list of requested reporting data. The designated agency shall make all such fee information available to citizens of the Commonwealth.

*Patron - O'Brien*

: **SB346 Budget Reform Act of 2004.** Provides for the Budget Bill to set forth each agency's mission, goals and objectives, objective performance measures and descriptions of (i) how the goals and objectives are directly related to furthering the agency's mission, and (ii) how the agency is operating to achieve its mission, goals and objectives. The bill also requires the Budget Bill to include certain information regarding the budget requests of state agencies and nonstate entities.

*Patron - Cuccinelli*

: **SB370 Office of the State Inspector General.** Establishes the Office of the State Inspector General that would be headed by a State Inspector General appointed by the Governor for a six-year term and confirmed by the General Assembly. The State Inspector General would, among other duties, investigate the management and operations of state agencies to determine whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state officers or state employees and receive complaints of the same. The State Inspector General would have the power to subpoena individuals in any hearing he conducts.

*Patron - Cuccinelli*

: **SB559 State police officers; salary increases.** Specifies that it is the policy of the Commonwealth to provide adequate and consistent salary increases to state police officers and directs the Department of Human Resource Management to determine annually any instances where Virginia officers are compensated at less than the average of their counterparts in surrounding states. The Governor shall propose sufficient funds in the Budget Bill to correct any such deficiencies.

*Patron - Potts*

: **SB631 Preservation of monuments and memorials.** Provides that no monument or memorial erected on public property of the Commonwealth or any locality shall be relocated, removed, or altered and no street, bridge, structure, park, preserve or reserve or other public area of the Commonwealth or any locality that has been dedicated to the memory of or named for any historic figure or event may be renamed or rededicated unless a public hearing has been held by either the appropriate state agency or the locality, depending on where the monument or dedicated public area is located. The bill provides that the requirement for a hearing shall not apply if the action is (i) consistent with an agreement between the agency or locality owning the property, area, monument, or memorial and the entity initiating its establishment, (ii) to perform necessary construction or maintenance on streets, highways or utilities or (iii) deemed necessary by the Commonwealth or locality to address an imminent public safety concern.

*Patron - Quayle*

: **SB647 State Grievance Procedure; decisions.** Provides that failure of the employee or the agency to comply with a substantial procedural requirement of the grievance procedure without just cause shall result in a decision against the

noncomplying party on any qualified issue. Under current law such failure is not required to result in a decision against the noncomplying party. The bill also provides that the decision of the hearing officer shall be binding upon the agency. Under current law, the decision is binding upon the agency if it is consistent with law and policy. In addition, the bill removes the provision requiring the Director of the Department of Human Resource Management to determine within 60 days of the decision whether the decision is consistent with policy.

*Patron - Reynolds*

## Carried Over

**7 HB73 Virginia Public Procurement Act; Contractor Fraud Debarment Act of 2004.** Requires a public body to institute a three-year debarment from all types of contracting of a contractor if it finds that the contractor or any managerial officer of such contractor has been subjected to: (i) a felony conviction for criminal violations of securities laws; (ii) imposition of a civil penalty of \$500,000 or more for civil violation of securities laws; (iii) any final award, by either judgment or settlement, of monetary damages equal to or exceeding \$5 million, stemming from alleged violations of securities laws; or (iv) a filing of bankruptcy under the federal bankruptcy statutes whenever the underlying cause for the condition of bankruptcy has resulted in whole or in part from the commission of fraud in accounting practices or corporate governance. The bill also defines "securities laws" and "contractor." In addition, the bill requires all contracts of public bodies over \$10,000 to contain a certification by the contractor that the contractor is not barred from being awarded a contract pursuant to debarment provisions of the Virginia Public Procurement Act.

*Patron - Reese*

**7 HB110 Automatic reduction in general fund appropriations by Governor.** Requires the Governor, whenever general fund revenue collections for a period of six months or more show that year-to-date revenue growth is in excess of one percent below the official estimate upon which the appropriation act is based for such fiscal year, to institute an across-the-board percentage reduction in general fund appropriations to all executive branch agencies, which shall equal at least one-half of the revenue shortfall. Such action shall be communicated to the chairmen of the money committees within five days of its adoption.

*Patron - Purkey*

**7 HB157 Administration of government; acceptance of foreign personal identification cards.** Provides that for the disbursement of those public services, including law-enforcement services, in the Commonwealth that require recipients to produce personal identification, no department, agency, commission, or other public entity in the Commonwealth, or a political subdivision thereof, shall accept or recognize any identification document unless such document was issued by a state or federal authority, and is verifiable by federal law enforcement, intelligence, or homeland security agencies. No public entity in the Commonwealth may authorize acceptance of other than such verifiable identification, nor may any public official acting in his capacity as a public official accept, acknowledge, or recognize other than such verifiable identification, nor may any public entity in the Commonwealth or political subdivision of the Commonwealth rely on or utilize in any manner other than such verifiable identification for the purpose of issuing to any person any form of identification, license, permit, or official document.

*Patron - Reid*

**7 HB179 Posting certain information on the Internet; prohibitions.** Extends the prohibition on court clerks posting on a court-controlled website any document that contains specific personally identifying information to agencies and agency-controlled websites beginning January 1, 2005. The exception for court clerks providing remote access to their records under certain circumstances is not extended to agencies, though the other exceptions are extended. The bill also repeals the sunset making the prohibition permanent.

*Patron - Baskerville*

**7 HB243 Public Procurement Act; preference for goods made in the United States.** Provides that in determining the award of any contract for goods or nonprofessional services, a public body shall give preference to goods produced in the United States, or to goods or nonprofessional services provided by U.S.-based firms or corporations, so long as the bid price of such firm or corporation is not more than 20 percent greater than the bid price of the low responsive and responsible foreign-based firm or corporation. The bill provides that such contract may be awarded to a foreign-based firm or corporation in accordance if it is a sole source contract. The bill defines "foreign-based firm or corporation" as a firm or corporation based outside of the United States or any of its territories.

*Patron - Nutter*

**7 HB267 Workforce Transition Act; eligibility for transitional benefits.** Extends the eligibility for transitional severance benefits provided under the Workforce Transition Act to agency heads and employees serving in the capacity of chief deputy or confidential assistant for policy or administration provided that for 15 years prior to their appointment as agency head, chief deputy, or confidential assistant they were in a position covered under the Virginia Retirement System. Currently, eligibility extends to such persons who were employed by the Commonwealth continuously on a full-time basis for 15 years or more prior to their appointment. The second enactment clause of the bill limits the extended eligibility to appointments made on or after July 1, 2004.

*Patron - Morgan*

**7 HB294 Health insurance; state health care plan; mental health coverage.** Provides that anorexia nervosa and bulimia nervosa are biologically-based mental illnesses for purposes of the mandates that the state health care plans, health insurance policies and health services plans include coverage for such illnesses.

*Patron - Ware, R.L.*

**7 HB315 Virginia Public Procurement Act; preference for Virginia products and firms.** Provides that in awarding contracts in excess of \$500,000 for the procurement of goods or services, state public bodies shall give a three percent preference to any person with facilities located in Virginia that manufacture, develop, produce, grow, mine, or make such goods or services.

*Patron - Cosgrove*

**7 HB487 Freedom of Information Act; record exemption; owner/operators of private aircraft.** Provides an exemption for records of licensed public use airports containing information concerning (i) the identity of the owners or operators of aircraft based at the airport, including the owner's or operator's name, home address and telephone number and (ii) the tail numbers and other identifying information relating to the aircraft based at the airport from the mandatory disclosure requirements of the Freedom of Information Act.

*Patron - Cole*

**7 HB708 Virginia Economic Development Partnership Authority; duties.** Provides that whenever a business proposing to locate or expand within the Commonwealth that was referred to a local or regional economic development authority or organization by the Virginia Economic Development Partnership Authority rejects a Virginia location considered by such business following a site visit, the Virginia Economic Development Partnership Authority shall conduct a post-rejection audit to determine the factors that contributed to the rejection. The post-rejection audit shall include, but not be limited to, operational costs, labor force needs, technology and other infrastructure needs, transportation access, and incentives offered. Copies of the post-rejection audit shall be provided to the director of the affected local or regional economic development authority or organization within 30 days of the rejection.

*Patron - Nutter*

**7 HB746 Secretary of Public Safety; assessment of local law-enforcement and fire and rescue services.** Requires the Secretary of Public Safety to undertake a comprehensive assessment of the adequacy of law-enforcement and fire and rescue services provided to the citizens of each locality in the Commonwealth. The factors to be considered by the Secretary in performing each local assessment shall be established by the Secretary working in conjunction with the Department of Emergency Management, the Department of Fire Programs, the Department of Criminal Justice Services, the Department of State Police, and any other state executive agency deemed appropriate by the Secretary. Upon a determination of inadequacy and failure of the locality to cure, the Secretary shall establish and collect a fee from the builder of each new residential unit constructed in the locality until such time as the Secretary determines that the local law-enforcement and fire and rescue services are adequate and are likely to remain adequate for at least the next five years. The Secretary shall make disbursements to the locality from such account for the acquisition, improvement or development of new or existing law enforcement or fire and rescue services.

*Patron - Marshall, R.G.*

**7 HB943 Health insurance program for local employees.** Provides that employees of local governments, local officers, teachers, and retirees, and the dependents of such employees, officers, teachers and retirees may participate, with the approval of the local government, in the plan established pursuant to § 2.2-2818 to provide health and related insurance coverage for state employees. The local government shall be responsible for whatever portion of the cost of such insurance is not paid by the employee. The Commonwealth shall not be obligated to pay all or any portion of the cost thereof.

*Patron - Pollard*

**7 HB973 Budget Reform and State Inspector General Act of 2004.** Provides for the Budget Bill to set forth each agency's mission, goals and objectives, objective performance measures and descriptions of (i) how the goals and objectives are directly related to furthering the agency's mission, and (ii) how the agency is operating to achieve its mission, goals and objectives. The bill also requires the Budget Bill to include certain information regarding the budget requests of state agencies and nonstate entities. In addition, the bill establishes the Office of the State Inspector General to examine the management and operation of state agencies and nonstate agencies that receive state funds, conduct independent evaluations of the programs and activities of such agencies, and investigate complaints alleging fraud, waste, abuse, or corruption by state officers and state employees. A record exemption from the Freedom of Information Act is also provided for investigative notes, corre-

spondence and information furnished in confidence to the State Inspector General during the investigation of a complaint. Under the bill, the provisions relating to budget reform shall apply to all biennial budgets beginning on and after July 1, 2006, while those provisions establishing the Office of the State Inspector General become effective July 1, 2005.

*Patron - Reese*

**7 HB1008 Division of Engineering and Buildings; capital outlay constructions for certain educational institutions.** Provides that notwithstanding any standards established by the Division or law to the contrary, public institutions of higher education, including such other educational institutions so designated by law, may enter into contracts for specific construction projects without the review and approval of the Bureau of Capital Outlay Management, provided such institutions are in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and the conditions specified in the bill.

*Patron - Rust*

**7 HB1010 Public Procurement Act; prohibited contracts; required contract provisions.** Provides that no public body shall enter into any contract for professional services unless the contract provides that only citizens of the United States, legal resident aliens, and individuals with a valid visa will perform the services under the contract or any subcontract of that contract. The bill further requires all public bodies to include in every contract for professional services the following provisions: during the performance of this contract, the contractor agrees to (i) post in conspicuous places, available to employees and applicants for employment, a statement notifying such persons that only citizens of the United States, legal resident aliens, and individuals with a valid visa will be hired to perform the services under the contract or any subcontract of such contract; (ii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor will hire only citizens of the United States, legal resident aliens, and individuals with a valid visa to perform the services under the contract or any subcontract of such contract; and (iii) include the provisions of the foregoing clauses in every subcontract or purchase order, so that the provisions will be binding upon each subcontractor or vendor.

*Patron - Rust*

**7 HB1304 Privacy impact analysis; policies and guidelines for using invasive technologies; impact on civil liberties; Joint Commission on Technology and Science.** Requires public bodies to conduct a privacy impact analysis when authorizing or prohibiting the use of invasive technologies (e.g., radio frequency identification, tracking systems, facial recognition systems, hidden cameras, spyware, photo monitoring systems and Internet wiretaps) beginning July 1, 2006. The bill requires the Joint Commission on Technology and Science (JCOTS) to propose to the Governor and the 2006 General Assembly, by the first day of the 2006 Regular Session of the General Assembly, policies and guidelines for public bodies to follow in conducting the privacy impact analysis. In developing the policies and guidelines, the bill requires JCOTS to review the invasive technologies available for use, the current legal requirements of their use and the reasons for their use, their impact on civil liberties, and any safeguards that are or should be used to mitigate negative impacts.

*Patron - Lingamfelter*

**7 HB1322 Department of Business Assistance; Virginia Economic Resource Initiative Act.** Creates the Virginia Economic Resource Initiative Act to be administered by the Department of Business Assistance as a way of funding economic development projects. The bill sets out the require-

ments for a "VERI provider" defined as the entity exclusively designated by the Department pursuant to the bill (i) to receive investments from investors for each of the pools, and (ii) to invest each pool in accordance with the directives of the Board to obtain an offset against state income tax liability.

*Patron - Callahan*

**7 HB1380 Freedom of Information Act; electronic communication meetings.** Authorizes the conduct of electronic communication meetings for local public bodies, including any political subdivision of the Commonwealth or any governing body, authority, board, bureau, commission, district or agency of local government or any committee thereof. The bill also contains technical amendments.

*Patron - Moran*

**7 HB1386 Virginia Biotechnology Research Partnership Authority.** Codifies and continues the Virginia Biotechnology Research Park Authority and renames it the Virginia Biotechnology Research Partnership Authority with the added purpose of administering the Virginia Biotechnology Macro Partnership Program or other statewide programs that may from time-to-time be created by the Commonwealth related to building and enhancing the Commonwealth's competitiveness in building a biotechnology and life sciences industry. The bill also expands the membership of the Authority's board by up to six additional members (for a total of not more than 15) who shall be representatives of the partnerships or consortiums receiving money under the programs.

*Patron - Watts*

**7 HB1468 Investment of funds; affordable housing.** Allows localities to consider the investment activities of qualifying institutions that enhance the accessibility of affordable housing to local employees, in addition to the typical criteria, in determining the award of any contract for time deposits or investment of their funds.

*Patron - Scott, J.M.*

**7 HJ108 Department of General Services; construction contracts.** Encourages the Department of General Services to recognize and incorporate the Leadership in Energy and Environmental Design (LEED) Green Building Rating System energy, environmental, and sustainability concepts into state and local practices for the design and procurement of construction projects to the extent such concepts are feasible and reasonable for the particular project.

*Patron - Van Yahres*

**7 SB151 Public Procurement Act; preference for goods made in the United States.** Provides that in determining the award of any contract for goods or nonprofessional services, a public body shall give preference to goods produced in the United States, or to goods or nonprofessional services provided by U.S.-based firms or corporations, so long as the bid price of such firm or corporation is not more than 20 percent greater than the bid price of the low responsive and responsible foreign-based firm or corporation. The bill provides that such contract may be awarded to a foreign-based firm or corporation in accordance if it is a sole source contract. The bill defines "foreign-based firm or corporation" as a firm or corporation based outside of the United States or any of its territories.

*Patron - Deeds*

**7 SB182 Freedom of Information Act (FOIA); exclusions from chapter; GIS systems.** Excludes from the mandatory disclosure requirements of FOIA maps contained in a geographic information system that are developed from a combination of high resolution technologies, including digital orthophotography, digital terrain models or related ancillary

proprietary data produced by any local governing body or by the Virginia Geographic Information Network (VGIN) division of the Virginia Information Technologies Agency in accordance with § 2.2-2027. However, nothing in this subdivision shall be construed to prohibit the disclosure of base line mapping or topography, including flat-line computer drawings contained in a geographic information system from which the maps excluded by this subdivision may be developed. As to VGIN, the bill codifies existing law. The bill also contains a technical amendment.

*Patron - Blevins*

**7 SB232 Virginia Economic Development Incentive Act.** Establishes the Virginia Economic Development Incentive Fund (Fund) to be administered by the Virginia Economic Development Partnership. The Fund will be used to provide grants for projects creating at least 400 jobs with average salaries at least 50 percent greater than the prevailing average wage for the area and investing a minimum of \$6,500 per job or \$5 million in capital, whichever is greater. Beginning January 1, 2005, the capital investment requirement shall be adjusted annually by any percentage increase in the Consumer Price Index. Any project that has received a Virginia Investment Partnership grant, an Enterprise Zone Act grant, or a Major Business Facility Job Tax Credit would be ineligible for a grant under the Act.

*Patron - Lambert*

**7 SB322 Recovery of damages to the Commonwealth's natural resources.** Allows the Attorney General to employ special counsel if he decides that it is impracticable or uneconomical for the Attorney General's office to render the required legal services for cases involving the recovery of damages to natural resources.

*Patron - Stolle*

**7 SB460 Special Advisor for Workforce Development.** Creates the position of Special Advisor for Workforce Development, which reports directly to the Governor. The Special Advisor will have policy and program responsibilities for several federal and state workforce training programs and resources administered within several different state agencies. The Special Advisor responsibilities include (i) serving as liaison for workforce training among state and local government, the Virginia Workforce Council, local workforce investment boards, and the business community; (ii) reviewing fund allocation; (iii) helping the Virginia Workforce Council implement policies and procedures for the Virginia Workforce System; (iv) monitoring federal legislation and policy in order to maximize the effective use of program funds; and (v) reporting annually on the progress in statewide coordination of workforce training resources.

*Patron - Whipple*

**7 SB521 Administration of government; acceptance of foreign personal identification cards; penalty.** Requires every agency, political subdivision or court of the Commonwealth to verify the lawful presence in the United States of any person who has made a claim of legal residence or domicile in the Commonwealth for any purpose for which legal residence or domicile is required by law, ordinance, or regulation. Under the bill, a citizen of the United States or an alien who presents a valid identification document that is included on the published list of documents maintained by the Department of Motor Vehicles as proof of lawful presence in the United States is presumed to be lawfully present in the United States. The bill also provides that it shall be a Class 2 misdemeanor for (i) any person to willfully use a personal identification document issued by a foreign government as evidence or proof of legal residence or domicile in the Common-

wealth for the purpose of obtaining public benefits, and (ii) any person, other than a citizen of the United States, who does not possess valid documentation of lawful presence in the United States to attest, with the intent of thereby obtaining a public benefit or service for which legal residence or domicile is a requirement, that such person is a legal resident or domiciliary of the Commonwealth. The bill incorporates SB 293.

*Patron - Hanger*

## Agriculture, Horticulture and Food

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Passed

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**D HB10 Virginia Charity Food Assistance Advisory Board.** Abolishes the Virginia Charity Food Assistance Advisory Board. The advisory board was created in 1998 to advise the Board and Department of Agriculture and Consumer Services on the implementation of a Virginia charity food purchase program; to study programs or other ways the Department or other agencies might help to reduce the incidence of hunger, malnutrition, and short-term food shortages among the needy; and to develop recommendations regarding a charity food donation tax credit program. The food purchase program and the charity food donation tax credit program have never been established. Without funding for the food purchase and distribution program, the advisory board cannot carry out its mission. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill incorporates HB 207.

*Patron - Cox*

**D HB13 Virginia Sweet Potato Board.** Abolishes the Virginia Sweet Potato Board, the Virginia Sweet Potato Fund and the excise tax that supports the Board's promotion of sweet potatoes. The Sweet Potato Board was created prior to 1950 to support the sweet potato industry through grants for education, research, and marketing. The Sweet Potato Association favors the elimination of the Board because the number of sweet potato growers has declined in Virginia and the funds available are not sufficient to carry out the programs to promote the industry. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill incorporates HB 209.

*Patron - Cox*

**D HB40 Agriculture education.** Establishes a unit of agriculture education specialists within the Department of Agriculture and Consumer Services who will assist in the development and revision of agriculture curriculum for inclusion in the Standards of Learning and provide professional development training for agriculture instructional personnel. The unit will be managed by the Department of Agriculture Education at VPI-SU. If funds are not allocated for these positions, the Department will not have to absorb the costs of these new positions.

*Patron - Orrock*

**D HB144 Animal control officer training.** Transfers the registration requirements for animal control officers employed by localities from the Department of Criminal Justice Services to the State Veterinarian and removes the Depart-

ment of Criminal Justice Services' approval requirement for animal control training courses.

*Patron - Orrock*

**D HB171 Apple Board.** Updates the Apple Board to reflect the results of the 2003 referendum, which discontinued the excise tax on apples.

*Patron - Sherwood*

**D HB242 Animals attacking companion animals.** Exempts an owner of a dog or cat who uses reasonable and necessary force against a dog that is attacking the owner's dog or cat from intentional animal cruelty. The owner's dog or cat must have been on the owner's property for this exemption to apply.

*Patron - Nutter*

**D HB766 Inspections of food stores.** Exempts retail establishments from inspection by the Department of Agriculture and Consumer Services if they (i) do not prepare or serve food; (ii) sell only food or beverages that are sealed in packaging by the manufacturer and have been officially inspected in the manufacturing process; (iii) do not sell infant formulas; (iv) do not sell salvaged foods; and (v) certify to the Department that they meet the foregoing provisions. However, nothing in this bill prevents the Department from inspecting a retail establishment if a consumer complaint is received.

*Patron - Hurt*

**D HB862 Cigarettes; affixing stamps thereto.** Amends several of the current statutory procedures relating to the sale of cigarettes. The bill requires persons affixing Virginia revenue stamps to cigarettes to report monthly to the Department of Taxation on the number of revenue stamps affixed by such person by quantity of brand. The bill makes it unlawful for any person to purchase, possess, or affix Virginia revenue stamps without first obtaining a permit from the Department. The bill increases the current penalties for the failure to affix Virginia revenue stamps.

*Patron - Ware, R.L.*

**D HB1142 Nonindigenous aquatic nuisance species.** Directs the Department of Game and Inland Fisheries to utilize the best available scientific technology that is specific to controlling the targeted nonindigenous aquatic nuisance species, environmentally sound, practical, and cost effective. This bill also directs the Secretary of Natural Resources to seek and accept all possible funding to carry out the purposes of the Nonindigenous Aquatic Nuisance Species Act.

*Patron - McDonnell*

**D HB1230 The Virginia Wine Board.** Establishes the Virginia Wine Board within the Department of Agriculture and Consumer Services, and the Virginia Wine Promotion Fund. The Board is composed of the Commissioner of Agriculture and Consumer Services and nine gubernatorial-appointed citizens who represent grape growers and owners or operators of wineries or farm wineries. Among its powers and duties, the Board can contract for research services to improve viticultural and enological practices in Virginia, enter into contracts with private and public entities to market, advertise and promote the industry, and engage in revenue-producing activities. The Fund consists of general fund appropriations, fees from services rendered, and payments received for products, equipment or goods supplied. Contracts for advertising, marketing, or publishing that are entered into by the Board are exempted from certain provisions of the Virginia Public Procurement Act. The bill repeals the Virginia Winegrowers Advisory Board and the Winegrowers Productivity Fund and transfers any moneys

remaining in the Winegrowers Productivity Fund to the new Virginia Wine Promotion Fund. This bill is identical to SB 310.

*Patron - Landes*

**D HJ228 Adjusted Gross Revenue.** Recognizes and supports the need for Adjusted Gross Revenue insurance and for farmers in Virginia to be apprised of the benefits of purchasing such insurance to protect against revenue loss due to unavoidable natural disasters or market fluctuations.

*Patron - Bland*

**D SB150 Sheep Board.** Directs the Governor to appoint all 12 members of the Sheep Board. Three of the board members shall represent different segments of the industry and nine members shall be appointed from four statewide districts established within Virginia, with no more than one member appointed per county. Currently, the Governor appoints the three members representing different segments of the industry, while the other nine members are the presidents of wool pool organizations.

*Patron - Deeds*

**D SB200 Beekeeper assistance.** Mandates that the Commissioner of Agriculture and Consumer Services establish a beekeeper assistance program that would assist Virginia beekeepers in maintaining healthy, productive bee colonies.

*Patron - Reynolds*

**D SB310 The Virginia Wine Board.** Establishes the Virginia Wine Board within the Department of Agriculture and Consumer Services, and the Virginia Wine Promotion Fund. The Board is composed of the Commissioner of Agriculture and Consumer Services and nine gubernatorial-appointed non-legislative citizens who represent grape growers and owners or operators of wineries or farm wineries. Among its powers and duties, the Board can contract for research services to improve viticultural and enological practices in Virginia, enter into contracts with private and public entities to market, advertise and promote the industry, and engage in revenue-producing activities. The Fund consists of general fund appropriations, fees from services rendered, and payments received for products, equipment or goods supplied. Contracts for advertising, marketing, or publishing that are entered into by the Board are exempted from certain provisions of the Virginia Public Procurement Act. The bill repeals the Virginia Winegrowers Advisory Board and the Winegrowers Productivity Fund and transfers any moneys remaining in the Winegrowers Productivity Fund to the new Virginia Wine Promotion Fund. This bill is identical to HB 1230.

*Patron - Hawkins*

## Failed

**: HB207 Virginia Charity Food Assistance Advisory Board.** Abolishes the Virginia Charity Food Assistance Advisory Board. The advisory board was created in 1998 to advise the Board and Department of Agriculture and Consumer Services on the implementation of a Virginia charity food purchase program; to study programs or other ways the Department or other agencies might help to reduce the incidence of hunger, malnutrition, and short-term food shortages among the needy; and to develop recommendations regarding a charity food donation tax credit program. The food purchase program and the charity food donation tax credit program have never been established. Without funding for the food purchase and distribution program, the advisory board cannot carry out its mission. This bill is incorporated into HB 10.

*Patron - Athey*



: **HB209 Virginia Sweet Potato Board.** Abolishes the Virginia Sweet Potato Board, the Virginia Sweet Potato Fund and the excise tax that supports the Board's promotion of sweet potatoes. The Sweet Potato Board was created prior to 1950 to support the sweet potato industry through grants for education, research, and marketing. The Sweet Potato Association favors the elimination of the Board because the number of sweet potato growers has declined in Virginia and the funds available are not sufficient to carry out the programs to promote the industry. This bill is incorporated into HB 13.

*Patron - Athey*

: **HB345 Master Settlement Agreement; release of escrow funds.** Implements uniform language concerning the release of escrow funds to cigarette manufacturers that are not participating manufacturers under the Master Settlement Agreement. The bill contains an emergency clause and is identical to SB 649.

*Patron - Kilgore*

: **HB406 Animals as prizes; penalty.** Prohibits carnivals, fairs, or similar amusements from using animals as prizes. This bill also allows localities to prohibit for-profit entities from using animals as prizes. Violation of this section is punishable as a Class 3 misdemeanor.

*Patron - Welch*

: **HB431 Weights and measures.** Requires the Commissioner of the Department of Agriculture and Consumer Services to inspect and test all weights and measures kept, offered, or exposed for sale on a periodic basis, as he deems necessary, and to investigate complaints concerning violations of laws regarding weights and measures within 30 days. Currently, the Commissioner may inspect and test all weights and measures annually, or less frequently if in accordance with a schedule issued by the Board of Agriculture and Consumer Services, or more frequently if he deems necessary. At present, there is no requirement for the Commissioner to begin his investigation of a complaint within a set period of time.

*Patron - Albo*

: **HB497 Apple butter and molasses.** Allows any person residing in the Commonwealth west of the Blue Ridge Mountains and east of Cumberland Gap to use kettles made of copper and copper alloys such as brass to prepare apple butter and molasses.

*Patron - Kilgore*

: **HB554 Dogs attacking companion animals.** Requires any animal control officer or other officer who finds a dog in the act of killing or injuring a companion animal to kill such dog forthwith and allows any person finding a dog attacking a companion animal to kill such dog on sight. Currently, these provisions only apply to dogs attacking livestock or poultry.

*Patron - Hargrove*

: **SB405 Compensation for livestock and poultry killed by dogs.** Decreases the amount of money a locality must compensate a person if that person's livestock or poultry is killed or injured by a dog when the owner of the dog is not known from \$400 to \$200 per animal and from \$10 to \$5 per fowl.

*Patron - Quayle*

: **SB626 County or city pounds.** Limits the number of animals that a person can adopt from a pound to six animals a year.

*Patron - Quayle*

: **SB649 Master Settlement Agreement; release of escrow funds.** Implements uniform language concerning the release of escrow funds to cigarette manufacturers that are not participating manufacturers under the Master Settlement Agreement. The bill contains an emergency clause and is identical to HB 345.

*Patron - Puckett*

## Carried Over

**7 HB281 Certification of aquaculture.** Directs the Commissioner of the Department of Agriculture and Consumer Services to coordinate with appropriate state agencies to establish standards for and certification of the commercial production of aquaculture.

*Patron - Purkey*

**7 HB629 Cruelty to animals, penalty.** Increases the penalty from a Class 1 misdemeanor to a Class 6 felony for acts of intentional animal cruelty or deprivation of food, shelter, or care resulting in serious injury to or the death of a companion animal.

*Patron - O'Bannon*

**7 HB630 Mauling by dogs; penalty.** Provides that any person who owns or is in custody of a dog that bites a person resulting in substantial physical injury is guilty of a Class 1 misdemeanor if he failed to exercise ordinary care and knew or reasonably should have known of the dangerous nature of the dog or if the victim failed to take all the precautions that a reasonable person would ordinarily take in the same situation. However, this bill does not apply if the injury was sustained by a person who was (i) committing a crime upon the premises occupied by the animal's owner or custodian, (ii) trespassing upon the premises occupied by the animal's owner or custodian, or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. Also, this bill does not apply to (a) any police dog engaged in the performance of its duties or any dog that responded to pain or injury, or was protecting itself, its kennel, its offspring, or its owner, or owner's property; or (b) any veterinarian, on-duty animal control officer, or law-enforcement officer if he is assigned to a canine unit.

*Patron - O'Bannon*

**7 HB1192 Potentially dangerous dogs.** Allows localities to regulate potentially dangerous dogs, which are defined as any dog that has, when unprovoked, endangered a person by exhibiting dangerously threatening behavior normally associated with an attack. Currently, localities may regulate dangerous and vicious dogs.

*Patron - Scott, J.M.*

**7 HB1289 Pesticide Control Board.** Increases the membership of the Pesticide Control Board from 12 to 13 members and requires at least one member of the Board to be a structural applicator.

*Patron - Orrock*

## Alcoholic Beverage Control Act

### Passed

**D HB805 Alcoholic beverage control; prohibited acts by mixed beverage licensees; exception.** Allows a mixed

beverage licensee to serve or deliver, or both, "soju" (a Korean alcoholic beverage) to a consumer in its original bottle. The bill defines "soju."

*Patron - Petersen*

**D HB1309 Community-based probation for underage alcohol offenders.** Provides that a person convicted of underage possession of alcohol may, as a condition of deferral and dismissal, be sent to community-based probation as an alternative to an alcohol safety action program.

*Patron - Hurt*

**D HB1314 Alcoholic beverage control (ABC); operation of government stores.** Provides that certain government stores, as determined by the ABC Board, in any county having the urban county executive form of government (Fairfax County), in any city adjacent to or completely surrounded by any such county, in any county contiguous to any such county, in any city adjacent to or completely surrounded by any such contiguous county, or in any city having a population in excess of 200,000, may be open on Sunday for the sale of alcoholic beverages after 1:00 p.m. The bill requires the ABC Board to adopt regulations to implement these provisions.

*Patron - Albo*

**D HB1316 Alcoholic beverage control; conduct not prohibited by licensed wineries and farm wineries.** Allows, among other things, licensed wineries and farm wineries to receive deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth; receive deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside of the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations. Currently this privilege is limited to licensed wineries located in Virginia.

*Patron - Dudley*

**D HB1394 Alcoholic beverage control (ABC); application for licenses; shippers' licenses.** Exempts applicants for a wine or beer shipper's or a wine and beer shipper's license from the requirement of having a background investigation conducted by the ABC Board. The bill also provides for such license application that the ABC Board does not need to notify local governing bodies of the pending application.

*Patron - Abbitt*

**D HB1448 Alcoholic beverage control; taxes on local licenses.** Authorizes the imposition of a local license tax on wine shipper's, beer shipper's and wine and beer shipper's licenses of not more than \$10 per license. The bill also authorizes a local license tax on farm winery licenses of not more than \$50, and decreases the current local license tax on winery licenses from \$1,000 to \$50.

*Patron - Scott, E.T.*

## Failed

**: HB567 Alcoholic beverage control (ABC); operation of government stores.** Provides an exception to the general rule that ABC stores are not to be open on Sunday. The bill provides that certain government stores, as determined by the Board, may be kept open on Sunday for the sale of alcoholic beverages during hours designated by the Board. The bill requires the Board to adopt regulations to implement the provisions of the bill.

*Patron - Albo*

**: HB995 Alcoholic beverage control; annual banquet and annual mixed beverage banquet licenses.** Creates a new annual banquet license for wine and beer and an annual mixed beverage banquet license for mixed beverages. Both licenses are limited to certain organizations and their guests and to no more than 12 events per calendar year. The provisions set out the application fee and the state and local taxes for these new licenses. The bill contains technical amendments.

*Patron - Hugo*

**: HB1151 Juvenile alcohol offenses.** Makes it clear that it is illegal for an underage person to consume alcoholic beverages as well as to purchase or possess them. This bill is incorporated into HB 668.

*Patron - McDonnell*

**: HB1225 Virginia Alcoholic Beverage Control Board; Youth Smoking Penalty Act and Fund.** Establishes the Youth Smoking Penalty Fund to develop and implement programs that enhance enforcement efforts to identify and prosecute violations of laws prohibiting retail sales to minors and to enforce access restrictions on minors for the possession or use of tobacco. Moneys in the Fund shall consist of an annual assessment made by the Alcoholic Beverage Control Board on each tobacco manufacturer of \$1 for every estimated pack of cigarettes manufactured by such tobacco product manufacturer and sold to a minor in the Commonwealth.

*Patron - Hogan*

## Carried Over

**7 HB142 Alcoholic beverage control (ABC); retail franchising of new government stores by the ABC Board.** Provides for the granting of retail franchises by the ABC Board for the sale of spirits, vermouth, and mixers by retail franchisees. Mixed beverage licensees may purchase alcoholic beverages from the retail franchisees. The bill provides that no new government stores may be owned or operated by the ABC Board on or after July 1, 2004. Instead, the ABC Board shall enter into franchise agreements for the ownership and operation of retail franchised establishments in such counties, cities, and towns considered advisable by the Board, subject to the provisions of any local referendum. The bill provides that the Retail Franchising Act shall not apply to retail franchises granted by the ABC Board. The bill contains an emergency clause. The bill contains numerous technical amendments to achieve the retail franchising of new government stores.

*Patron - Louderback*

**7 SB622 Alcoholic Beverage Control (ABC) Board; summary suspension of licenses.** Authorizes the ABC Board to suspend any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, without a hearing, simultaneously with the institution of proceedings for a hearing, if it finds that there is substantial danger to the public safety which warrants such action. Institution of proceeding for a hearing shall be provided simultaneously with the summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary suspension, not to exceed 96 hours.

*Patron - Stolle*

## Aviation

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### Failed

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: **SB217 Ultralight aircraft.** Exempts ultralight aircraft from proof of financial responsibility requirements as a prerequisite to licensure.

*Patron - Martin*

## Banking and Finance

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### Passed

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**D HB471 Nonprofit credit counseling.** Requires credit counseling agencies to obtain a license from the State Corporation Commission in order to provide or offer to provide to consumers debt management plans. Under consumer debt management plans, an agency agrees to engage in debt settlement or debt pooling and distribution services on behalf of a consumer with the consumer's creditors, and the consumer gives money or control of his funds to the agency for distribution to the consumer's creditors. Licensees shall provide to consumers a statement that providing debt management plan services on behalf of the consumer may have a derogatory effect upon the consumer's credit report. The SCC's Bureau of Financial Institutions may investigate and examine the affairs, business, premises, and records of any person licensed or required to be licensed. The SCC may impose a fine or penalty on violators not exceeding \$1,000. Any person operating without a license shall be guilty of a Class 1 misdemeanor. Any person who suffers loss by reason of a violation may bring a civil action. The SCC may request the Attorney General to investigate a suspected violation. Any violation constitutes a prohibited practice under the Virginia Consumer Protection Act. The bill does not apply to a person licensed to practice law in the Commonwealth. An agency that had been licensed under the current statutes regulating non-profit debt counseling agencies, which laws are repealed by this bill, is required to reapply for the new license by October 1, 2004.

*Patron - Nixon*

**D HB688 Payday Loan Act; requirements; charges.** Requires payday lenders to retain their borrowers' checks. The bill prohibits application of post-maturity interest to loan fees and limits borrowers' right to make partial payments to the period prior to loan maturity. Payday lenders are required to return paid loan agreements to borrowers marked "paid" or "canceled" and to keep copies of such agreements. The bill also provides that the Payday Loan Act's provisions exclusively control the post-judgment interest and other charges and expenses payday lenders may recover from borrowers.

*Patron - Morgan*

**D HB1269 Banks; loans and other extensions of credit to executive officers and directors.** Requires that Federal Reserve Board Regulations govern the maximum amount of loans and other extensions of credit a bank may make to any of its executive officers or directors, and the conditions and procedures for approval of such extensions of credit, regardless of whether the bank is a member of the Federal Reserve System.

*Patron - Drake*

**D HB1460 Rates of interest.** Provides that the legal and judgment rates of interest both are lowered from the current rate of eight and nine percent respectively to six percent, to reflect current market realities. Clarifies that where the relevant contract or instrument is silent and the court or jury has not set the interest rate, the same rate is applied for pre-judgment and post-judgment interest. This bill incorporates HB 260.

*Patron - Reese*

**D SB163 Banking and finance; confidentiality of information.** Authorizes the State Corporation Commission or its employees to release examination reports regarding financial institution and personal financial information to other persons as required by grand jury subpoenas.

*Patron - Colgan*

**D SB509 Consumer Real Estate Settlement Protection Act; summonses and subpoenas; orders have force and effect of circuit court decrees.** Authorizes licensing authorities to issue summonses and subpoenas and to issue orders restraining a person from engaging in an act or practice. The bill also gives orders of the licensing authorities imposing penalties or requiring restitution the force and effect of circuit court decrees.

*Patron - Mims*

**D SB536 Asset-Backed Securities Facilitation Act.** Provides that any property, assets, or rights purported to be transferred in a securitization transaction shall be deemed to no longer be the property, assets, or rights of the transferor. A transferor in a securitization transaction, its creditors or a bankruptcy trustee, receiver, debtor, debtor in possession, or similar person shall have no rights to reacquire, reclaim, recover, repudiate, disaffirm, redeem, or recharacterize as property of the transferor any property, assets, or rights purported to be transferred by the transferor. In a bankruptcy, receivership, or other insolvency proceeding governed by the laws of the Commonwealth, the property, assets, and rights shall not be deemed to be part of the transferor's property, assets, rights, or estate.

*Patron - Stosch*

**D SB542 Banking and finance; subsidiary trust companies and trust company holding companies.** Permits companies other than banks and bank holding companies to own nonvoting stock of trust subsidiaries. The requirement that a trust company holding company also control a securities-related company is eliminated. "Control" is defined as ownership of 25 percent or more of the voting stock of a trust company. The bill also authorizes acquisition of a Virginia trust company by any bank holding company or any company having a trust subsidiary as permitted by federal law or the law of another state.

*Patron - Stosch*

### Failed

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: **HB48 Judgment rate of interest.** Clarifies that the judgment rate of interest, where the relevant contract or instrument is silent and the court or jury has not set the interest rate, is the same for pre- and post-judgment interest. The judgment rate is lowered from its current rate of nine percent to seven percent, to reflect current market realities.

*Patron - Reese*

: **HB260 Judgment rate of interest.** Clarifies that the judgment rate of interest, where the relevant contract or instrument is silent and the court or jury has not set the interest rate, is the same for pre- and post-judgment interest. The judg-

ment rate is lowered from its current rate of nine percent to six percent, to reflect current market realities. This rate of interest applies in civil actions, and is used to calculate child support arrearages pursuant to § 20-78.2. This bill is incorporated into HB 1460.

*Patron - Jones, D.C.*

: **HB518 Payday loans.** Prohibits a person from making a payday loan unless such person is a financial institution. Payday lenders are also required to explain to borrowers the information in the pamphlet that lenders are required to provide to borrowers.

*Patron - Jones, D.C.*

## Carried Over

**7 HB1066 Exceptions to legal rate of interest; exercising options for the purchase of real estate.** Excludes loans that fund the exercise of options for the purchase of real estate from the general prohibition on contracts that require the payment of interest at rates exceeding 12 percent annually. The bill also excludes financing by a landlord of delinquent rent provided a promissory note has been executed by the tenant and the landlord and the note clearly states the annual percentage interest rate.

*Patron - Armstrong*

**7 HB1156 Payday lending; creation of Internet database; specific power of attorney required for unemployed military spouses.** Requires the State Corporation Commission on or before July 1, 2005, to implement a common database with real-time access through an Internet connection for payday lenders that would allow payday lenders to determine if a prospective borrower already has a loan outstanding or has closed a loan within the previous 24 hours. The Commission is authorized to charge a \$1 fee per transaction. The bill prohibits a payday lender from entering into a payday loan (i) with a person who has an outstanding payday loan with that licensee or affiliate or with any other payday lender, or (ii) with a person whose previous payday loan has been terminated for less than 24 hours. The bill also requires a payday lender to maintain an internal common database and check the Commission's database to verify compliance with this prohibition, and prohibits a licensee from entering into a loan with a spouse of a member of the armed forces when the loan is secured against that member's pay unless a special power of attorney signed by the member of the armed forces is provided authorizing the loan.

*Patron - Morgan*

**7 SB144 Judgment rate of interest.** Makes the judgment rate of interest for judgments not relating to a contract the prime rate plus two percent set as of the July 1 immediately prior to the date of judgment. Under current law, the judgment rate of interest is nine percent. A money judgment entered in an action arising from a contract shall carry interest at the rate lawfully charged on such contract, or the prime rate plus two percent set as of the July 1 immediately prior to the date of judgment, whichever is higher. Under current law, the judgment rate is the rate lawfully charged on such contract, or nine percent, whichever is higher.

*Patron - Cuccinelli*

## Civil Remedies and Procedure

### Passed

**D HB46 Appeals from decisions of general district court.** Permits issuance of a writ of execution immediately upon entry of judgment for possession in cases of judgment of default arising out of a trustee's deed following foreclosure. Under current law, writs of execution may not issue until expiration of the 10-day period for appeal, except in cases of judgment of default for nonpayment of rent. This bill extends that exception to those judgments of default arising out of a trustee's deed following foreclosure.

*Patron - Reese*

**D HB49 Copies of subpoenaed documents to be provided to other parties.** Requires any party to a civil proceeding who subpoenas documents concerning another party to provide true and full copies of the documents to the other party or his attorney, if requested, provided the requesting party pays reasonable copying or reproduction costs. The requirement does not apply where the subpoenaed documents are returnable to and maintained by the clerk of court in which the proceeding is pending.

*Patron - Reese*

**D HB357 Settlements by the Commonwealth; confidentiality.** Provides that no settlement of a civil action against the Commonwealth involving money damages shall be made subject to a confidentiality agreement that prohibits the Commonwealth, a state agency, officer or employee from disclosing the amount of such settlement except in cases where the confidentiality agreement is imposed by a court of competent jurisdiction or otherwise is required by law. This bill incorporates HB 388.

*Patron - Suit*

**D HB430 Appeal bonds.** Eliminates the current \$25 million ceiling on an appeal bond securing noncompensatory damages and establishes in its place a \$25 million ceiling on an appeal bond securing all damages awarded the appellee. Provides that where the appellee shows dissipation of assets by the appellant, the court may require the appellant and its affiliates to post a bond or irrevocable letter of credit in an amount up to the full amount of judgment. The bill contains a clause specifying that its provisions are procedural and not substantive in nature. This bill is identical to SB 172.

*Patron - Albo*

**D HB534 Civil immunity; litter pick up by probationers and persons on community service.** Provides civil immunity for probation officers; court personnel; county, city and town personnel; any other public officials; and private volunteers who participate in a program in which persons on community service or persons on probation are ordered as a condition of probation or community service to pick up litter along a section of public roadway or waterway. The immunity protects the specified persons from liability for injury to the persons on probation or community service, in the absence of willful misconduct. The bill provides that it shall not be interpreted to grant any immunity to any driver transporting the probationers or persons on community service, or any motorist, who, by his negligence, may injure such probationer or person on community service. This bill is identical to SB 72.

*Patron - Stump*

**D HB565 Civil recovery; health care provider professional services.** Authorizes a health care provider, if an insured or enrollee of an accident and sickness insurance policy, health services plan or health maintenance organization fails to remit insurance payments he has received for health care rendered, to institute a civil action to recover the lesser of \$250 or three times the amount of the payment, together with the amount of the payment and any sanctions imposed pursuant to § 8.01-271.1. Action may be instituted only after the health care provider has invoiced the insured or enrollee for the services, and 30 days after the insured's or enrollee's receipt of the insurance payments.

*Patron - Albo*

**D HB624 Civil procedure; nonsuits.** Provides that if notice to take a nonsuit of right is given to the opposing party within seven days of trial, the court may assess against the non-suiting party reasonable witness fees and travel costs of expert witnesses scheduled to appear at trial, which are incurred by the opposing party solely by reason of the failure to give notice at least seven days prior to trial. Under current law, the applicable time frame is five days.

*Patron - O'Bannon*

**D HB638 Wrongful incarceration for a felony conviction.** Provides guidelines for the compensation of persons wrongfully incarcerated. Under the guidelines a wrongfully incarcerated person may receive an amount equal to 90 percent of the Virginia per capita personal income for each year of incarceration up to 20 years. The compensation shall be paid as an initial lump sum equal to 20 percent of the award with the remaining, 80 percent of the principal to be used to purchase an annuity to provide equal monthly payments to such person for a period certain of 25 years. The bill also provides for (i) a \$15,000 transition assistance grant for a wrongfully incarcerated person upon his release from prison to be paid from the Criminal Fund, which amount shall be deducted from any award received and (ii) reimbursement of up to \$10,000 for tuition for career and technical training within the Virginia Community College System contingent upon successful completion of the training. The bill specifically provides that the payment and receipt of any compensation for wrongful incarceration shall be contingent upon the General Assembly appropriating funds for that purpose. The bill incorporates HB 631 and is identical to SB 271.

*Patron - Tata*

**D HB705 Relation back; addition of agent.** Authorizes amending a pleading to change the party against whom a claim is asserted so long as either the party or his agent had notice of the institution of the action within the limitations period. Under current law, amendments are permitted only where the party had notice of the institution of the action. Current law authorizing amendments to pleadings based on confusion in trade names contains the "agent" reference in that statute's requirements for actual notice of a claim. This bill is identical to SB 118.

*Patron - Ingram*

**D HB733 Patient health records.** Provides that a patient's executor or administrator also may obtain copies of a patient's health care records where the records are requested in anticipation of litigation or in the course of litigation. Currently only a patient, his attorney, or an authorized insurer may obtain copies of the patient's health care records.

*Patron - Joannou*

**D HB979 Service of process on corporation.** Defines the term "managing employee" for the purposes of ser-

vice of process in garnishment proceedings as an employee charged by the corporation with the control of operations and employee supervision at a business location of the corporation where process is to be served.

*Patron - Reese*

**D HB980 Civil remedies; service of process.** Clarifies that failure to make return of service of process by anyone authorized to serve process within the time specified shall not invalidate any service of process or any judgment based thereon. Current law appears to apply only to sheriffs.

*Patron - Reese*

**D HB1063 Legal malpractice; negligence concerning an irrevocable trust.** Clarifies that a grantor, or, after his death, his personal representative or trustee, may maintain an action for damages, including tax liability, resulting from legal malpractice associated with an irrevocable trust. The action shall survive the grantor's death, shall accrue upon completion of the representation in which the malpractice occurred, and shall be brought within five years (written contract for legal services) or three years (unwritten contract). No action may be maintained where damages reasonably may be avoided or result from a change of law subsequent to the representation in which the damages were sustained. The bill contains a clause stating that it is declaratory of existing law.

The bill modifies the result in the Supreme Court's decision in *Charles Rutter, Executor of the Estate of Mildred Duncan v. Jones, Blechman, Woltz & Kelly, PC, et al.*, 264 Va. 310, 568 S.E.2d 693 (2002). In *Rutter*, plaintiff executor sought to assert a claim of legal malpractice concerning a revocable trust on the grounds that negligent drafting cost the estate more than \$600,000 in tax liability. The Supreme Court held that no cause of action could have accrued during decedent's lifetime because damages were not sustained until her death triggered the tax liability. Because no cause of action existed during decedent's life, § 8.01-25 directed that no cause of action survived her death. This bill ensures that *Rutter* is not extended to cases involving irrevocable trusts.

*Patron - Armstrong*

**D HB1127 Venue; civil actions.** Provides that Category B venue includes counties or cities in which the defendant regularly conducts substantial business activity. Under current law, Category B venue includes counties or cities in which the defendant regularly conducts affairs or business activity.

*Patron - McDonnell*

**D HB1379 Servicemembers Civil Relief Act.** Establishes civil law protections for servicemembers, consistent with federal law. Blocks entry of default judgment absent an affidavit stating whether the defendant is in military service, or that the plaintiff does not know if he is in such service. Authorizes setting aside default judgments against servicemembers as provided by federal law.

*Patron - Cox*

**D HB1463 Declaratory judgment; adjudication of constitutional nexus.** Grants circuit courts original jurisdiction over civil actions where a business organized under Virginia law or qualified to do business in Virginia seeks a declaratory judgment that the business is not obligated to collect and remit sales and use taxes to another state. This bill is identical to SB 668.

*Patron - Hugo*

**D SB38 Jury service of certain legislative employees.** Adds certain legislative employees to the list of persons who are exempt from jury service upon request. The provision applies only to the time period from 60 days before a regular

General Assembly session to 30 days after adjournment, and seven days before and after a reconvened or special session. The bill applies to employees of the Office of the Clerk of the House of Delegates, the Office of the Clerk of the Senate, the Division of Legislative Services, and the Division of Legislative Automated Systems.

*Patron - Stolle*

**D SB72 Civil immunity; litter pick up by probationers and persons on community service.** Provides civil immunity for probation officers; court personnel; county, city and town personnel; any other public officials; and private volunteers who participate in a program in which persons on community service or persons on probation are ordered as a condition of probation or community service to pick up litter along a section of public roadway or waterway. The immunity protects the specified persons from liability for injury to the persons on probation or community service, in the absence of willful misconduct. The bill provides that it shall not be interpreted to grant any immunity to any driver transporting the probationers or persons on community service, or any motorist, who, by his negligence, may injure such probationer or person on community service. This bill is identical to HB 534.

*Patron - Puckett*

**D SB118 Amending pleading; notice to agent.** Authorizes an amendment changing the party against whom an original claim was asserted to relate back to the date of the original filing if, among other things, an agent of a party had received notice of the institution of the original action. Under current law, the party must have received the notice. This bill is identical to HB 705.

*Patron - Watkins*

**D SB172 Appeal bonds.** Eliminates the current \$25 million ceiling on an appeal bond securing noncompensatory damages and establishes in its place a \$25 million ceiling on an appeal bond securing all damages awarded the appellee. Provides that where the appellee shows dissipation of assets by the appellant, the court may require the appellant and its affiliates to post a bond or irrevocable letter of credit in an amount up to the full amount of judgment. The bill contains a clause specifying that its provisions are procedural and not substantive in nature. This bill is identical to HB 430.

*Patron - Stolle*

**D SB271 Wrongful incarceration for a felony conviction.** Provides guidelines for the compensation of persons wrongfully incarcerated. Under the guidelines a wrongfully incarcerated person may receive an amount equal to 90 percent of the Virginia per capita personal income for each year of incarceration up to 20 years. The compensation shall be paid as an initial lump sum equal to 20 percent of the award with the remaining, 80 percent of the principal to be used to purchase an annuity to provide equal monthly payments to such person for a period certain of 25 years. The bill also provides for (i) a \$15,000 transition assistance grant for a wrongfully incarcerated person upon his release from prison to be paid from the Criminal Fund, which amount shall be deducted from any award received and (ii) reimbursement of up to \$10,000 for tuition for career and technical training within the Virginia Community College System contingent upon successful completion of the training. The bill specifically provides that the payment and receipt of any compensation for wrongful incarceration shall be contingent upon the General Assembly appropriating funds for that purpose. The bill incorporates HB 631 and is identical to HB 638.

*Patron - Quayle*

**D SB343 Virginia Fraud Against Taxpayers Act.** Provides that the false claims provisions of the Act do not apply to claims, records or statements relating to state or local taxes. Current law exempts only income taxes.

*Patron - Williams*

**D SB385 Medical malpractice peer review entities; privileged communications.** Extends the privileges of confidential communications to quality assurance or peer review committees established under (i) a national or state peer review entity, (ii) a national or state accreditation entity, (iii) a national professional association of health care providers or Virginia chapter of a national professional association of health care providers, (iv) a licensee of a managed care health insurance plan and (v) a statewide or local association representing health care providers licensed in the Commonwealth. Oral communications made to such a committee regarding a specific medical incident involving patient care are privileged only to the extent that they are made more than 24 hours after the occurrence of the medical incident.

*Patron - Norment*

**D SB494 Damage to cemetery property.** Provides that a cemetery company owner or operator may bring an action to recover damages, including labor costs and reasonable attorneys' fees, for the willful or malicious destruction of cemetery property, regardless of whether the damaged property is owned by the cemetery. A restitution requirement is added to the criminal statute.

*Patron - Mims*

**D SB495 Attorney-issued subpoenas.** Eliminates the five-days before trial (or the date of return) restriction on attorney-issued subpoenas and makes them subject to the same time frame as all other subpoenas. The attorney-issued subpoenas will be subject to the general provision that a judge may choose not to enforce a subpoena that is issued within five days. A sheriff is not required to serve an attorney-issued subpoena that is issued within five days. As introduced, this bill was a recommendation of the Boyd-Graves Conference.

*Patron - Mims*

**D SB513 Civil remedies; failure of juror to appear.** Increases the monetary range established in 1977 for fining a juror who fails to appear in court from "not less than \$25 nor more than \$100" to "not less than \$50 nor more than \$200."

*Patron - Mims*

**D SB601 Medical malpractice insurance.** Provides that certain qualifying physicians and sole community hospitals may purchase medical malpractice insurance from the risk management plan administered by the Department of Treasury. Sole community hospitals also may purchase general liability coverage. These provisions of the bill are not effective until July 1, 2006. The bill establishes a joint subcommittee to study issues surrounding risk management plans. The subcommittee will meet in the 2004 interim.

*Patron - Newman*

**D SB668 Declaratory judgment; adjudication of constitutional nexus.** Grants circuit courts original jurisdiction over civil actions where a Virginia business seeks a declaratory judgment that no constitutional nexus exists to require the business to collect and remit sales and use taxes to another state. This bill is identical to HB 1463.

*Patron - Mims*

## Failed

: **HB137 Civil procedure; disclosure of insurance liability limits.** Requires disclosure of the liability limits to an attorney for an injured person, prior to the filing of a civil action for personal injuries resulting from a motor vehicle accident, after the attorney provides written notice of representation.

*Patron - Kilgore*

: **HB192 Action for personal injury; felonious act.** Requires the court to dismiss with prejudice any personal injury action brought by an individual who sustained his personal injuries while committing a felony.

*Patron - Black*

: **HB198 Civil immunity; private volunteers.** Provides that any private individual who volunteers his time to assist in responding to a national or local emergency, including a man-made or natural disaster, is immune from liability for his actions, other than those involving gross negligence or willful misconduct.

*Patron - Purkey*

: **HB280 Physician liability for uncompensated care to the indigent; immunity.** Provides that any licensed physician who delivers health care services without charge to individuals who are indigent shall not be liable for any civil damages for any act or omission resulting from the rendering of such services in good faith unless such act or omission was the result of such physician's gross negligence or willful misconduct.

*Patron - Purkey*

: **HB314 Privity of contract; property damages.** Provides that damages for injury to property include those costs necessary to restore or place property in the position it would have occupied absent the negligence. This bill modifies the reach of Virginia's common law doctrine of economic loss by providing that these types of costs for injury to property are not disappointed economic expectations but are cognizable under tort law.

*Patron - Wright*

: **HB499 Subrogation to lien for medical costs; personal injuries.** Clarifies interaction of three statutes. Currently any municipal corporation, person, firm or corporation that pays the medical services charges resulting from personal injuries sustained due to another's negligence may be subrogated to any lien associated with those charges. This authority for subrogation does not apply to a motor vehicle liability medical benefit insurer (who is licensed in the Commonwealth and is insuring a vehicle principally garaged and used in the Commonwealth), nor does it apply to any company issuing (i) an insurance contract providing hospital, medical, surgical and similar or related benefits; (ii) a subscription contract; or (iii) a health services plan, except that the insurer may exclude benefits paid or payable under workers' compensation laws or federal or state programs and may seek to coordinate benefits provisions.

*Patron - Kilgore*

: **HB512 Pleadings and other actions by persons not represented by attorneys.** Adds to the list of nonattorneys who may prepare, execute, file and have served on other parties various pleadings in general district court a full-time bona fide employee of a corporation who is so authorized by its board of directors and a managing agent of a landlord as defined in § 55-248.4. Adds to the list of nonattorneys who

may recover rent or possession a managing agent of a landlord as defined in § 55-248.4 or any employee of such person, partnership, association, corporation, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership or business trust. Removes "resident manager" from the listing. This bill is incorporated into HB 976.

*Patron - Marrs*

: **HB584 Immunity; skydiving.** Provides that skydiving activity sponsors or skydiving professionals are not liable for injury to or death of a participant resulting from the inherent dangers of skydiving, and that no participant or his guardian, parent or representative shall have or make any claim or recover for injury, loss, damage or death of a participant resulting from an inherent danger of skydiving.

*Patron - Janis*

: **HB585 Category A venue; action against school board.** Provides that an action involving a vehicle owned or operated by a school board is governed by Category A venue, and that venue lies in the county or city in which the school board is located or the accident occurred.

*Patron - Janis*

: **HB832 Rehearings; condemnation.** Provides that a court shall reopen a condemnation case, in which a party was served by publication but did not appear before the date of judgment against him, only to allow the owner to contest the amount of just compensation. The bill makes this provision applicable to redevelopment and housing authorities.

*Patron - Drake*

: **HB867 Pleadings and other papers signed by nonattorneys.** Restores bona fide employees, persons licensed under the provisions of § 54.1-2106.1 (real estate brokers and salespersons) and property managers to the list of nonattorneys who may sign a warrant in debt, motion for judgment, warrant in detinue, distress warrant, summons for unlawful detainer, counterclaim, crossclaim, suggestion for summons in garnishment, garnishment summons, writ of possession, writ of fieri facias, interpleader and civil appeal notice filed in general district court. The bona fide employee, property manager or licensed person must be authorized to sign such pleadings by those individuals now statutorily authorized to sign such pleadings (a corporate officer, a manager of a limited liability company, a general partner of any form of partnership or a trustee of any business trust). Legislation passed in 2003 narrowed the class of signatories of pleadings (by eliminating "bona fide employee[s]") at the same time as it expanded the types of business entities whose authorized representatives could sign such pleadings. Under current law, persons licensed under § 54.1-2106.1 and resident managers can appear in court to recover rent or possession. This bill specifies (i) that property managers can appear in court to recover rent or possession and (ii) that a person licensed under § 54.1-2106.1 or a property manager also can sign the necessary pleadings associated with recovery of rent or possession. This bill is incorporated into HB 976.

*Patron - Byron*

: **HB896 Civil procedure; nonsuits.** Shortens the time frame within which a party may suffer a nonsuit by requiring that it be suffered more than 21 days before trial. If the plaintiff suffers a nonsuit fewer than 21 days before trial, the court shall dismiss the case with prejudice unless the plaintiff shows good cause for the late notice or agrees to pay the defendant's costs of preparing for trial, to a limit of \$1,000 in general district court and \$25,000 in circuit court. The court

determines the reasonableness of the defendant's costs, which may include expert witness fees; court reporter appearance fees; fees for transcripts; travel expenses for attorneys, and fact and expert witnesses; fees for service of process; filing fees; and cancellation fees charged by expert witnesses. Under current law, a court may assess only witness fees and travel costs for expert witnesses if a party gives notice of the nonsuit within five days of trial.

*Patron - Bell*

: **HB897 Civil remedies; use of depositions.** Allows motions for summary judgment to be based, in whole or in part, upon depositions. This bill is incorporated into HB 1126.

*Patron - Bell*

: **HB1102 Civil remedies; evidence in products liability actions.** Provides that evidence of similar incidents may be admissible as evidence or corroboration of a product defect.

*Patron - Moran*

: **HB1126 Civil procedure; use of depositions.** Allows motions for summary judgment to be based, in whole or in part, upon depositions.

*Patron - McDonnell*

: **HB1222 Compensation for care of injured infant.** Clarifies that among the damages that a parent or guardian is entitled to claim against a tortfeasor for injury to a child is included time lost from employment due to transporting the child to receive medical treatment, and the travel expenses related to that travel.

*Patron - Spruill*

: **HB1223 Disclosure of insurance liability limits.** Requires an insurer to disclose liability limits of an insurance policy to an attorney for an injured policyholder, where the request is made prior to the filing of a civil action. The attorney must provide the insurer written notice of representation and the insurer must make the disclosure in writing within 30 days of the request.

*Patron - Spruill*

: **HB1226 Immunity from liability under certain circumstances for physicians rendering free care to indigents.** Provides that any licensed physician delivering health care services to individuals who are indigent but are not eligible for medical assistance services or any other program for reimbursement of health care services for low-income individuals shall not be liable for any civil damages for any act or omission resulting from the rendering of such indigent health care services when such services are delivered without charge at his office or a clinic, hospital or other health care facility that regularly charges patients for such services, in whole or in part, unless such act or omission was the result of such physician's gross negligence or willful misconduct. Technical amendments are also included to move a provision on automated external defibrillators and to correct a subsection designation.

*Patron - Suit*

: **HB1324 Signing and representing pleadings and other papers; sanctions.** Modifies the Virginia statute governing the requirements for signing and representing pleadings and other papers before a court, including authorizing the court to award attorney fees incurred in seeking sanctions and to impose a civil fine to compensate the court system for having to devote public resources to address any violation. The bill provides that law firms shall be held jointly liable for any

award entered against an attorney if the attorney committed the violation within the scope of his employment with the firm.

*Patron - Marrs*

: **HB1372 Product liability; products containing open and obvious dangers.** Exempts manufacturers or sellers from liability for claims of injury due to voluntary use of a product containing open and obvious dangers, and directly caused by the open and obvious dangers of that product. Such products are limited to (i) food products made with sugar, butter or hydrogenated oils or trans fats, (ii) tobacco, or (iii) firearms. Excludes from the exemption actions based on manufacturing defects or breach of an express warranty.

*Patron - Janis*

: **HB1385 Violent felony bar to action against victim for personal injury, wrongful death or damage to property.** Provides that in any civil action in which it is alleged that personal injury, death by wrongful act or damage to property has resulted from the negligence of the victim of a violent felony as defined in § 17.1-805, it shall be a defense to such action that the injury, death by wrongful act or damage to property occurred during the commission of a violent felony committed by the plaintiff.

*Patron - McDougle*

: **HB1397 Service on petit juries.** Strengthens requirements for service on a petit jury by (i) stating service as an obligation; (ii) limiting the automatic disqualifications from jury service, removing lawyers from the list of persons automatically exempted from jury service and limiting exemptions from jury service by request to people aged 70 years or older or whose spouse is summoned to serve on the same jury panel; (iii) specifying requirements for postponing jury service and providing that failure to appear is a Class 2 misdemeanor; (iv) specifying grounds for authorizing excuses from jury service; (v) establishing the rights of petit jurors, including limiting service periods to one day except where a juror is selected for jury service; and (vi) establishing a "Lengthy Trial Fund," supported by a \$20 fee on civil cases, to provide wage supplementation or replacement of up to \$300 per day per juror when the period of jury service reaches 10 days. The bill repeals § 8.01-341.2, which allowed deferral or limitation of jury service on the grounds that service on specific dates or during a specific term would cause "particular occupational inconvenience."

*Patron - Hogan*

: **HB1402 Subrogation rights of insurance companies.** Eliminates the prohibition on subrogation rights by insurers by providing that an insurer shall have a right of subrogation with respect to those expenses associated with any medical bills upon which (i) the injured insured relies in asserting a personal injury action or (ii) the insured decedent's personal representative relies in a wrongful death action. Any recovery is limited to 25 percent of the amounts paid on behalf of the injured insured and the subrogated insurer is required to pay a pro rata share of the legal fees and costs incurred by the injured insurer or personal representative in the principal personal injury or wrongful death action.

*Patron - Byron*

: **HB1481 Exemplary damages for persons injured by intoxicated drivers.** Provides that a person is liable for exemplary damages if he causes injury or death while driving with a blood alcohol content of 0.15 percent notwithstanding his lack of knowledge of his intoxication. Currently, in order to be liable, he must reasonably know that he has consumed too much alcohol to drive safely.

*Patron - McDonnell*



: **HB1484 Medical malpractice; hearing.** Requires all parties to attend and participate when a medical review panel hearing is held on a claim referred to the panel.

*Patron - Spruill*

: **SB216 Limitation on recovery in medical malpractice actions; limitation on noneconomic damages.** Strikes the previously scheduled increases in the medical malpractice recovery cap that were to occur in 2005, 2006, 2007, and 2008. Current law provides, pursuant to the struck language, for the \$1.5 million cap to increase by \$50,000 each year from 2000 to 2006 and to increase by \$75,000 in 2007 and 2008. Pursuant to this provision, the last increase would be \$50,000 in 2004. The bill also establishes a \$500,000 limitation on noneconomic damage awards in medical malpractice suits, i.e., pain and suffering awards. This provision also provides that, for the purposes of applying this limitation, future noneconomic damages will not be discounted to present value. Further, if separate awards are rendered for past and future noneconomic damages and the combined awards exceed \$500,000, the future noneconomic damages will be reduced first. Juries will not be informed about the maximum award for noneconomic damages. "Noneconomic damages" includes physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, and other related nonpecuniary losses. This bill is incorporated into SB 601.

*Patron - Potts*

: **SB414 Inadequate damages; additur.** Amends the provision that allows the court to find as a matter of law that the damages awarded by the jury are inadequate and award a new trial or require the defendant to pay an amount in excess of the verdict to state that the provision applies only upon request of a party.

*Patron - Stolle*

: **SB415 Medical malpractice; limit on attorney fees.** Provides that beginning with medical malpractice actions accruing on or after July 1, 2004, attorney fees shall be limited in accordance with the following fee schedule: 40 percent of the first \$50,000 of the sum recovered; 33 and one-third percent of the next \$50,000 recovered; 25 percent of the next \$500,000 recovered; and 15 percent of any amount greater than \$600,000 of the sum recovered. The bill applies the percentage limitations to the sum recovered by the plaintiff through trial, settlement, or arbitration, less the expenses related to the action but including any liens for medical care or treatment. On application of the attorney, and with notice to the plaintiff, the court in which the action is pending may adjust the compensation that would be awarded by the fee schedule on the basis of specific factors, including the extent to which the sum recovered, less any legal fees, compensates the plaintiff for his damages. This bill is incorporated into SB 601.

*Patron - Newman*

: **SB557 Newspapers; legal notices.** Requires that in order for a legal notice published in a newspaper to meet the statutory standard, it must be published in the Commonwealth. A newspaper shall be deemed published in the Commonwealth if it maintains its principal office in the Commonwealth for the purposes of gathering news, soliciting advertisements and determining the newspaper's form and content, and if it is printed in the Commonwealth. There is an exception for general circulation areas where there is no newspaper published in the Commonwealth.

*Patron - Devolites*

: **SB665 Communications privilege.** Provides that in both civil and criminal proceedings persons defined as domestic violence or sexual assault advocates and persons translating the communications between advocates and victims may not disclose oral or written communications between advocate and victim or be compelled to testify or provide any evidence regarding any such oral or written communications. The privilege does not extend to testimony or reporting requirements in matters relating to child or adult abuse and neglect, nor does it extend to potentially exculpatory information or materials that an attorney for the Commonwealth is required to disclose in a criminal case.

*Patron - Mims*

## Carried Over

**7 HB296 Civil remedies; Virginia Prisoner Litigation Reform Act.** Excepts from the provisions of the Act cases claiming physical or sexual assault, rape, or sexual abuse.

*Patron - Ware, R.L.*

**7 HB352 Privilege as to marital communications.** Provides that spoken or written marital communications are completely privileged from disclosure, under a privilege held by both spouses which continues after the marriage is dissolved, except in cases where either spouse is charged with a crime or tort against each other or against the child of either spouse. Under current law, a spouse may disclose otherwise privileged marital communications so long as the disclosure is by a means other than examination in the action or testimony.

*Patron - Johnson*

**7 HB495 Physician summons.** Requires the party requesting issuance of a summons for a physician who has rendered health care to a plaintiff to pay the physician's costs and expenses incurred in responding to the summons, including fees and costs associated with health care services that were cancelled or rescheduled. The requirement encompasses summonses to trial, a medical malpractice review panel, or a discovery deposition.

*Patron - Kilgore*

**7 HB948 Judgment debtors; abbreviated social security numbers.** Provides that only the last four digits of the social security number of the judgment debtor shall appear on a copy of a docketed judgment, a writ of fieri facias and any attachments thereto, or a garnishment summons.

*Patron - Howell, A.T.*

**7 HB958 Wrongful death; beneficiaries.** Provides that where the decedent in a wrongful death action died testate, any wrongful death award shall be distributed in accordance with the provisions of that will.

*Patron - Barlow*

**7 HB1113 Limitation on recovery from public transportation operators.** Limits damages in suits for personal injuries to, or death of, a person caused by a Virginia public transportation operator, that are not otherwise barred by the doctrine of immunity, to \$2 million. The bill defines "public transportation operator" as a political subdivision pursuant to § 15.2-2701 or any other entity, which also (i) provides transportation services to the general public on Virginia's roads; and (ii) is funded in whole or in part by public funds. The bill does not affect any defense of immunity applicable to a public transportation operator.

*Patron - Weatherholtz*

**7 HB1128 Product liability; rebuttable presumption.** Creates a rebuttable presumption that a product is not defective if the product meets applicable state and federal standards prior to sale and if there is no practicable alternative that would have prevented the harm without impairing the use or desirability of the product or creating an equal or greater risk of harm to others.

*Patron - McDonnell*

**7 HB1251 Limitations of actions; immunity for employers providing on-site day care.** Makes employers that establish a child-care facility that is to be used primarily by the children of its employees at the employment site immune from liability for civil damages for any acts or omissions related to the care, supervision or discipline of the children at the facility. Immunity attaches so long as the acts or omissions are within the scope of employment and are made in good faith, except where the acts or omissions result from gross negligence or willful misconduct.

*Patron - Baskerville*

**7 HB1325 Offer of judgment.** Creates in civil actions provisions for an offer of judgment similar to that contained in the Federal Rules of Civil Procedure, except that either the defending or prosecuting party may make an offer. A party may offer, no later than 10 days before trial, to have judgment taken against him or an award entered for him. If the adverse party accepts, the court enters judgment. If the offer is rejected, and the trial results are not more favorable to the offeree than the offer, the court may deny the offeree recovery of its post-offer costs, and the court may order the offeree to pay the offeror's costs from the time of offer. For the purposes of the statute, costs shall include expert witness fees; court reporter appearance fees; fees for transcripts; travel expenses for attorneys, fact witnesses and expert witnesses; fees for service of process; filing fees; and cancellation fees charged by expert witnesses.

*Patron - Marrs*

**7 HB1421 Tort claims; notice to cities and towns.** Repeals the specific requirements for notifying cities and towns of tort claims against them.

*Patron - Stump*

**7 SB49 Prisoner Litigation Reform Act.** Provides that cases claiming actual physical or sexual assault, rape or sexual abuse are not subject to the Act. The Act was enacted in 2002 and provides procedures for pro se civil actions brought by prisoners incarcerated in state and local correctional facilities.

*Patron - Marsh*

**7 SB141 Nonsuits.** Provides that a party shall not be allowed to suffer a nonsuit unless he does so on or before a date that is at least 14 days prior to the trial date. Under current law, a plaintiff may suffer one nonsuit of right at any point before the court sustains a motion to strike the evidence, before the jury retires, or before the action has been submitted to the court for decision.

*Patron - Cuccinelli*

**7 SB481 Deadman's Statute.** Increases the amount of evidence that is admissible when a party to a lawsuit is incapable of testifying. The bill provides that the statute does not apply if an interested witness testifies on behalf of the party who is incapable of testifying, replaces the current corroboration requirement with an assessment of the credibility of all evidence presented and clarifies that the blanket hearsay exception currently in the statute will apply only when the sur-

vivor offers testimony about the transaction. This bill is a recommendation of the Boyd Graves Conference.

*Patron - Obenshain*

**7 SB645 Real estate taxes; alternative payment schedules.** Permits local governing bodies to provide to the elderly and handicapped, by ordinance, alternative payment schedules for the payment of real estate taxes. Such alternatives may include monthly, bimonthly, quarterly, or semiannual installments.

*Patron - Colgan*

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## Commercial Code / Warehouse Receipts, Bills of Lading and Other Documents of Title

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Passed

**D SB119 Uniform Commercial Code; Article 7-Documents of Title.** Updates provisions of Article 7 of the Uniform Commercial Code to acknowledge the development of electronic documents of title. Specific measures authorize the reissuance of electronic documents of title in a tangible medium, address when a person has control of an electronic document of title, and address the interaction of Title 7 with the Electronic Signatures in Global and National Commerce Act and the Uniform Electronic Transactions Act.

*Patron - Watkins*

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## Commonwealth Public Safety

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Passed

**D HB23 Public Safety; motor vehicle carriers.** Removes obsolete provisions in the Code that reference certain agents, inspectors or investigators that were appointed by the State Corporation Commission (SCC) to enforce motor vehicle carrier laws. The authority for the appointment by the SCC of such individuals was repealed in 1995 when the enforcement of motor vehicle carrier laws was transferred to the Department of Motor Vehicles.

*Patron - Landes*

**D HB291 Sex offender registration procedures.** Clarifies the manner in which a registered sex offender must register if he changes his address. If his new residence is within the Commonwealth, the person must register in person with the local law-enforcement agency where his new residence is located within 10 days following his change in residence. If the new residence is located outside of the Commonwealth the person must register in person with the local law-enforcement agency where he previously registered within 10 days prior to his change of residence. The bill also clarifies that persons required to register who have been in a state civil commitment program for sexually violent predators must do so within 10 days of release from the program.

*Patron - Griffith*

**D HB759 Sex Offender and Crimes Against Minors Registry Act.** Adds to the list of those required to register under the Act, any person who has solicited or has attempted to solicit, by use of a communications system, cer-

tain acts that constitute violations of the taking indecent liberties with children statute. This bill is identical to SB 575.

*Patron - Hurt*

**D HB1057 Bail bondsmen.** Provides for licensure and regulation of property and surety bail bondsmen by the Department of Criminal Justice Services. Surety bail bondsmen will continue to be licensed as property and casualty insurance agents by the State Corporation Commission also. A bail bondsman is added to the membership of the Private Security Services Advisory Board. The bill is the result of a study by the Virginia State Crime Commission and is scheduled to become effective July 1, 2005.

*Patron - Melvin*

**D HB1116 Public safety; crime prevention specialists.** Requires the chief law-enforcement officer of the locality or campus police wherein the candidate for certification serves to approve the certification prior to the person serving as a crime prevention specialist.

*Patron - Weatherholtz*

**D HB1193 Certified detector canine handlers.** Includes certified detector canine handlers in the field of private security services professionals. The bill includes definitions of detector canines, etc. The bill also adds a definition of "legal permanent resident" for the purposes of certification as a private security employee.

*Patron - Scott, J.M.*

**D SB308 Community criminal justice boards.** Authorizes an officer of the court appointed by a local governing body to serve on a community criminal justice board to designate a member of his staff approved by the governing body to represent him at meetings of the board.

*Patron - Blevins*

**D SB334 Bail enforcement agents.** Provides for the licensure and regulation of bail enforcement agents by the Board and Department of Criminal Justice Services. The regulatory scheme is effective October 1, 2005, but a provision that a felon may not engage in bail recovery is effective July 1, 2004. The bill is a recommendation of the Virginia State Crime Commission.

*Patron - Stolle*

## Failed

**: HB399 Law-Enforcement Officers Procedural Guarantee Act; review of records.** Provides that a law-enforcement officer shall have access to records of any inquiry or complaint relating to him that has been closed, except for records of founded inquiries or complaints. The bill allows a governing body to redact personal or identifying information from any inquiry or complaint before giving the law-enforcement officer access, and may take a reasonable amount of time to do so before allowing access.

*Patron - Amundson*

**: HB803 Law-enforcement officers; overtime compensation.** Grants state and local law-enforcement officers the same overtime compensation protections under the Fair Labor Standards Act as firefighters.

*Patron - Petersen*

**: HB810 Local criminal justice academy training fund; local fees.** Allows a county with a population of less than 86,000 but more than 84,500 (Roanoke County) that is in the same judicial circuit as a city running a local training academy

(Roanoke City) to charge a special court fee if the county participates in the city's local training academy. Any funds collected from the court fee must be used to support the city's local training academy.

*Patron - Ware, O.*

**: HB1114 Department of Criminal Justice Services; powers.** Provides that notwithstanding any provision of law to the contrary, fees and other moneys collected by the Department shall be used exclusively by the Department in carrying out its duties under this chapter and shall not be diverted for any other purpose.

*Patron - Weatherholtz*

**: SB28 Line of Duty Act; definition of disabled employee.** Amends the definition of "disabled employee" under the Line of Duty Act to include any person who has become mentally or physically incapacitated on or after April 8, 1972, as a direct or proximate result of the performance of his duty. Any such employee mentally or physically incapacitated between April 8, 1972, and July 1, 2000, shall receive health insurance coverage payments, which shall be retroactive to July 1, 2000. Such health insurance coverage shall be the same plan of benefits that such incapacitated person was entitled to on the last day of his active duty. Employees covered under the Line of Duty Act mentally or physically incapacitated prior to July 1, 2000, currently are not provided health insurance coverage by the Commonwealth. Health insurance coverage currently is only afforded to employees incapacitated on or after July 1, 2000. This bill is incorporated into SB 284.

*Patron - Potts*

**: SB100 Criminal Justice Services Board; membership.** Increases the membership of the Criminal Justice Services Board from 27 to 28 by adding an active duty law-enforcement officer.

*Patron - Devolites*

## Carried Over

**7 HB435 Overtime compensation for law-enforcement employees.** Expands the current overtime compensation provisions for fire protection employees to law-enforcement employees. Under the bill certain law-enforcement employees shall be required to be paid overtime at a rate of not less than one and one-half times the employee's regular rate of pay for all hours of work between the statutory maximum permitted under 29 U.S.C. 207 (k) and the hours for which an employee receives his salary, or if paid on an hourly basis, the hours for which the employee receives hourly compensation. A law-enforcement employee who is paid on an hourly basis shall have paid leave counted as hours of work in an amount no greater than the numbers of hours counted for other law-enforcement employees working the same schedule who are paid on a salaried basis in that jurisdiction. For purposes of computing law-enforcement employees' entitlement to overtime compensation for regularly scheduled work hours, all hours in which an employee works or is in a paid status shall be counted as hours of work.

*Patron - Suit*

**7 HB616 Definition of law-enforcement officer; entitlement to counsel during investigation.** Changes the definition of law-enforcement officer to include deputy sheriffs, investigators with the State Lottery Department and conservation officers with the Department of Conservation and Recreation within the protections of the Law-Enforcement Officers Procedural Guarantee Act. The bill also requires that

prior to an officer being questioned, he shall be given an opportunity to be assisted by counsel, at his own expense.

*Patron - Carrico*

**7 HB636 Line of Duty Act; definitions.** Adds coverage under the Line of Duty Act to fire department chaplains.

*Patron - O'Bannon*

**7 HB762 Line of Duty Act; definition of disabled employee.** Amends the definition of "disabled employee" to include any individual who has become mentally or physically incapacitated on or after April 8, 1972, as a direct or proximate result of the performance of his duty. The health care claim payments for such disabled employee or his qualifying dependents will be retroactive to the first date of the disability or July 1, 2000, whichever is later.

*Patron - Hurt*

**7 SB46 Line of Duty Act; definitions.** Adds coverage under the Line of Duty Act to booking technicians.

*Patron - Martin*

**7 SB284 Line of Duty Act.** Provides for funding of continued health insurance and death payment benefits under the Line of Duty Act from employer contributions to a Line of Duty Act Fund administered by the Virginia Retirement System. The Retirement System shall set the rate of annual employer contributions. All payments for continued health insurance and death benefit payments shall be made from the Fund. Most persons will be allowed to make an election for continued health insurance coverage. The election shall be to receive (i) such coverage under the same plan of benefits in effect at the time of the law-enforcement officer's death or disability or (ii) coverage under the basic health insurance plan established and administered by the Department of Human Resource Management for state employees or a comparable plan. Persons electing to receive coverage under the health insurance plan in effect at the time of the law-enforcement officer's death or disability shall be reimbursed only up to the amount that would have been paid in the respective year to provide coverage for such persons under the basic health insurance plan established and administered for state employees or a comparable plan. In general, persons disabled on or before July 1, 2000, and their spouses and dependents shall receive continued health insurance coverage beginning July 1, 2004, under the basic health insurance plan established and administered for state employees or a comparable plan. The bill provides that a local government may elect not to participate in continued health insurance coverage under the Line of Duty Act if it notifies the Virginia Retirement System that it provides health insurance coverage comparable to that under the Line of Duty Act.

*Patron - Wampler*

## Conservation

### Passed

**D HB445 Certificate of competence.** Requires personnel of (i) the Department of Conservation and Recreation who inspect for compliance with the Erosion and Sediment Control Law and (ii) the Department of Environmental Quality who inspect for compliance with stormwater management permits to hold valid certificates of competence pursuant to the Erosion and Sediment Control Law, as required of local program personnel.

*Patron - Suit*

**D HB643 Property conveyance.** Authorizes the Department of Conservation and Recreation to accept from the Norfolk Southern Corporation approximately 35.66 miles of abandoned railroad right-of-way running through the Counties of Appomattox, Cumberland, Nottoway and Prince Edward.

*Patron - Abbitt*

**D HB713 Temporary storage of hazardous waste.** Allows localities and state agencies to temporarily store household hazardous waste and hazardous waste from small quantity generators if it is done in accordance with (i) a permit to store, treat, or dispose of hazardous waste, or (ii) a permit to transport hazardous waste.

*Patron - Oder*

**D HB883 Conservation easements.** Reduces the minimum number of years required for a holder of a conservation easement to have a principal office in the Commonwealth from five to four years. The provisions of this bill expires on July 1, 2005.

*Patron - Plum*

**D HB947 Silvicultural activity.** Allows the State Forester to collect civil penalties for failure to notify the State Forester of the commercial harvesting of timber. Currently, the State Forester may assess a penalty of \$250 for an initial violation and not more than \$1,000 for any subsequent violation within a two-year period. Such civil penalties must be recovered in a civil action brought by the Attorney General and are to be paid into the Virginia Forest Water Quality Fund.

*Patron - Ingram*

**D HB1177 Stormwater management.** Consolidates Virginia's stormwater management programs within the Department of Conservation and Recreation, and transfers oversight responsibilities to the Virginia Soil and Water Conservation Board from the Board of Conservation and Recreation.

*Patron - Bryant*

**D HB1271 Soil and water conservation districts.** Specifies the roles of soil and water conservation districts. Districts are to assist the Department of Conservation and Recreation in (i) providing technical assistance to promote conservation management practices, (ii) delivering educational initiatives on water quality issues, and (iii) promoting incentives to encourage voluntary actions to minimize nonpoint source pollution. The districts will also be responsible for locally administering the Department's Agricultural Best Management Practices Cost-Share Assistance Program.

*Patron - Dillard*

**D HB1283 Erosion and Sediment Control Law.** Specifies that only surface or deep mining activities that are authorized under a permit issued by the Department of Mines, Minerals and Energy shall be excluded from the definition of "land-disturbing activity" under the Erosion and Sediment Control Law.

*Patron - Ware, R.L.*

**D HB1338 Virginia Museum of Natural History; powers and duties; salary of director; gifts and endowments.** Authorizes the Board of Trustees for the Virginia Museum of Natural History to supplement, with prior annual written approval of the Governor, the salary of the director of the Museum from nonstate funds. The Governor may be guided, in approving a supplement, by criteria that provide a reasonable limit on the total additional income of the director. The criteria may include, but need not be limited to, a consider-

ation of the salaries paid to similar officials at comparable museums of other states. The Board must report approved supplements to the Department of Human Resource Management for retention in its records. In addition, the Museum, which is within the Secretariat of Natural Resources, is deemed an institution of higher education for the purposes of § 23-3.1, relating to local governing bodies' conveyance of property and appropriation of funds to state-supported institutions of higher education, and § 23-9.2, relating to the Commonwealth's policy vis-a-vis unrestricted gifts and endowments received by the public institutions of higher education from private sources.

*Patron - Hurt*

### **D HB1350 Air, waste, and water permit fees.**

Assesses a combination of permit application fees, annual fees, and permit maintenance fees that will generate approximately \$6 million for the funding of air, water and waste permit programs at the Department of Environmental Quality (DEQ). The Air Pollution Control Board is authorized to collect a permit application fee not to exceed \$30,000 for new major stationary sources. The amount charged is to be credited towards the amount of annual fees paid by the permit holder during the first two years of the facility's operation. In addition to the permit fee charged for solid waste facilities, the bill establishes annual fees for various nonhazardous solid waste management facilities including noncaptive industrial landfills (\$8,000), construction and demolition debris landfills (\$4,000), sanitary landfills (amount based on tonnage), incinerators (amount based on tonnage), and other types of facilities. The bill also establishes the maximum amounts that the State Water Control Board can charge for processing various types of water permits and the maximum amounts it can assess as a permit maintenance fee on each permit type. In addition, the bill requires DEQ to evaluate and implement measures to improve the long-term effectiveness and efficiency of its programs. To assist the agency in attaining such goals, a consulting firm will be hired to conduct a management efficiency study of the Virginia Pollutant Discharge Elimination System permit program and the air permit program. The firm will be assisted by a peer review panel. DEQ also is charged with conducting a review of its solid waste permitting programs in order to ensure that these programs are operating at maximum efficiency. This bill is identical to SB 365.

*Patron - Orrock*

**D HJ247 Importing municipal solid waste.** Memorializes Congress to enact the State Waste Empowerment and Enforcement Provision Act of 2003, which gives state and local governments the authority to regulate the importation of solid waste into their jurisdictions.

*Patron - Louderback*

### **D SB365 Air, waste, and water permit fees.**

Assesses a combination of permit application fees, annual fees, and permit maintenance fees that will generate approximately \$6 million for the funding of air, water and waste permit programs at the Department of Environmental Quality (DEQ). The Air Pollution Control Board is authorized to collect a permit application fee not to exceed \$30,000 for new major stationary sources. The amount charged is to be credited towards the amount of annual fees paid by the permit holder during the first two years of the facility's operation. In addition to the permit fee charged for solid waste facilities, the bill establishes annual fees for various nonhazardous solid waste management facilities including noncaptive industrial landfills (\$8,000), construction and demolition debris landfills (\$4,000), sanitary landfills (amount based on tonnage), incinerators (amount based on tonnage), and other types of facilities. The bill also establishes the maximum amounts that the State Water Control Board can charge for processing various types of water permits

and the maximum amounts it can assess as a permit maintenance fee on each permit type. In addition, the bill requires DEQ to evaluate and implement measures to improve the long-term effectiveness and efficiency of its programs. To assist the agency in attaining such goals, a consulting firm will be hired to conduct a management efficiency study of the Virginia Pollutant Discharge Elimination System permit program and the air permit program. The firm will be assisted by a peer review panel. DEQ also is charged with conducting a review of its solid waste permitting programs in order to ensure that these programs are operating at maximum efficiency. This bill is identical to HB 1350.

*Patron - Watkins*

**D SB386 Air emissions trading.** Prohibits the Commonwealth from selling, by auction or other manner, the set asides allocated to new sources of air emissions. The bill does not apply to or affect the auction of Virginia's allocation of nitrogen oxide pollution credits set aside for new sources of electric power generation for the years 2004 and 2005.

*Patron - Norment*

**D SB454 Ozone nonattainment fees.** Authorizes the Department of Environmental Quality to collect penalty fees from stationary sources of air emissions if severe nonattainment areas in which these facilities are located do not attain air quality standards by deadlines established by the federal Clean Air Act. The bill establishes the formula for calculating the fee amounts owed as a penalty. The fees would be used for air quality monitoring and evaluation, and for measures to improve air quality in severe nonattainment areas.

*Patron - Whipple*

### **D SB523 Watershed Coordination Program.**

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

*Patron - Hanger*

**D SB614 Occoneechee State Park.** Amends Chapter 809 of the 2002 Acts of Assembly to provide a two-year extension for the authority granted to the Department of Conservation and Recreation to amend a lease with the Secretary of the Army for the purpose of providing additional recreational facilities, not to be operated by the Department, at Occoneechee State Park in Mecklenburg County.

*Patron - Ruff*

## Failed

**: HB693 Virginia Natural and Historic Resources Fund.** Creates the Virginia Natural and Historic Resources Fund. This permanent, nonreverting fund will consist of moneys appropriated to it by the General Assembly and any other public or private moneys. The moneys in the Fund will be allocated by the Secretary of Natural Resources to the Virginia Land Conservation Fund and the Virginia Water Quality

Improvement Fund. The bill establishes the seven-member Virginia Natural and Historic Resources Fund Commission, which is to provide recommendations to the Secretary regarding the allocation of moneys in the Fund. The Secretary is the chairman of the Commission. The six citizen members will be individuals who have experience or expertise in the areas of natural and historic resource conservation and protection. Under the legislation, a \$10 fee is assessed on various deeds for which the state recordation tax is collected and on the recordation of a certificate of satisfaction.

*Patron - Morgan*

: **HB728 Nonhazardous waste barges.** Authorizes the Virginia Waste Management Board to establish a fee of \$7.50 on each ton of nonhazardous solid waste transported by barge or other vessel carrying, loading or off-loading waste on Virginia waters. The bill also prescribes the test that shall be used to certify that the containers holding the waste are watertight, leak-proof, and designed, constructed and maintained to prevent the loss or spillage of waste or leachate during transport, normal handling or in the event of an accident.

*Patron - Marshall, R.G.*

: **HB921 Logging roads.** Authorizes the State Forester to require any logging roads or skid roads to be reseeded.

*Patron - Phillips*

: **HB1021 Notification of timbering activities.** Requires an operator of a commercial silvicultural activity to provide 10 days' advance notice to the State Forester of his intention to begin harvesting and the date on which such activity will begin. The operator's notification to the State Forester is to include a legal description of the property on which the tract is located, including the property tax parcel identification number and plat showing the boundaries of the tract on the parcel, as well as the location of any adjacent properties and their tax parcel identification numbers. The bill also gives the State Forester the authority to issue a summons for violations of the notification provisions.

*Patron - Dillard*

: **HB1168 Landfill siting requirements.** Prohibits any landfill from being constructed within a one-half mile radius of any area zoned as residential.

*Patron - Frederick*

: **HB1329 Severe nonattainment areas.** Directs any electric generating facility in a severe nonattainment area to meet the following emission reduction requirements no later than January 1, 2007: (i) reduce aggregate sulfur dioxide emissions by at least 75 percent from levels allowed under full implementation of the federal Clean Air Act Phase II sulfur dioxide requirements, and (ii) reduce aggregate nitrogen oxide emissions by at least 75 percent from the facility's 1997 levels. Also, this bill prohibits any electric generating facility from operating after January 1, 2007. The bill exempts any electric generating plant that has entered into a settlement agreement or consent decree with the Environmental Protection Agency prior to January 1, 2004, for the reduction of certain emissions.

*Patron - Reese*

: **SB104 Chesapeake Bay Preservation Act.** Requires the Attorney General to defend a locality in a private legal action resulting from the locality's adoption or implementation of the criteria developed by the Chesapeake Bay Local Assistance Board to regulate the use and development of land and to protect water quality. The criteria are to be used by local governments (i) to determine the ecological and geographic extent of Chesapeake Bay Preservation Areas and (ii) in grant-

ing, denying, or modifying requests to rezone, subdivide, or to use and develop land in these areas.

*Patron - Devolites*

: **SB427 Chesapeake Bay Preservation Act.** Expands the boundaries of the Chesapeake Bay Preservation Act to include the entire watershed of the Chesapeake Bay, not just Tidewater.

*Patron - Wagner*

: **SB527 Land and Water Conservation Trust Fund.** Establishes the Land and Water Conservation Trust Fund. The Fund will be capitalized from revenue generated from a fee imposed on waterworks owners of \$2 per water connection, a \$10 fee for each instrument recorded in deed books and upon each judgment docketed in the judgment lien docket book, general fund appropriations, and any other moneys available from public and private sources. The moneys in the Fund will then be allocated quarterly, with at least 47 percent going to the Virginia Land Conservation Fund, at least 47 percent going to the Water Quality Improvement Fund, and up to six percent expended for the management and administration of these two funds. This bill is incorporated into SB 569.

*Patron - Hanger*

: **SB569 Virginia Natural and Historic Resources Fund.** Creates the Virginia Natural and Historic Resources Fund. This permanent, nonreverting fund will consist of moneys appropriated to it by the General Assembly and any other public or private moneys. The moneys in the Fund will be allocated by the Secretary of Natural Resources to the Virginia Land Conservation Fund and the Virginia Water Quality Improvement Fund. The bill establishes the seven-member Virginia Natural and Historic Resources Fund Commission, which is to provide recommendations to the Secretary regarding the allocation of moneys in the Fund. The Secretary is the chairman of the Commission. The six citizen members will be individuals who have experience or expertise in the areas of natural and historic resource conservation and protection. Under the legislation, a \$10 fee is assessed on various deeds for which the state recordation tax is collected and on the recordation of a certificate of satisfaction.

*Patron - Deeds*

## Carried Over

**7 HB68 Local Parks and Recreational Facilities Act.** Requires the Department of Conservation and Recreation to undertake a comprehensive assessment of the adequacy of public parks and recreational facilities provided by each Virginia locality. The bill sets forth factors that the Department must consider and requires that the locality cooperate during the assessment process. If the Department determines that a locality's parks or recreational facilities are inadequate or will be inadequate within five years, then the locality will have one year to develop a plan for curing such inadequacy. If the Department determines that such plan will not achieve adequacy, then it shall impose a parks and recreation residential impact fee upon the builder of each new residential unit in the locality, until such time as the parks and recreational facilities are adequate. The Department shall base such fee on the pro-rata impact of each additional residential unit on (i) existing parks and recreational facilities, and on (ii) the costs of improving or developing new parks or recreational facilities. The Department shall hold all collected fees on behalf of the locality in an interest-bearing escrow account, and shall make distributions for the development of new or improvement of existing parks and recreational facilities. The Board of Conser-

vation and Recreation is authorized to promulgate regulations for the implementation of the Act.

*Patron - Marshall, R.G.*

**7 HB1113 Severe nonattainment areas.** Directs any electric generating facility in a severe nonattainment area to meet the following emission reduction requirements no later than January 1, 2009: (i) reduce aggregate sulfur dioxide emissions by at least 75 percent from levels allowed under full implementation of the federal Clean Air Act Phase II sulfur dioxide requirements, and (ii) reduce aggregate nitrogen oxide emissions by at least 75 percent from the facility's 1997 levels. Also, this bill prohibits any electric generating facility from operating after January 1, 2009, unless it has complied with such emission reduction requirements or entered into a consent decree with the State Air Pollution Control Board, agreeing to cease operations by 2014.

*Patron - Van LANDINGHAM*

**7 HB719 Chesapeake Bay Preservation Act.** Requires the Attorney General, if requested by the locality, to defend the locality in a private legal action resulting from the locality's adoption or implementation of the criteria developed by the Chesapeake Bay Local Assistance Board to regulate the use and development of land and to protect water quality. The criteria are to be used by local governments (i) to determine the ecological and geographic extent of Chesapeake Bay Preservation Areas and (ii) in granting, denying, or modifying requests to rezone, subdivide, or to use and develop land in these areas.

*Patron - Shannon*

**7 HB1418 Water quality improvement fee.** Imposes a \$1 per month fee on owners of improved real property having a value of more than \$60,000. The locality will be responsible for collecting the fee and remitting the funds to the State Treasurer for deposit in the Water Quality Improvement Fund. An additional \$1 per month fee is assessed on such property owners if they are served by a wastewater treatment facility. The locality can withhold quarterly \$10,000 or three percent of the amount due, whichever is less, to cover its administrative expenses. Seventy percent of the funds received will be allocated for point source pollution programs and 30 percent will be used for nonpoint source pollution programs.

*Patron - Pollard*

**7 HB1429 Erosion and Sediment Control Law.** Requires the Department of Transportation (VDOT) to submit a conservation plan for each project involving a land-disturbing activity to the Department of Conservation and Recreation (DCR) for review and approval. Currently, all state agencies, including VDOT, have the option of submitting one annual report specifying its conduct of land-disturbing activities to DCR for review and approval, prior to conducting land-disturbing activities. "Land-disturbing activity" includes disturbed land areas of 10,000 square feet or greater.

*Patron - Ingram*

**7 HB1462 Solid waste disposal fees.** Establishes a \$5 per ton municipal solid waste disposal fee to be collected by localities in which the municipal solid waste landfills are located. This bill directs the host localities to retain 50 percent of the moneys collected for the abatement of pollution caused by landfills or the improper management of waste, groundwater monitoring and cleanup, litter control, recycling, or for other waste-related purposes, including solid waste management operating fees. This bill also directs the host localities to remit 50 percent of all moneys collected to the Commonwealth to be deposited into the Landfill Cleanup and Closure Fund, the Virginia Brownfields Restoration and Economic Redevel-

opment Assistance Fund, and the Virginia Environmental Emergency Response Fund.

*Patron - Dillard*

**7 HB1472 Air emissions reductions.** Establishes a schedule by which investor-owned public utilities that own or operate coal-fired generating units are required to reduce by specific amounts their emissions of oxides of nitrogen, sulfur dioxide and mercury. The utilities are to determine what technologies will be used to achieve the emission limits established by the bill. Any permit issued by the Air Pollution Control Board for a coal-fired generating unit, which is subject to this new law, will have to provide for testing, monitoring, record-keeping and reporting to assure compliance with the reduction requirements. The bill also authorizes the Governor to enter into agreements with the utilities to transfer to the state any emissions allowance that may be acquired by the utilities under federal law. The Department of Environmental Quality and the State Corporation Commission (SCC) are to report annually to the status of the emissions reduction and cost recovery efforts to the committees having jurisdiction over the subject matter. In addition, the Department of Environmental Quality is required to conduct an ongoing analysis of the issues related to the development and implementation of standards and plans to control carbon dioxide (CO<sub>2</sub>) from coal-fired generating units. The Department is also to evaluate available control technologies and perform a cost-benefit analysis of alternative strategies to reduce emissions of CO<sub>2</sub>, and report its findings to the committees with jurisdiction over the subject matter. Finally, the bill authorizes the SCC to adjust the rate caps established by the Electric Utility Restructuring Act to account for the environmental compliance costs incurred by the utilities in carrying out the provisions of the Clean Smokestack Act.

*Patron - Reid*

**7 SB193 Buffalo Mountain.** Allows any person with a disability that limits his ability to walk to use a motorized wheel chair, a riding lawnmower, or a power chair personal mobility vehicle designed to maneuver through sand, mud, and snow to travel on property owned by the Commonwealth along the trail that leads from the foot and to the peak of Buffalo Mountain in Floyd County.

*Patron - Reynolds*

**7 SB588 Open-space easements.** Amends the Open-Space Land Act (Act) to ensure that any perpetual interest in real estate acquired by a public body pursuant to the Act will be consistent with the requirements of the Internal Revenue Service Code for tax-deductible conservation contributions.

*Patron - Deeds*

## Contracts

### Passed

**D HB537 Improper use of payment device numbers.** Changes the deadline for old devices to comply with the prohibition on printing certain information on receipts from July 1, 2007, to July 1, 2005. In addition, the bill changes the prohibition of displaying certain information on payment device receipts from no more than the last five digits to no more than the last four digits. The bill also extends the prohibition to handwritten, imprinted and copied payment device numbers, except for the one original. The bill allows compliance by returning noncomplying copies to or destroying them in front of the payment device user. References to credit cards and debit cards were removed because the Congress preempted

the law's application to credit card and debit card receipts with the reauthorization of the Fair Credit Reporting Act. See 15 U.S.C. 1681c(g) and 1681t(b)(5)(A).

*Patron - May*

**D HB1176 Energy Performance-Based Contract Procedures.** Amends the required contract provisions for energy performance-based contracts by increasing the payback period from 12 to 20 years.

*Patron - Bryant*

**D HB1189 Contract formation; federal Fair Credit Billing Act.** Provides that a transaction shall be presumed to have occurred at the mailing address most recently provided by the holder of a credit card to the card issuer. The place where such a credit card transaction occurred is relevant in a determination of whether a credit card purchaser is able to assert certain claims and defenses pursuant to the federal Fair Credit Billing Act.

*Patron - Scott, J.M.*

**D HB1337 Power of attorney; revocation.** Authorizes a court to revoke, suspend, or otherwise limit the authority of an attorney-in-fact, held with respect to a person who has become incapacitated, at the request of, and based upon information provided by, the guardian, conservator, or committee for that incapacitated person, or by other interested parties.

*Patron - Watts*

## Failed

**: HB263 Credit card and other open-end accounts; cancellation, notification, and liability.** Requires issuers of credit cards and suppliers of goods and services that provide credit through open-end accounts to cancel a credit card or other open-end account within 48 hours after receiving a request for cancellation from an account holder or within 48 hours after receiving the final payment if the account is not paid in full at the time of the request for cancellation. The bill requires issuers and suppliers to provide written notice of amount due if account has not been paid in full, and requires issuers and suppliers to provide written notification of cancellation within 48 hours of cancellation. Finally, it establishes that account holders are not liable for amounts accruing on the account after cancellation other than amounts charged to the account by, or at the direction of, the account holder.

*Patron - Morgan*

## Carried Over

**7 HB147 Contracts; payment and performance bonds required in private construction projects.** Requires that within 10 calendar days of the execution of any contract exceeding \$250,000, the prime contractor shall furnish to the owner either: (i) a performance bond in the sum of the contract amount conditioned upon the faithful performance of the construction contract by the prime contractor in strict conformity with the plans, specifications and conditions of the contract or (ii) a payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in furtherance of the work provided for in the contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the furtherance of the work. The bill specifies the procedure for making claims against such bonds.

*Patron - Hargrove*

## Corporations

### Passed

**D HB342 Business entities; conversions; mergers; registration.** Requires different business entities involved in conversions or mergers to make certain filings with the State Corporation Commission. The bill expands what must be included in the application for registration, reentry, or reinstatement that must be filed with the Commission in order for a foreign business entity to transact business in Virginia. The bill also includes technical amendments.

*Patron - Kilgore*

**D HB884 Nonstock corporations; terms of directors.** Provides that where the articles of incorporation of a non-stock corporation are silent, the term of a director elected by the board of directors to fill a vacancy expires at the next meeting at which directors are elected. Current law contains no provision allowing the articles of incorporation to govern this matter.

*Patron - Plum*

**D HB1183 Limited Liability Company Act; registered agents.** Permits a member or manager of a limited liability company that is a member or manager of a new or existing limited liability company to be the registered agent for the limited liability company. This provision is consistent with similar provisions applicable to limited partnerships, registered limited liability partnerships, and business trusts.

*Patron - Bryant*

**D HB1187 State Corporation Commission refunds.** Authorizes the State Corporation Commission, relative to the Virginia Limited Liability Company Act, the Virginia Business Trust Act, the Virginia Revised Uniform Limited Partnership Act, and the Virginia Uniform Partnership Act, to refund any overpayment of fees, or fees collected for a document that is not accepted for filing, within one year from the date of the payment of the fee. The Commission is currently authorized to make such refunds under the Virginia Stock and Nonstock Corporation Acts.

*Patron - Bryant*

**D SB131 Corporations; articles of termination of corporate existence.** Specifies the classes of persons entitled to receive payments when a corporation divests itself of all of its assets. The bill also makes technical amendments relating to articles of termination of corporate existence of stock and non-stock corporations.

*Patron - Miller*

**D SB538 Business entities.** Clarifies that liabilities incurred by a corporation, limited partnership, limited liability company, business trust, or limited liability partnership, or its member, officer, director or other agent, after an administration termination of existence and before the entity's reinstatement shall be determined as if the termination of the entity's existence had not occurred. The changes also (i) authorize limited liability company operating agreements to provide for contractual appraisal rights, arbitration and exclusive jurisdiction, and multiple classes of members and managers; (ii) clarify the ability of limited liability companies to indemnify members, managers, and other agents; (iii) permit limited liability companies to engage in any business, purpose, or activity, regardless of whether the activity constitutes a business; and (iv) conform charging order provisions of the limited liability company, lim-



ited partnership, and partnership statutes. Also makes other technical changes to the limited liability company, partnership, and limited partnership acts.

*Patron - Stosch*

## Carried Over

**7 SB240 Business entities; fictitious names.** Eliminates the requirement that certain business entities file a fictitious name certificate in each locality in whose jurisdiction business is transacted. A local filing will still be required for business conducted by individuals or general partnerships. The bill also requires registered limited liability partnerships that transact business under an assumed or fictitious name to execute and file a fictitious name certificate.

*Patron - Norment*

**7 SB564 Uniform Securities Act.** Adopts the Uniform Securities Act as recommended by the National Conference of Commissioners on Uniform State Laws.

*Patron - Stosch*

## Counties, Cities and Towns

### Passed

**D HB52 Bedford Joint Economic Development Authority.** Allows the Bedford Joint Industrial Development Authority to be named the Bedford Joint Economic Development Authority, or such other name as the governing bodies of the City of Bedford and Bedford County shall choose.

*Patron - Putney*

**D HB141 Referendum in Page County on election of the county chairman from the county at large.** Provides that the circuit court of the County shall order a referendum on the question of whether there should be a chairman of the county board of supervisors elected at large. If a majority of the qualified voters voting in such referendum vote in favor of the election of a county chairman of the board of supervisors from the county at large, beginning at the next general election for the board of supervisors, the county chairman shall be elected for a term of four years.

*Patron - Louderback*

**D HB240 Regional Industrial Facility Authority.** Grants localities in which a facility owned by an authority is located greater flexibility to direct that tax revenue collected with respect to the facility shall be remitted to the authority.

*Patron - Nutter*

**D HB300 Donations by localities.** Allows localities to make donations to any nonprofit organization providing recreational or daycare services to persons 65 years of age or older.

*Patron - Ware, R.L.*

**D HB303 Reimbursement of certain traffic incident expenses.** Raises from \$100 to \$250 the flat fee that localities may seek from a person convicted of violating certain traffic-related offenses in order to reimburse the locality for providing an appropriate emergency response to any accident or incident related to such violation. The bill provides that costs for firefighting, rescue and emergency medical services may be ordered as restitution.

*Patron - Fralin*

**D HB417 Ready access to proffer cash payments and expenditures reports.** Requires the local Conditional Zoning Index to provide ready access to all proffered cash payments and expenditures disclosure reports prepared by the local governing body for the Commission on Local Government. The bill also requires the local zoning administrator to update the Conditional Zoning Index annually and no later than November 30 of each year.

*Patron - Lingamfelter*

**D HB434 County manager plan of government; budget, constitutional officers and easements.** Amends the county manager plan of government (currently applying only to Arlington County) to (i) clarify the county manager's budget reporting duties, (ii) extend certain housing benefits to employees of constitutional officers, and (iii) grant the county manager authority to acquire certain temporary construction easements on behalf of the board.

*Patron - Brink*

**D HB438 Abatement of nuisances; liens.** Provides that charges imposed by municipalities related to abatement of nuisances shall constitute a lien against the property ranking on a parity with liens for unpaid local taxes. A locality may waive such liens in order to facilitate the sale of the property under certain circumstances.

*Patron - Suit*

**D HB484 Permits to sell or purchase pistols or revolvers in counties.** Repeals provision that authorized counties to require a permit for the sale and purchase of revolvers and requires that any records created pursuant to that provision that are in the custody of a county be destroyed no later than July 31, 2004. As passed, this bill is identical to SB 227.

*Patron - Cole*

**D HB530 Control of firearms; applicability to authorities and local governmental agencies.** Removes the grandfather clause that allows localities to enforce ordinances governing firearms that were passed before January 1, 1987, and affirmatively declares that any local ordinances adopted prior to January 1, 1987, are invalid. The bill also removes language relating to the purchase of handguns that would allow a more stringent local ordinance relating to purchase or transfer of firearms adopted prior to January 1, 1987, to supersede state law relating to purchase or transfer. This change is necessary because the bill would invalidate any such local ordinance. This bill incorporates HB 483.

*Patron - Hogan*

**D HB533 Buchanan County Tourist Train Development Authority.** Increases the membership of the authority's board from eight to 22 members and permits the authority to borrow money and to accept contributions, grants, and other financial assistance from any private person, foundation or financial institution.

*Patron - Stump*

**D HB601 Inspection of water supplies.** Changes the requirement that localities test the public water supply for the presence of methyl tertiary-butyl ether (MTBE) by requiring the test to be done annually rather than quarterly. MTBE is a synthetic compound used as an oxygenate in reformulated gasoline (RFG) to help reduce air pollution, and has been found to enter the water supply by leaking from faulty underground storage tanks. The State Board of Health may establish an alternate testing schedule for certain waterworks where annual testing is not otherwise required.

*Patron - Dudley*

**D HB679 Removal of nonconforming abandoned signs.** Provides that any locality may, by ordinance, require certain abandoned nonconforming signs to be removed by the owner of the property on which the signs are located, if notified by the locality to do so. If, following such two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property.

*Patron - Rapp*

**D HB683 Industrial development authorities.** Allows any locality to refer to its industrial development authority as an economic development authority.

*Patron - Rapp*

**D HB714 Zoning adjacent to military bases, military installations, and military airports.** Requires localities to give written notice to the commander of any military base, military installation, or military airport that is within 3,000 feet of a proposed comprehensive plan or zoning change. Also, such installations are added to the list of items that a locality may include in its comprehensive plan and protection against encroachment against such installations is added as a purpose of zoning ordinances.

*Patron - Oder*

**D HB715 Provisions of a subdivision ordinance.** Clarifies provisions related to conveyance of easements to franchised cable television operators and public service corporations.

*Patron - Oder*

**D HB717 Missing child reports.** Requires that local law-enforcement agencies enter descriptive information about a missing child into the Virginia Criminal Information Network and National Crime Information Center systems, forward the report to the Missing Children Information Clearinghouse maintained by the State Police, notify other local law-enforcement agencies, and initiate an investigation within two hours of receiving a report of a missing child. Currently, the law requires that this be done "immediately," but does not define what this means. The amendment clarifies that "immediately" means in no case more than two hours within receipt of the report.

*Patron - Shannon*

**D HB737 Water and sewage systems.** Adds Franklin County to those counties with authority to require connection to their water and sewage systems by owners of property that may be served by such systems and to the list of localities that may by ordinance provide that taxes or charges imposed for water or sewers or use thereof within or outside the locality shall be a lien on the real estate served by such waterline or sewer.

*Patron - Dudley*

**D HB744 Virginia Coalfield Economic Development Authority.** Expands the powers of the Authority to engage in economic development marketing and business attraction activities and to pay from the Authority's funds any and all expenses incurred in connection with such economic development marketing and business attraction activities.

*Patron - Stump*

**D HB812 Sale of military grave markers prohibited; civil penalty.** Provides that any person who sells or offers

for sale any military grave marker of one or more deceased persons who served in the military service of the Commonwealth, the United States, or any of the states thereof, shall be assessed a \$100 civil penalty payable to the Literary Fund. The provisions do not apply to the sale if the grave marker was (i) conveyed with real property to which it remains affixed, (ii) sold or offered for sale following manufacture or fabrication and prior to initial installation or dedication, or (iii) lawfully acquired. The bill has an effective date of January 1, 2005.

*Patron - Eisenberg*

**D HB819 Notice of zoning amendment.** Provides that when a proposed amendment of the zoning ordinance involves a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved.

*Patron - Drake*

**D HB820 Condemnation of lands within adopted conservation or redevelopment plans.** Provides that after the adoption of a conservation or redevelopment plan, should any property located within the area of the conservation or redevelopment plan be downzoned without the expressed consent of the property owner, and should the locality initiate condemnation proceedings against that owner after any such downzoning, the date of valuation shall be the date of adoption of the conservation or redevelopment plan. If the property located within a conservation or redevelopment plan was downzoned without the expressed consent of the property owner within a period of five years prior to the adoption of the conservation or redevelopment plan, and if such downzoning was not part of a comprehensive rezoning of the locality, then, if the locality should initiate condemnation proceedings within five years after the adoption of the conservation or redevelopment plan against the same owner who owned the property at the time of the downzoning, the date of valuation shall be the day before the date the property was downzoned.

*Patron - Drake*

**D HB827 Home-ownership assistance.** Allows that a locality may by ordinance provide for the use of funds, other than state funds, for grants to assist employees of the locality to purchase residences in such locality. The residences shall be the primary residence of any employee receiving such grants or loans and individual grants shall not exceed \$5,000 per employee.

*Patron - Drake*

**D HB874 Affordable housing.** Adds the City of Alexandria to the list of localities with authority to provide for an affordable housing dwelling unit program under § 15.2-2304.

*Patron - Van Landingham*

**D HB911 Tourism Development Authority.** Authorizes the Tourism Development Authority to form corporations, limited partnerships or limited liability companies for the purposes of fostering or promoting tourism, job creation, economic development, or the sale of goods manufactured and produced in Virginia. The Authority was established in 1993 for the LENOWISCO and Cumberland Plateau Planning District Commissions to promote, expand and develop tourism industries in that coal-producing region.

*Patron - Phillips*

**D HB919 Water and sewer authorities; conduits for fiber optic cable.** Permits water and sewer authorities to

install, own and lease pipe or conduit for purpose of carrying fiber optic cable provided that certain conditions are met.

*Patron - Phillips*

**D HB931 Meetings of governing bodies.** Provides that any city or town that holds an organizational meeting in compliance with its charter or code shall be deemed to be in compliance with general law provisions. The provisions of this act shall apply to the actions of all city and town councils beginning July 1, 1997.

*Patron - Marshall, D.W.*

**D HB934 Constitutional officers; employment.** Allows a constitutional officer to hire an employee without readvertising if the initial advertisement ran within 120 days. The current time limit is 60 days.

*Patron - Marshall, D.W.*

**D HB963 Exterior lighting regulation; James City County.** Allows James City County to regulate the maximum upward exterior illumination levels of buildings and property zoned or used for commercial or business purposes. Such ordinance shall only apply to lighting installed after the effective date of the ordinance and shall not affect or be applied to agricultural or silvicultural operations, certain outdoor advertising signs, temporary VDOT construction or maintenance, utility companies, facilities owned by the Department of Corrections, lighting regulated by the Uniform Statewide Building Code or to premises security lighting for certain multi-family residential or commercial office buildings. Any lighting installed prior to the effective date of the ordinance shall not be treated as nonconforming. The provisions of the bill expire if not acted upon by July 1, 2006.

*Patron - Barlow*

**D HB988 Urban County executive form of government; disclosures in land use proceedings.** Amends provisions requiring certain disclosures in land use proceedings in any county with the urban county executive form of government (Fairfax County) by lowering the current \$200 gift threshold to any gift or donation having a value of more than \$100, singularly or in the aggregate during a 12 month period. The provisions do not take effect until January 1, 2005, and do not apply to applications for a special exception, variance, or zoning amendment filed prior to that date. This bill is identical to SB 228.

*Patron - Hugo*

**D HB1137 Reimbursement for costs of responding to emergencies.** Provides that failure to satisfy a judgment to a locality for responding to an emergency call necessitated by a DUI, certain other traffic infractions or a terrorist hoax results in suspension of the person's driver's license, registration certificates and license plates.

*Patron - McDonnell*

**D HB1150 Local government; control of firearms and ammunition.** Prohibits a local government from adopting an ordinance governing the storage of firearms or ammunition. Currently, a local government is prohibited from adopting an ordinance governing the purchase, possession, transfer, ownership, carrying, or transporting of firearms or ammunition.

*Patron - McDonnell*

**D HB1158 Urban county executive form of government; sanitary districts.** Allows a county with the urban county executive form of government (Fairfax County) to create and amend sanitary districts by using a notice that uses a descriptive summary, rather than a full text notice, and to use a geographic description in place of the metes and bounds

descriptions. Also, all proceedings held in the creation, amendment, or dissolution of any district created pursuant to former and existing general law are ratified, validated, and confirmed, and any and all such districts are declared to have been validly created, amended, or dissolved notwithstanding any defects or irregularities in the publication of any notice or the description of any boundaries.

*Patron - Hull*

**D HB1190 Duties of the Commission on Local Government.** Transfers responsibility for oversight of certain Commission actions to the Secretary of Commerce and Trade.

*Patron - Scott, J.M.*

**D HB1211 Community development authorities.** Provides that the revenue bonds issued by a development authority shall not be deemed to constitute a debt, liability, or obligation of any other political subdivision and shall not impact upon the debt capacity of any other political subdivision.

*Patron - Hall*

**D HB1255 Cash proffers; issuance of bonds.** Provides that localities that are authorized to accept voluntary cash proffers may also issue bonds under the provisions of the Public Finance Act to finance certain improvements to the extent that the costs of such improvements have been pledged by landowners as voluntary cash proffers.

*Patron - Orrock*

**D HB1258 City council salaries.** Allows city council members to be paid in accordance with the payroll cycle of city employees.

*Patron - Baskerville*

**D HB1299 Law-enforcement officer certification.** Provides that the requirement for the successful completion of the law-enforcement certification examination may be waived by the Department of Criminal Justice Services based upon previous law-enforcement experience and training.

*Patron - Weatherholtz*

**D HB1373 Service districts; road construction.** Adds "road construction" to the powers of service districts. The bill also requires the involvement of the local governing body in establishing certain transportation services to be operated or maintained by the Virginia Department of Transportation.

*Patron - Hugo*

**D HB1392 Reciprocal agreements.** Allows private institutions of higher learning to enter into certain reciprocal agreements to the same extent as state-supported institutions of higher learning.

*Patron - Weatherholtz*

**D HB1393 Regional Industrial Facility Authority.** Grants localities in which a facility owned by an authority is located greater flexibility to direct that tax revenue collected with respect to the facility shall be remitted to the authority. Also, the scope of the act is expanded to include those areas within planning districts 1 and 2. The act currently applies to planning districts 3, 4, 5, 10, 11, 12, 13, 14 and 19. This bill is identical to SB 546.

*Patron - Keister*

**D HB1456 Nuisance abatement.** Makes various changes to facilitate the ability of localities to abate nuisances and dispose of tax delinquent properties, including (i) expansion of instances in which an unpaid charge may constitute a

lien on property, (ii) decreasing the time period that a locality shall wait prior to taking action to sell certain tax delinquent properties, (iii) expanding the ability of localities to declare a property as abandoned, and (iv) expanding the instances in which a locality may petition for the conveyance of a deed in lieu of a sale at public auction for certain parcels.

*Patron - Jones, D.C.*

**D HB1485 Liability insurance for localities.** Adds operational medical directors, fire department operational medical directors, police department operational medical directors and certain physicians course directors to those persons that a locality may include in its liability insurance or self-insurance program.

*Patron - Sickles*

**D SB45 State and local health departments; reimbursement.** Adds Chesterfield County to those localities that may supplement salaries and reimburse travel expenses of employees of state and local health departments.

*Patron - Martin*

**D SB69 Buchanan County Tourist Train Development Authority.** Increases the membership of the authority's board from eight to 22 members and permits the authority to borrow money and to accept contributions, grants, and other financial assistance from any private person, foundation or financial institution.

*Patron - Puckett*

**D SB76 Regulations on political campaign signs.** Supersedes local ordinances and regulations that would prohibit the display of political campaign signs on private property with the permission of the owner of the property and in compliance with zoning and right-of-way restrictions applicable to temporary non-political signs.

*Patron - Potts*

**D SB90 Criminal background checks.** Allows localities to decide whether the locality or the individual pays the cost of fingerprinting for criminal record checks.

*Patron - Marsh*

**D SB115 Automobile graveyards and junkyards.** Adds York County to the current list of counties that may adopt an ordinance requiring the screening of automobile graveyards and junkyards. The bill also specifies the counties that were previously set forth by population bracket.

*Patron - Williams*

**D SB152 Industrial development authorities.** Allows any locality to call its industrial development authority an economic development authority.

*Patron - Deeds*

**D SB190 Water and sewage connections.** Allows Wythe County, in assuming the obligations of a public service authority, to assume such obligations under the same terms and conditions as applicable to the public service authority.

*Patron - Reynolds*

**D SB204 Inoperable motor vehicles.** Defines "shielded or screened from view" as not visible by someone standing at ground level from outside of the property on which the subject vehicle is located. The bill also provides that an owner may keep a vehicle he is actively restoring (if it is screened from view) and one additional vehicle being used for such restoration on the property.

*Patron - Quayle*

**D SB206 Moratorium on city annexation and county immunity notices and proceedings.** Extends the moratorium on annexation proceedings. Under the current law, the moratorium ends following the end of any biennium in which actual appropriations to local governments for law-enforcement expenditures are less than the amount statutorily required.

*Patron - Quayle*

**D SB227 Permits to sell or purchase pistols or revolvers in counties.** Repeals provision that authorized counties to require a permit for the sale and purchase of revolvers and requires that any records created pursuant to that provision that are in the custody of a county be destroyed no later than July 31, 2004. This bill is identical to HB 484.

*Patron - Cuccinelli*

**D SB228 Urban County executive form of government; disclosures in land use proceedings.** Amends provisions requiring certain disclosures in land use proceedings in any county with the urban county executive form of government (Fairfax County) by lowering the current \$200 gift threshold to any gift or donation having a value of more than \$100, singularly or in the aggregate during a 12 month period. The provisions do not take effect until January 1, 2005, and do not apply to applications for a special exception, variance, or zoning amendment filed prior to that date. This bill is identical to HB 988.

*Patron - Cuccinelli*

**D SB280 Provision of cable television services by certain localities.** Provides that the Auditor of Public Accounts, in connection with the audit of a locality's cable television services, shall not disclose the portions of a comprehensive business plan that reveal marketing strategies of a municipal cable television service.

*Patron - Wampler*

**D SB317 State police.** Increases from 18 to 21 years the age of a person for whom a missing child report is filed when that person's whereabouts is unknown and the person has been reported missing to a law-enforcement agency. The bill also requires the police or sheriff's office, upon receiving a missing child report, to enter the information into the Virginia Criminal Information Network, in addition to other data systems.

*Patron - Howell*

**D SB353 Comprehensive plan.** Requires that the plan include a transportation element that designates a system of transportation infrastructure needs and recommendations as appropriate, including, but not limited to, roadways, bicycle and pedestrian accommodations, railways, bridges, waterways, airports, ports, and public transportation facilities. The bill also requires the Virginia Department of Transportation to provide technical assistance upon request.

*Patron - Houck*

**D SB369 Mutual aid agreements for power and natural gas.** Provides that localities and investor-owned public utilities, electric cooperatives, and interstate natural gas companies may enter into mutual aid agreements in order to prepare for, prevent, and restore power and natural gas outages and failures.

*Patron - Watkins*

**D SB400 Local water-saving ordinances.** Permits localities to restrict the nonessential use of ground water during declared water shortages or water emergencies. This authority

currently applies only to the City of Virginia Beach (described by population.)

*Patron - Norment*

**D SB426 Regulation of stormwater; billing.** Allows a locality to combine the billings for stormwater charges with billings for water or sewer charges, real property tax assessments, or other billings, and to establish by ordinance the order in which payments will be applied to the different charges. The bill also prohibits localities from combining its billings with other localities, political subdivisions, or waste and water authorities without the consent of that locality or political subdivision.

*Patron - Wagner*

**D SB437 Inoperable motor vehicles.** Amends existing provisions that apply to various localities as described by form of government or by population bracket, by specifying such localities by name and by adding the cities of Hampton and Newport News. Otherwise, the substance of the section, which allows localities by ordinance to prohibit any person from keeping an inoperable vehicle on certain property, except within a fully enclosed building or structure or otherwise shielded or screened from view, is unchanged.

*Patron - Locke*

**D SB461 County manager plan of government; budget, constitutional officers and easements.** Amends the county manager plan of government (currently applying only to Arlington County) to (i) clarify the county manager's budget reporting duties, (ii) extend certain housing benefits to employees of constitutional officers, and (iii) grant the county manager authority to acquire certain temporary construction easements on behalf of the board.

*Patron - Whipple*

**D SB480 Virginia Coalfield Economic Development Authority.** Expands the powers of the Authority to engage in economic development marketing and business attraction activities and to pay from the Authority's funds any and all expenses incurred in connection with such economic development marketing and business attraction activities.

*Patron - Wampler*

**D SB529 Inoperable motor vehicles.** Gives localities greater flexibility in defining "inoperable motor vehicles."

*Patron - Hanger*

**D SB546 Regional Industrial Facility Authority.** Grants localities in which a facility owned by an authority is located greater flexibility to direct that tax revenue collected with respect to the facility shall be remitted to the authority. Also, the scope of the act is expanded to include those areas within planning districts 1 and 2. The act currently applies to planning districts 3, 4, 5, 10, 11, 12, 13, 14 and 19. The bill is identical to HB 1393.

*Patron - Puckett*

**D SB574 Referendum in Page County on election of the county chairman from the county at large.** Provides that the circuit court of the County shall order a referendum on the question of whether there should be a chairman of the county board of supervisors elected at large. If a majority of the qualified voters voting in such referendum vote in favor of the election of a county chairman of the board of supervisors from the county at large, beginning at the next general election for the board of supervisors, the county chairman shall be elected for a term of four years.

*Patron - Obenshain*

**D SB600 Local water and sewage systems.** Adds Franklin County to existing provisions that allow certain counties to require connection to their water and sewage systems, or in the case of persons having an adequate domestic supply or source of potable water and a system for the disposal of sewage, allow the county to impose a nonuser fee. Also, Franklin County is granted authority to treat certain unpaid taxes or charges imposed for water or sewers as a lien on the real estate served by such waterline or sewer. The bill also replaces a population bucket with Amelia County.

*Patron - Hawkins*

**D SB661 Certain restrictions on real property.** Provides that any municipal or recreational purpose restriction placed on certain real property, located wholly or in part in Virginia Beach, acquired by the Commonwealth shall be satisfied if the property is used for tourism purposes that benefit the locality's tourism industry.

*Patron - Blevins*

## Failed

**: HB62 Mayor and chief administrative officer in certain cities.** Provides that in certain cities, at the November 2004 election, and every four years thereafter, a general election shall be held to elect the mayor. The person receiving the most votes in a majority of the city council districts shall be elected. Should no one be elected, a run-off election shall be held between the two persons receiving the highest total of votes citywide. The person receiving the most votes in a majority of districts shall be elected. An elected term shall run four years. Anyone eligible to serve on city council may serve as mayor except no one may be elected mayor for three consecutive terms. The mayor in such cities shall appoint a chief administrative officer subject to the advice and consent of a majority of the city council members. The chief administrative officer shall be responsible solely to the mayor and serve at the pleasure of the mayor. The mayor will be a full-time position with salary and expenses set by the city council. The provisions of this bill apply to any city in which a popular referendum dealing with the organization of local government and held in accordance with the terms of the city charter or applicable general law has passed after July 1, 2003, and prior to July 1, 2004, and the terms of such referendum are consistent with those set forth in the bill.

*Patron - Marshall, R.G.*

**: HB100 Suspension of water and sewer connections.** Provides that a locality or a water and waste authority may suspend connections to its water and sewer systems during periods when mandatory water conservation measures have been imposed by the locality or by the Commonwealth in the area of the proposed connection.

*Patron - Cole*

**: HB216 Affordable housing.** Adds Fauquier County to those localities with authority to provide for an affordable housing dwelling unit program under § 15.2-2304 rather than the general law provisions.

*Patron - Athey*

**: HB269 Smoking in restaurants.** Allows Gloucester County to prohibit smoking in county restaurants.

*Patron - Morgan*

**: HB278 Control of firearms by localities.** Allows localities by ordinance to provide for the regulation of possession or carrying of firearms into any buildings owned or used by such locality for governmental purposes. Also, various pro-

visions are deleted that currently generally prohibit local regulation of the purchase, possession, transfer and ownership of firearms.

*Patron - Purkey*

: **HB335 Zoning; water resources.** Provides that the general purpose of promoting the health, safety or general welfare of the public shall explicitly include the authority, through zoning, subdivision, site plan and building permit actions, to regulate, restrict, permit, prohibit and determine the uses of land based upon the present availability of drinking water resources and upon objective measures of future water resource availability.

*Patron - Pollard*

: **HB407 Local highways, roads and streets; repairs and utilities.** Requires all repairs and utility work done on any local highway, road or street that is not part of the state highway system to comply with established Virginia Department of Transportation standards.

*Patron - Welch*

: **HB436 Industrial development authorities.** Allows the Chesapeake Industrial Development Authority to call itself an economic development authority. This bill is incorporated into HB 683.

*Patron - Suit*

: **HB483 Control of firearms by localities.** Deletes provisions that allow localities to enforce certain ordinances related to control of firearms adopted prior to 1987, and affirmatively declares that such ordinances are invalid. This bill is incorporated into HB 530.

*Patron - Cole*

: **HB880 Urban county executive form of government; commission on human rights.** Adds "sexual orientation" as prohibited discrimination and for action against such discrimination by a human rights commission in a county with the urban county executive form of government (Fairfax County.)

*Patron - Plum*

: **HB960 Virginia Indoor Clean Air Act.** Prohibits smoking in public restrooms in restaurants.

*Patron - Barlow*

: **HB966 Additions and modification to a locality's official map.** Allows local governing bodies to make additions or modifications to the official map without submitting a report to the planning commission and without holding a public hearing if such additions or modifications have already been approved in the locality's capital improvement program and subject to a public hearing.

*Patron - Barlow*

: **HB970 Authority to cut grass.** Adds Isle of Wight County (described by population) to those 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 on such grass or lawn area exceeds 12 inches in height; or may whenever the governing body deems it necessary, after reasonable notice, have such 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 such property and may be collected by the county as taxes and levies are collected.

*Patron - Barlow*

: **HB1006 Authority to regulate the use and occupancy of buildings in Loudoun County.** Grants Loudoun County authority to regulate the use and occupancy of buildings constructed, altered, remodeled or improved. In regulating use and occupancy of such buildings, the County may by ordinance limit, restrict, lower, or control the number of people who may reside in or occupy a building or dwelling unit, to discourage or eliminate neighborhood blight caused by excessive occupancy. The County may provide that the violation of an ordinance adopted under this section constitutes a Class 3 misdemeanor and may enforce the section by suit in equity. Upon an affirmative finding of the need to protect the public health, welfare, and safety of its citizens, Loudoun County may provide by ordinance for the issuance of certificates of compliance with current building regulations for existing residential rental buildings located in areas of the County subject to neighborhood blight, as designated by the county board, after inspections of such buildings upon a termination of the tenancies or when such rental property is sold.

*Patron - Rust*

: **HB1224 Basketball on public streets.** Allows a locality to permit the playing of basketball with mobile basketball hoops on public streets that are cul-de-sacs, courts, dead ends or similar streets. Such mobile basketball hoops shall not be placed in areas that restrict access by public service workers such as postal workers, garbage collectors and public safety officials or negatively impact neighboring residents.

*Patron - Spruill*

: **HB1311 Family subdivisions of property; limited liability companies.** Permits a limited liability company that owns property and whose membership consists entirely of members of an immediate family to divide the property among members of the limited liability company.

*Patron - May*

: **HB1349 Local government taxing authority.** Equalizes city and county taxing authority by granting counties the same authority available to cities and towns through the uniform charter powers.

*Patron - Hull*

: **HB1369 Portsmouth Industrial Development Authority.** Allows the Portsmouth Industrial Development Authority to be named the Portsmouth Economic Development Authority.

*Patron - Melvin*

: **HB1471 Grants for home ownership.** Allows a locality to provide for the use of funds, other than state funds, to provide grants for employees of the locality or school board to purchase or rent residences, for use as the employee's principal residence, within the locality.

*Patron - Shannon*

: **SB77 Industrial development authorities.** Allows the Chesapeake Industrial Development Authority to call itself an economic development authority. This bill is incorporated into SB 152.

*Patron - Miller*

: **SB135 Sheriffs' vehicles.** Clarifies that sheriffs' offices may use unmarked vehicles.

*Patron - Lambert*

: **SB180 Boards of zoning appeals; appointments.** Allows the Chesapeake city council to appoint members of the

board of zoning appeals. Appointments are typically made by the circuit court.

*Patron - Blevins*

: **SB209** **Boards of zoning appeals; appointments.**

Allows the Chesapeake city council to appoint members of the board of zoning appeals. Appointments are typically made by the circuit court.

*Patron - Quayle*

: **SB210** **Industrial development authorities.**

Allows the Chesapeake Industrial Development Authority to call itself an economic development authority. This bill is incorporated into SB 152.

*Patron - Quayle*

: **SB264** **Purchase or sale of guns in certain counties.** Repeals provisions that require a permit to sell or purchase guns in counties having a density of more than 1,000 persons per square mile.

*Patron - Cuccinelli*

: **SB395** **Inoperable motor vehicles; civil penalties.**

Replaces the current civil penalty authority for enforcement of inoperable motor vehicle ordinances with provisions that currently apply to zoning violations. The penalty for an initial summons is increased from \$50 to \$100. The maximum penalty for a series of violations arising from the same set of operative facts is increased from \$3,000 to \$5,000.

*Patron - Norment*

: **SB453** **Local government taxing authority.**

Equalizes city and county taxing authority by granting counties the same authority available to cities.

*Patron - Whipple*

: **SB580** **Permitted provisions in certain zoning ordinances.**

Allows localities whose entire geographic area is wholly or partially within an area designated as severe nonattainment for ozone to include provisions for the adoption of transportation infrastructure overlay districts to allow, either as a matter of right under applicable zoning regulations or with the approval of a special exception, special use permit, or rezoning application, the transfer of some or all specified development rights from property located outside the boundaries of a transportation infrastructure overlay district to property located within such overlay district. Where adopted, transportation infrastructure overlay districts shall be established to encourage development in areas of the locality where mass transit and other existing or planned transportation facilities or services are projected to best meet the levels of service specified for transportation in the comprehensive plan. Authority under this bill expires in localities five years after they are no longer in severe nonattainment for ozone.

*Patron - Ticer*

: **SB596** **Industrial development authorities.**

Allows the Clarksville Industrial Development Authority to call itself an economic development authority. This bill is incorporated into SB 152.

*Patron - Ruff*

## Carried Over

**7 HB219** **Virginia Baseball Stadium Authority.**

Allows a locality to submit names for selection of Authority members, clarifies that the Authority shall not obtain property by condemnation, and provides that the governing body of the locality in which the major league baseball stadium is proposed

to be located shall make a determination whether the proposed major league baseball stadium is in the locality's interest, and if the locality determines that it is not, then the Authority shall not, directly or indirectly, exercise any of its powers to establish a major league baseball stadium in the locality.

*Patron - Brink*

**7 HB482** **Impact fees for residential development.**

Allows localities to adopt an ordinance providing for payment of impact fees for residential development. The impact fee shall be in an amount representing the proportional total or partial cost of capital improvements reasonably related to the transportation, education, and public safety needs for public facilities generated by the additional residential development. However, in no event shall the impact exceed five percent of the sale price of the property, or five percent of the assessed value if the property is not being sold, or \$10,000, whichever is less. No impact fee shall be assessed unless the capital improvements related to the additional development have been included in the locality's capital improvement program. All impact fees collected shall be used by the locality for the purpose of completing capital improvements specified in the ordinance.

*Patron - Cole*

**7 HB562** **Virginia Baseball Stadium Authority.**

Requires approval of the stadium site by the local governing body.

*Patron - Albo*

**7 HB729** **Adequate public facilities; residential development deferral and impact fees; local bonds for infrastructure.**

Allows high-growth localities to adopt provisions in subdivision ordinances for the deferral of approval subdivision plats or site plans when existing schools, roads, public safety, sewer or water facilities are inadequate to support a proposed development. Infrastructure shall be deemed inadequate if, at the time of the submission of a plat or plan, or preliminary plat or plan where preliminary plats or plans are required, the cost to the locality of providing infrastructure necessary to serve the development proposed in such plat or plan at build out would exceed \$100,000. In order to defer approval of a plat or plan, a locality must have in force, or promptly initiate and diligently pursue the adoption, for the area in which the plat or plan is proposed, a capital improvement plan that provides that adequate infrastructure shall be available to serve the development shown in such proposed plat or plan within no more than 10 years of the date of submission of such plat or plan, provided that the plat or plan at the time of submission otherwise meets the requirements of the local ordinance for approval. The capital improvement plan shall be funded on at least an annual basis in an amount necessary to provide sufficient funds to ensure that those elements of infrastructure that were deemed inadequate for purposes of such deferral will be adequate at the end of such 10-year period. "High-growth locality" means any locality that has grown in population by more than one percent for at least three of the previous five years. The bill authorizes the governing body of any high-growth locality to, through the use of bonds, finance the cost of new infrastructure or improvements to existing infrastructure determined inadequate pursuant to a local ordinance authorized by this bill, provided that the locality shall have obtained a voluntary and binding commitment from the applicant to pay an impact fee equivalent to the annual principal and interest and for the period required to retire such bonds. The locality may secure such commitment in any reasonable manner that it deems necessary to ensure the revenues necessary to retire such bond. Finally, the bill adds to the general zoning statutes the authority to adopt local ordi-

nances related to the timing of development when public facilities are not deemed adequate by the local governing body.

*Patron - Marshall, R.G.*

**7 HB752 Impact fees.** Expands the existing road impact fee provisions to include school improvements and extends the applicability of such provisions from Northern Virginia localities to all localities. "Impact fee" is defined as a charge or assessment imposed against new development in order to generate revenue to fund or recover the costs of public facilities necessitated by and attributable to the new development. The value of any dedication, contribution or construction from the developer for off-site road improvements and school facility improvements within the service area shall be treated as a credit against the impact fee. Also, an obsolete sunset clause is deleted.

*Patron - May*

**7 HB893 Adequate public facilities.** Allows any locality to adopt provisions in its subdivision ordinance for deferring the approval of subdivision plats or site plans when it determines that existing schools, roads, public safety, sewer or water facilities are inadequate to support the proposed development. Such deferrals cannot extend beyond 12 years, and applicants are entitled to approval of subdivision plats during the deferral period at the lowest density permitted in the locality for any zoning district. The bill specifies that any appraisal of property subject to a deferral under the bill shall reflect the effect of such deferral on the fair market value of the property. A locality may also consider the adequacy of public facilities in the preparation of its zoning ordinance. Also, the purposes of zoning ordinances are amended to include protection against undue rate of development in relation to existing or available public facilities.

*Patron - Sickles*

**7 HB1433 Comprehensive plan; accessible housing.** Adds the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of accessible housing to items that shall be included in a locality's comprehensive plan.

*Patron - Van Landingham*

**7 HB1434 Nonconforming lots in the City of Chesapeake.** Allows certain nonconforming lots in the City of Chesapeake to be developed according to certain guidelines.

*Patron - Spruill*

**7 HB1479 Conservation of trees.** Increases current tree canopy requirements for certain localities adopting local tree conservation and replacement ordinances from 15 to 20 percent tree canopy for residential sites zoned between 10 and 20 units per acre, and from 20 to 30 percent for residential sites zoned for 10 or less sites per acre. Such tree conservation ordinances may include provisions for the reduction of tree canopy requirements or the granting of tree cover credit in consideration for the preservation of certain trees, and shall provide for exceptions to and deviations from tree preservation requirements where the locality determines the requirements would preclude or significantly hinder uses otherwise allowed by the local zoning ordinance.

*Patron - Sickles*

**7 HJ110 Local school boards and local governing bodies; new school construction.** Encourages local school boards and local governing bodies, in cooperation with the Department of General Services, to recognize and incorporate the Leadership in Energy and Environmental Design (LEED)

Green Building Rating System into state and local practices for the design and procurement of construction projects.

*Patron - Van Yahres*

**7 SB123 Transportation impact fees for certain counties.** Provides that any county that has been granted a charter by the General Assembly (currently includes Chesterfield, James City and Roanoke) may by ordinance enact reasonable provisions for the assessment of impact fees on new residential development for the purpose of mitigating the effect of such new development on the locality's transportation infrastructure. Any such fees shall be payable at the time of issuance of any building permit. No impact fee shall be assessed if the owner has made proffers of cash for roads or constructed off-site improvements that mitigate the transportation impact from such development but such fees may be assessed to the extent that such proffers and improvements do not mitigate such impact.

*Patron - Watkins*

**7 SB170 Jail deputies.** Codifies budget language (Item 64 E) to provide that the Commonwealth will fund one jail deputy for every three beds of operational capacity and in overcrowded jails one jail deputy for every five average annual daily prisoners above operational capacity.

*Patron - Stolle*

**7 SB290 Local "living wage" provisions.** Provides that no local governing body may establish "living wage" provisions without approval of the General Assembly. Any "living wage" ordinance previously adopted by a local governing body that did not receive the approval of the General Assembly shall be considered void.

*Patron - O'Brien*

**7 SB351 Local water supply facilities.** Authorizes localities to include in their subdivision ordinances provisions allowing the locality to determine whether there are adequate water sources and drinking water distribution infrastructure to deliver sufficient and safe water for human consumption to meet the demand required by a new subdivision. Before it adopts such an ordinance, the locality must identify in its comprehensive plan, and in the local regional water plan required by the state, the (i) adequacy of public water supply facilities that will be used in making such a determination, (ii) the areas where such subdivisions may be located, and (iii) existing water supply and infrastructure needs in the potential growth area. If the locality determines that adequate water supply or related water facilities do not exist, it must provide a timeframe of when such supply or facilities will be adequate to meet the water demand. The determination of what constitutes an adequate water supply is based on the demand projections developed as part of the adopted local or regional water supply plan.

*Patron - Houck*

**7 SB393 Adequate levels of service for educational facilities.** Provides that, concurrent with its periodic review of the comprehensive plan, the planning commission in localities with certain proffer zoning authority, in consultation with the school board and the division superintendent, shall make a study estimating the capacity in elementary, middle and high school facilities that would be needed to meet established levels of service for the locality based on anticipated growth in the locality during the period projected by the comprehensive plan. The recommendations shall be prepared with the active participation of the school board and division superintendent and must include a statement of their concurrence in the recommendations. Such localities may include in their ordinances provisions that no application for approval of the preliminary plat for a new residential subdivision, or for approval of a site



plan or plan of development for any other new development incorporating more than five residential units, will be accepted unless it is accompanied by certification issued by the planning commission after consultation with the school board, that proposed subdivisions or other development is consistent with the adopted educational facilities plan for the locality, and will not cause the level of service for the schools available in the locality to serve the new development to decline below the standards established pursuant to this bill. Refusal of an application shall be without prejudice to refile at such time as the applicant is able to obtain certification. Ordinances adopted under this bill may provide that in lieu of the certification required, if the proposed subdivision or development will cause the level of service for the schools available to serve the proposed subdivision or development to fall below the established standards, as a condition of approval the applicant may elect to pay, and the locality may assess, an educational facilities fee sufficient to cover the costs of additional capital improvements that will be imposed upon the school division in which the new proposed subdivision or development is to be located, which improvements are necessitated by and attributable to the proposed subdivision or development and which are required to maintain the level of service established for the schools serving the proposed subdivision or development.

*Patron - Quayle*

**7 SB534 Road impact fees.** Adds Henrico County (described by form of government) to those localities that may utilize road impact fees. Also, an obsolete sunset provision is deleted.

*Patron - Stosch*

**7 SB592 Sheriff's vehicles.** Allows sheriffs' offices to use unmarked vehicles.

*Patron - Quayle*

## Courts not of Record

### Passed

**D HB44 Orders of judgment in courts not of record.** Clarifies that judges in courts not of record may enter as a judgment order a discrete written installment or settlement order that has been endorsed by counsel. Under current law, a judge may enter a discrete written order in such cases as he deems appropriate or may enter the judgment on a pleading, note or bond. There is a provision that the bill is declaratory of existing law.

*Patron - Reese*

**D HB45 Guardian ad litem.** Eliminates the statutory \$100 cap on the amount of guardian ad litem compensation (in a circuit court) that may be recovered from parents who are financially able to pay. The bill permits the circuit court to assess as costs against the parents the maximum amount the court awards the attorney. The bill retains the statutory cap on compensation that may be assessed against parents in the juvenile court. The subject matter of this bill is addressed in Item 34, Paragraph G of the 2002 Appropriation Act.

*Patron - Reese*

**D HB47 Civil jurisdiction in actions of unlawful entry or detainer in general district court.** Provides that counter-claims and cross-claims filed in actions for unlawful entry or detainer where the occupant is using the premises primarily for business, commercial or agricultural purposes shall not be subject to the maximum jurisdictional limit of \$15,000

applicable in general district court. The counter-claim or cross-claim must arise out of the same use of the property for business, commercial or agricultural purposes. Under current law, the plaintiff in such actions may sue for more than \$15,000 in general district court, but counter-claims and cross-claims are limited to \$15,000 or less.

*Patron - Reese*

**D HB320 Capias for nonsupport.** Eliminates the requirement that the court act "upon petition" to issue a civil show cause summons or a capias where it finds that (i) a respondent has failed to comply with an order concerning custody, visitation, support or maintenance and (ii) personal or substitute service has been obtained.

*Patron - Kilgore*

**D HB344 Filing fees in custody and visitation cases.** Creates a special rate for fees in custody and visitation proceedings barring any add-on fees in these cases and applies the special rate for appeal of these cases. The bill also corrects an omission in last year's legislation clarifying that a petition may be reissued without additional costs or fees if service could not be had. This is a recommendation of the Committee on District Courts. This bill incorporates HB 946 and HB 1284 and is identical to SB 103.

*Patron - Kilgore*

**D HB580 Involuntary commitment of minors.** Provides that the juvenile and domestic relations court serving the jurisdiction in which the minor is located is responsible for scheduling the involuntary commitment hearing. For emergency admissions, the same shall be scheduled where the juvenile is located or resides.

*Patron - Hamilton*

**D HB600 Juvenile detention; appointment of attorney.** Requires the appointment of an attorney for a child prior to an initial detention hearing unless an attorney has been retained and appears on behalf of the child; and provides for payment for such court-appointed attorney. The bill requires that the child's attorney be notified of the detention hearing and any rehearing and specifies that the attorney be given the opportunity to be heard at the detention hearing. The bill clarifies that a child who is not released from detention after a detention hearing shall be entitled to a detention review hearing and that the child's attorney shall be afforded an opportunity to be heard at the detention review hearing. Current law allows a rehearing upon parental request when the child is not released and the parent was not notified and does not appear. This bill adds requirements that in order for there to be a rehearing the parent must make a written request and state that he is willing and available to supervise the child upon release from detention and will return the child to court for all scheduled proceedings. Further amendments provide that, if it is determined that the child is not indigent, the parents must pay the costs of the attorney. A child who is alleged to have committed an offense that could lead to commitment to a juvenile correctional center may waive his right to an attorney only after he consults with an attorney. The act does not become effective until July 1, 2005.

*Patron - Dudley*

**D HB653 Custody and confinement for juvenile offenses.** Allows juvenile intake officers and magistrates to order confinement of a person 18 years of age or older in a jail rather than a juvenile detention home for an offense that occurred prior to the person obtaining the age of 18. Currently this authority is limited to judges. This bill is identical to SB 577.

*Patron - Bell*

**D HB787 Confidentiality of court records; juveniles.** Authorizes the attorney for the Commonwealth to obtain from a juvenile court papers filed in connection with a juvenile adjudication of guilt for an offense that would be a felony if committed by an adult for use as evidence in a pending criminal prosecution for a violation of § 18.2-308.2 (possession or transportation of firearms, stun weapons, tasers or concealed weapons by a convicted felon). The bill also allows a bondsman to know the status of his bond on a juvenile, without access to any other part of the juvenile's record.

*Patron - Hurt*

**D HB976 Pleadings and other papers signed by nonattorneys.** Provides that a corporate officer (with the approval of the board of directors) or a manager, general partner or trustee, may in writing authorize an employee, a person licensed under the provisions of § 54.1-2106.1 (real estate brokers and salespersons), a property manager, or a managing agent to (i) sign a warrant in debt, motion for judgment, warrant in detinue, distress warrant, summons for unlawful detainer, counterclaim, crossclaim, suggestion for summons in garnishment, garnishment summons, writ of possession, writ of fieri facias, interpleader and civil appeal notice filed in general district court, and (ii) appear in court to obtain a judgment for possession or for rent and damages. Under current law, the only nonlawyers who may sign such pleadings are a corporate officer (with the approval of the board of directors), a manager of a limited liability company, a general partner of any form of partnership or a trustee of any business trust, and the only nonlawyers who may appear in court on those pleadings are persons licensed under the provisions of § 54.1-2106.1 (real estate brokers and salespersons) and resident managers. This bill is identical to SB 630.

*Patron - Reese*

**D HB982 Fees for services of district courts.** Requires the district court clerks, in the case of an appeal filed pursuant to § 16.1-296, to collect fees for service of process of the notice of appeal in the circuit court before sending an appeal to the circuit court. The clerk is given the option to notify the appellee's attorney by regular mail that the appeal has been docketed.

*Patron - Reese*

**D HB1041 Child abuse and neglect; definition.** Amends the definition of child abuse and neglect to include a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248.

*Patron - Saxman*

**D HB1062 Intake of juveniles.** Permits a juvenile intake officer to proceed informally against a juvenile more than once where the juvenile is alleged to have committed an offense that would be a Class 1 misdemeanor or lesser offense if committed by an adult, or is alleged to have committed a status offense. Under current law, intake officers may proceed informally only once where the juvenile is alleged to have committed such an offense. This bill would allow the intake officer to seek alternatives to court action when the offense the juvenile is alleged to have committed is not a violent juvenile felony, and is intended to help relieve the burden on juvenile court dockets.

*Patron - Armstrong*

**D HB1080 Notification of school superintendent of criminal street gang activity committed by juvenile.** Requires an intake officer to notify the school division superintendent of the filing of a petition against a juvenile in cases involving criminal street gang activity.

*Patron - Parrish*

**D HB1096 Juvenile fingerprints and photographs.** Mandates the taking of fingerprints and photographs of any juvenile who is taken into custody and charged with a delinquent act if the charge is one that has to be reported to the Central Criminal Records Exchange for an adult arrest (all felonies and most Class 1 and 2 misdemeanors except DUI, trespass and disorderly conduct). Under current law this procedure is mandatory only for juveniles 14 years of age or older who are charged with certain crimes classified as violent juvenile felonies. If the juvenile is found not guilty, the fingerprints and photographs are destroyed unless the charge was for a violent juvenile felony, in which case they are maintained in the Central Criminal Records Exchange and the juvenile court.

*Patron - Moran*

**D HB1141 Fixed fee for misdemeanors, etc.** Provides when a defendant in a criminal or traffic case in district court has multiple charges arising from the same incident and has been assessed a fixed fee for one of the charges and is later convicted of another charge that arises from that same incident that has a higher fixed fee, he is to be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

*Patron - McDonnell*

**D HB1146 Appeals of juvenile court decisions.** Requires the circuit court, when practicable, to review the appeal of a juvenile court's transfer decision within 45 days after transfer from the juvenile court. The bill also requires the circuit court, when practicable, to hold a hearing on the merits of any appeal of a finding of delinquency or the disposition within 45 days of its filing, if the juvenile is in a secure facility pending appeal. Those limitations are tolled for any period of escape, and the court may extend the time limit for good cause shown as documented in the case record.

*Patron - McDonnell*

**D HB1209 Criteria for detention or shelter care.** Allows a juvenile probation officer to continually search for less restrictive alternatives to secure detention when a juvenile is detained in a local detention facility.

*Patron - BaCote*

**D HB1274 Temporary custody of juveniles.** Eliminates language authorizing the placement of a juvenile who is alleged to be a child in need of services in the temporary custody of the Department of Juvenile Justice. Provides that temporary custody by the Department of Juvenile Justice is ordered for only those juveniles found to be delinquent for an offense that renders the juvenile eligible for commitment pursuant to: (i) subdivision A 14 of § 16.1-278.8 (the juvenile is aged 11 or older and the offense would be a felony if committed by an adult; a Class 1 misdemeanor if committed by an adult and the juvenile has previously been found to be delinquent based on an offense which would be a felony if committed by an adult; or would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been adjudicated delinquent on three occasions for offenses which would be Class 1 misdemeanors if committed by an adult) or (ii) § 16.1-285.1 (the juvenile is aged 14 or older and, among other things, has been found guilty of an offense which would be a felony if committed by an adult).

*Patron - Moran*

**D HB1355 Delinquent juveniles; disposition.** Requires, for juveniles 11 years of age or older who can be committed to the Department of Juvenile Justice for an offense that would be a Class 1 misdemeanor if committed by an adult, that the juvenile must have previously been adjudicated delinquent on three separate occasions.

*Patron - Hamilton*

**D SB26 Use of summons in juvenile court; littering.** Adds littering to the list of offenses for which a summons may be used to bring a proceeding in juvenile court instead of instituting a petition.

*Patron - Marsh*

**D SB103 Juveniles; petitions filed for custody and visitation.** Provides that only one petition need be filed and only one filing fee shall be required for all custody and visitation petitions simultaneously initiated by a single petitioner. This bill is identical to HB 344.

*Patron - Devolites*

**D SB114 Protection of infants.** Provides that in civil proceedings involving child abuse, neglect or abandonment based solely on the parent having left the child at a hospital or rescue squad, it is an affirmative defense that the parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within 14 days of the child's birth. The bill provides that for purposes of terminating parental rights and placing a child for adoption the court may find that the child has been neglected upon the ground of abandonment. This is similar to the affirmative defense that the General Assembly made available in 2003 for parents in criminal abuse and neglect cases.

*Patron - Williams*

**D SB327 Committee on District Courts.** Makes the Chief Justice a member and chairman of the Committee. Increases from one to two the number of general district court judges and juvenile and domestic relations court judges included on the Committee.

*Patron - Stolle*

**D SB335 Service of process on teacher or other school personnel; restrictions; fees.** Restricts service of a summons on school property to only a sheriff or his deputy in any custody or visitation case where the summons is issued for a teacher or other school personnel who is not a party to the proceeding. The bill applies the \$12 service fee for service of a summons in any custody or visitation case.

*Patron - Stolle*

**D SB577 Custody and confinement for juvenile offenses.** Allows juvenile intake officers and magistrates to order confinement of a person 18 years of age or older in a jail rather than a juvenile detention home for an offense that occurred prior to the person obtaining the age of 18. Currently this authority is limited to judges. This bill is identical to HB 653.

*Patron - Colgan*

**D SB593 Juvenile intake; notification to school superintendent.** Adds prohibited street gang participation to those enumerated crimes triggering a requirement that the intake officer provide notice to a school superintendent that a petition has been filed alleging a juvenile committed an act that would be a crime if committed by an adult.

*Patron - Colgan*

**D SB617 Serious or Habitual Offender Comprehensive Action Program (SHOCAP).** Provides that a juvenile who has been convicted of one criminal street gang felony qualifies for SHOCAP. Under current law a juvenile must have been convicted of three felonies or misdemeanors to qualify, unless the felonies are murder, attempted murder, armed robbery or malicious wounding. SHOCAP is a program that provides control, supervision and treatment for serious or habitual juvenile offenders.

*Patron - O'Brien*

**D SB630 Pleadings and other papers signed by nonattorneys.** Adds employees, persons licensed under the provisions of § 54.1-2106.1 (real estate brokers and salespersons) managing agents of a landlord, and property managers to the list of nonattorneys who may sign a warrant in debt, motion for judgment, warrant in detinue, distress warrant, summons for unlawful detainer, counterclaim, crossclaim, suggestion for summons in garnishment, garnishment summons, writ of possession, writ of fieri facias, interpleader and civil appeal notice filed in general district court. The employee, property manager, managing agent, or licensed person must be given written authorization to sign such pleadings by those individuals now statutorily authorized to sign such pleadings (a corporate officer (with the approval of the board of directors), a manager of a limited liability company, a general partner of any form of partnership or a trustee of any business trust). Legislation passed in 2003 narrowed the class of signatories of pleadings (by eliminating "bona fide employee[s]") at the same time as it expanded the types of business entities whose authorized representatives could sign such pleadings. Under current law, persons licensed under § 54.1-2106.1 and resident managers can appear in court to recover rent or possession. This bill is identical to HB 976.

*Patron - Quayle*

## Failed

**: HB39 Costs in court not of record.** Provides that the courts may award as costs to a prevailing party, associated either with the trial of the action or with the recovery of judgment, the costs a pro se litigant incurs due to his absence from his employment resulting from his pro se representation. The pro se litigant must document his costs by affidavit and the costs awarded shall not exceed the lesser of 25 percent of actual damages awarded or \$100.

*Patron - Orrock*

**: HB80 Emergency protective orders.** Amends the section on emergency protective orders to make it consistent with § 18.2-57.2, which makes assault and battery of a family or household member a crime. Section 18.2-57.2 requires that an emergency protective order be issued whenever a warrant for family assault is issued. This bill removes language that qualifies that mandate by requiring, in addition to the warrant, a finding that there will be probable danger of further acts of family abuse.

*Patron - Cox*

**: HB125 Juvenile intake; notification to school superintendent.** Adds a criminal act committed for the benefit of, at the direction of, or in association with any criminal street gang pursuant to § 18.2-46.2 to those enumerated crimes triggering a requirement that the intake officer provide notice to a school superintendent that a petition has been filed alleging a juvenile committed an act that would be a crime if committed by an adult. This bill is incorporated into HB 1080.

*Patron - Albo*

: **HB333 Juveniles not in custody; detention.** Provides that where a juvenile has not been taken into custody, the court nevertheless may order detention in a secure facility or in shelter care pending completion of any testing or evaluation that the court requires to complete its final order of disposition. Any such order must comply with at least one of the conditions specified in subdivisions A 1 through A 4 of § 16.1-248.1. Under current law, the court has no authority to order any form of detention for a juvenile who is not first taken into custody. This lack of authority is especially problematic where the court requires testing or evaluation of the juvenile prior to entering a final order of disposition.

*Patron - Pollard*

: **HB507 Violation of provisions of protective orders; penalty.** Provides that the respondent to a protective order who violates the protective order by furtively entering the home of any protected party while the party is present or by entering and remaining in the home of the protected party until the protected party arrives is guilty of a Class 6 felony. The bill also provides that if the respondent to a protective order commits an assault and battery upon any party protected by the protective order resulting in bodily injury to the party, he is guilty of a Class 6 felony. The bill also provides that, upon conviction of a third or subsequent violation of a protective order punishable as a Class 1 misdemeanor offense, the person is guilty of a Class 6 felony. This bill is incorporated into HB 1233.

*Patron - Marrs*

: **HB937 Custody and confinement for juvenile offenses.** Allows juvenile intake officers and magistrates to order confinement of a person 18 years of age or older in a jail rather than a juvenile detention home for an offense that occurred prior to the person obtaining the age of 18. Currently this authority is limited to judges. This bill is incorporated into HB 653.

*Patron - Kilgore*

: **HB946 Juveniles; petitions filed for custody and visitation of any and all children of the parties.** Provides that only one petition need be filed and only one filing fee shall be required for filing a petition for custody and visitation for any and all children of the parties. This bill is incorporated into HB 344.

*Patron - McDougle*

: **HB1276 Number of juvenile and domestic relations district court judges.** Increases the number of juvenile and domestic relations district court judges by one each in the 15th (Fredericksburg, King George, Stafford, Spotsylvania, Caroline, Hanover, Lancaster, Northumberland, Westmoreland, Richmond and Essex) and 27th (Galax, Radford, Pulaski, Wythe, Carroll, Montgomery, Floyd, Giles, Bland and Grayson) Districts.

*Patron - McDonnell*

: **SB96 Appeal bond in support cases.** Provides that part of a support order of a juvenile and domestic relations district court may be appealed without appealing the entire order and that no appeal bond is required if the finding of a support arrearage is not appealed and support is not suspended during the pendency of the appeal.

*Patron - Devolites*

: **SB169 Number of juvenile and domestic relations district court judges.** Increases the number of juvenile and domestic relations district court judges by one each in the 15th (Fredericksburg, King George, Stafford, Spotsylvania, Caroline, Hanover, Lancaster, Northumberland, Westmoreland,

Richmond and Essex) and 27th (Galax, Radford, Pulaski, Wythe, Carroll, Montgomery, Floyd, Giles, Bland and Grayson) Districts.

*Patron - Stolle*

: **SB339 Dispositions for delinquent juveniles.** Allows a juvenile 11 years of age or older to be committed to the Department of Juvenile Justice for a violation of § 18.2-308.7 (possession or transportation of certain firearms by persons under the age of 18), which is a Class 1 misdemeanor, if the juvenile has previously been adjudicated delinquent of a Class 1 misdemeanor and if the liberty of the juvenile constitutes a clear and substantial threat to the life or health of the juvenile or others. Under current law a juvenile cannot be committed for a Class 1 misdemeanor unless he has three previous Class 1 misdemeanors or a previous felony.

*Patron - Edwards*

: **SB486 Child abuse and neglect; definition.** Amends the definition of child abuse and neglect to include any child whose parents or other person responsible for his care knowingly allows him to be present during the unlawful sale, manufacture or attempted manufacture of a Schedule I or II controlled substance, where such unlawful sale, manufacture or attempted manufacture would constitute a felony.

*Patron - Obenshain*

: **SB578 Duty to inform of right to counsel in juvenile court.** Removes probation officers from the series of persons who must inform children and parents of their right to counsel and indigency criteria in certain juvenile court proceedings. Under current law, either the judge, clerk or probation officer must inform a child who is alleged to be delinquent or in need of services or supervision and the child's parent of the child's right to counsel and must inform a parent of the parent's right to counsel for an adjudicatory hearing where a child is alleged to be abused or neglected or for termination of parental rights.

*Patron - Colgan*

## Carried Over

**7 HB42 Retention of records in general district court.** Extends the record retention requirements and streamlines the time limitations on enforcing judgments rendered in general district court by providing that where the judgment is docketed in the circuit court, the district court shall, upon petition by a party prior to the expiration of 10 years from the date of judgment and proof of the circuit court docketing, retain the case records for 20 years and extend the limitation on enforcement from 10 years to 20 years. Under current law, where the general district court grants an extension of the limitations on enforcement of the judgment, the case records are forwarded to the circuit court and the judgment thereafter is treated as a circuit court judgment. Alternatively, under current law, the plaintiff may docket an abstract of the judgment in the circuit court so as to obtain the extended enforcement time frame (the judgment in other respects remains a district court judgment and the records are retained for 10 years). The bill retains the current statutory provision that the judgment creditor may extend the limitation for enforcing the judgment pursuant to § 8.01-251. The bill modifies current law by amending § 16.1-69.55 (Retention of case records), which is referenced in § 16.1-94.1 (Limitations on enforcement of district court judgments).

*Patron - Reese*

**7 HB328 Foster care plans; reasonable efforts.** Broadens bases for eliminating requirement to make "reasonable efforts" to reunite child with parent to include cases where

the parent has been convicted of certain offenses against any child (rather than a "child of the parent" or "a child with whom the parent resided at the time" the offense occurred). Makes the reference to "aggravated circumstances" consistent with the proposed statutory change by defining such circumstances as being certain acts committed against, or allowed to occur against, any child (rather than a "child of the parent" or "a child with whom the parent resided at the time" the offense occurred).

*Patron - Griffith*

**7 HB652 Duty to inform of right to counsel in juvenile court.** Removes probation officers from the series of persons who must inform children and parents of their right to counsel and indigency criteria in certain juvenile court proceedings. Under current law, either the judge, clerk or probation officer must inform a child who is alleged to be delinquent or in need of services or supervision and the child's parent of the child's right to counsel and must inform a parent of the parent's right to counsel for an adjudicatory hearing where a child is alleged to be abused or neglected or for termination of parental rights.

*Patron - Bell*

**7 HB735 General district court; medical records.** Provides that if a personal injury case is removed from general district court to circuit court and the claim is under \$15,000, the parties may use general district court procedures to introduce medical evidence, rather than the circuit court procedures. In general district court a party may introduce evidence on injuries, treatment and examination and costs by a report and affidavit from the health care provider. In circuit court medical evidence is typically introduced by deposition or trial testimony of the health care provider.

*Patron - Joannou*

**7 HB1317 Hearing on preliminary protective orders.** Provides that the hearing following issuance of a preliminary protective order shall be held within five days of the issuance of the preliminary order rather than the current 15 days.

*Patron - Louderback*

**7 SB469 Juvenile petition.** Allows a juvenile to file a petition on his own behalf if he alleges sufficient facts to invoke the jurisdiction of the juvenile and domestic relations district court and if the petition is authorized by an intake officer. The intake officer may proceed informally to resolve the matter or may permit the juvenile to file a petition. If a petition is filed, the court must appoint a guardian ad litem to represent the juvenile.

*Patron - Ticer*

## Courts of Record

### Passed

**D HB70 Senior justices and judges.** Clarifies that a justice of the Supreme Court or judge of the Court of Appeals may retire and later be designated a senior justice or judge. The current language could be read that such designation would have to be achieved prior to retirement.

*Patron - Melvin*

**D HB321 Civil immunity for investigation of commissioners of accounts.** Provides that members of the Judicial Council's Standing Committee on Commissioners of Accounts

who participate in the investigation of a complaint against a commissioner of accounts or a deputy or assistant have civil immunity for acts related to such participation if done in good faith and without malicious intent.

*Patron - Kilgore*

**D HB332 Recordation of instruments; social security numbers.** Provides that where the circuit court clerks have the power to decline to accept any instrument submitted for recordation that includes a grantor's, grantee's or trustee's social security number, the attorney or party who submits the instrument has responsibility for ensuring that the number is removed from the instrument before it is submitted for recordation.

*Patron - Pollard*

**D HB509 Courts of record; disposition of papers.** Allows the clerk of the circuit court to use an electronic format for the archival of records, papers, and documents of cases, as long as the clerk converts them in accordance with state electronic records guidelines.

*Patron - Marrs*

**D HB605 York County Circuit Court.** Changes the name of the York County Circuit Court to the York County-Poquoson Circuit Court.

*Patron - Gear*

**D HB771 Judicial Inquiry and Review Commission; jurisdiction.** Clarifies the jurisdiction of the Commission to include judge designates, retired judges, judges pro tempore, and justices appointed pursuant to § 37.1-88 (special justices who adjudicate mental health commitments).

*Patron - Hurt*

**D HB977 Remote access fee.** Allows clerks the additional option to assess the remote access fee by flat rate. Current law allows either for fees on each inquiry or fees for actual connect time.

*Patron - Reese*

**D HB1148 Sentencing guidelines.** Adds to the definition of violent felony offenses the following violations: solicitation to commit murder (§ 18.2-29), conspiracy to commit acts of terrorism (§ 18.2-46.5), possession, etc., of terrorism or hoax device (§ 18.2-46.6), and bioterrorism (§ 18.2-46.7).

*Patron - McDonnell*

**D HB1172 Additional fees in certain courts; use by the Virginia State Bar.** Increases by \$1 court fees in law and chancery cases in circuit court and in each civil action in general district court. The additional dollar is paid into a special fund (Legal Aid Services Fund) within the Virginia State Bar. The increase will expire on July 1, 2006. The bill becomes effective only if the 2004 Appropriation Act includes an appropriation of general funds for a total of 49 additional positions (to those existing on June 30, 2004) allocated amongst the general district courts, juvenile and domestic relations district courts, and combined district courts.

*Patron - Kilgore*

**D HB1265 Sheriff's fees.** Increases the sheriff's fee for services related to repossessions, sheriff's sales, levies, evictions, and levying an execution from \$12 to \$25. Increases the process and service fee for out-of-state service of process from \$50 to \$75. Increases the sheriff's commission to 10 percent from five percent. This bill is identical to SB 620.

*Patron - Cosgrove*

**D HB1430 Drug treatment courts.** Establishes the Drug Treatment Court Act. Allows the establishment of drug treatment courts as specialized court dockets within the existing structure of Virginia's court system, offering judicial monitoring of intensive treatment and supervision of addicts in drug and drug-related cases. A state drug treatment court advisory committee is established and localities with drug treatment courts are required to establish advisory committees. The Supreme Court of Virginia is given administrative oversight for the implementation of the Act. The bill provides that no drug treatment court may be established subsequent to March 1, 2004, unless there is specific statutory authorization. The bill does not become effective unless its provisions are funded by general funds appropriated in the 2004 Appropriation Act.

*Patron - Kilgore*

**D SB241 Technology Trust Fund Fee.** Increases the fee from \$3 to \$5 and allows the use of the Trust Fund for developing and updating land records automation plans for individual clerks' offices; modernizing land records in individual clerks' offices and providing secure remote access to land records statewide; obtaining and updating office automation and information technology equipment; preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, service contracts and system upgrades; and improving public access to court records. The bill allows the clerk to use the Trust Fund for technology improvements in the law and chancery and criminal divisions after implementation of automation of land records with statewide secure remote access. The bill repeals the sunset provision of July 1, 2008, and declares that the intent of the General Assembly is that secure remote access be provided by all clerks by July 1, 2006.

*Patron - Norment*

**D SB328 Judges; notice of retirement.** Provides that notice of retirement is irrevocable once the vacancy has been certified by the Committee on District Courts in cases of judges of courts not of record or by the Supreme Court in cases of judges of courts of record.

*Patron - Stolle*

**D SB336 Judicial Inquiry and Review Commission; confidentiality.** Eliminates confidentiality with respect to any evidence of alleged misconduct concerning a judge who is up for election or reelection when such evidence is transmitted to the House and Senate Committees for Courts of Justice or to any member of the General Assembly.

*Patron - Stolle*

**D SB587 Circuit court clerks; filing of documents.** Allows an instrument conveying not more than four residential dwelling units to contain the name of the title insurance underwriter and the policy number or a statement that there is no title insurance or that the policy number is not available or is unknown. The bill also requires the appropriate agency (Virginia State Bar; the Real Estate Board, etc.) to notify registrants of this new provision.

*Patron - Deeds*

**D SB619 Sheriffs' fees.** Requires that only sheriffs or deputies serve show cause orders, and increases the fee (from 60 cents to \$1) for taking a bond.

*Patron - Blevins*

**D SB620 Sheriff's fees.** Increases the sheriff's fee for services related to repossessions, sheriff's sales, levies, evictions, and levying an execution from \$12 to \$25. Increases the process and service fee for out-of-state service of process from

\$50 to \$75. Increases the sheriff's commission to 10 percent from five percent. This bill is identical to HB 1265.

*Patron - Blevins*

## Failed

: **HB229 Recordation of power of attorney; social security numbers.** Provides that the circuit court clerks must accept powers of attorney containing social security numbers for recordation if the person offering the power of attorney authorizes the clerk to cover or conceal temporarily the social security number while the power of attorney is being recorded. This approach accommodates both concerns regarding identity theft and situations where a principal cannot execute a new power of attorney, and an existing power of attorney, containing a social security number, must be recorded. This bill is incorporated into HB 332.

*Patron - Kilgore*

: **HB343 Legal aid societies.** Provides that the interest earned on attorneys' or law firms' interest-bearing accounts established and maintained under circumstances that do not conflict with § 54.1-3915.1 and paid by financial institutions periodically to the Legal Services Corporation of Virginia shall be distributed annually to legal aid societies licensed by the Virginia State Bar to carry out the objective of providing legal assistance to persons requiring such assistance but unable to pay for it. The bill also provides that no licensed legal aid society in good standing with the Virginia State Bar shall be denied funding from the Legal Aid Services Fund.

*Patron - Kilgore*

: **HB613 Fees collected by circuit court clerks.** Allows the circuit court clerk to keep in a special account to be used for necessary office expenses the fees (50 cents for each page) collected for making a copy of any paper or record to go out of the office, which is not otherwise specifically provided for under the fee schedule.

*Patron - Carrico*

: **HB651 Retired judges and judges sitting by designation.** Requires the General Assembly to approve for a term of six years, by the majority vote of each house, each justice and judge eligible to sit during retirement as a substitute or as a judge designate. This bill incorporates HB 770.

*Patron - Bell*

: **HB770 Retired judges and judges sitting by designation.** Requires the Chief Justice to report to the General Assembly, no later than February 1 of each year, a list of all judges eligible to sit in designation and a list of all judges eligible for recall as substitutes. The General Assembly then must approve, by the majority vote of each house, such list or part thereof. This bill is incorporated into HB 651.

*Patron - Hurt*

: **HB1277 Number of circuit court judges.** Adds one circuit court judge to each of the following circuits: First (Chesapeake); Fourteenth (Henrico); Fifteenth (Fredericksburg, Caroline, Essex, Hanover, King George, Lancaster, Northumberland, Richmond, Spotsylvania, Stafford, Westmoreland); Twenty-second (Danville, Franklin, Pittsylvania); and Twenty-ninth (Buchanan, Dickenson, Russell, Tazewell). This is a recommendation of the Judicial Council.

*Patron - McDonnell*

: **HB1377 Roanoke Law Library; additional fees.** Authorizes imposition of an assessment of \$6, rather than \$4, by the City of Roanoke, as part of the costs incident to each

civil action filed in the courts located within its boundaries. The increased revenues shall be used to support operation of the Roanoke Law Library for additional days of the week.

*Patron - Fralin*

: **SB168** **Number of circuit court judges.** Adds one circuit court judge to each of the following circuits: First (Chesapeake); Fourteenth (Henrico); Fifteenth (Fredericksburg, Caroline, Essex, Hanover, King George, Lancaster, Northumberland, Richmond, Spotsylvania, Stafford, Westmoreland); Twenty-second (Danville, Franklin, Pittsylvania); and Twenty-ninth (Buchanan, Dickenson, Russell, Tazewell). This is a recommendation of the Judicial Council.

*Patron - Stolle*

## Carried Over

**7 HB510** **Deputy court clerks.** Requires the Compensation Board, for each new circuit court judgeship approved, to fund additional deputy court clerk positions in accordance with Compensation Board staffing standards. The bill has a delayed effective date of July 1, 2006.

*Patron - Marrs*

**7 HB1389** **Technology Trust Fund Fee.** Authorizes the Virginia Information Technologies Agency to impose a civil penalty of up to \$1,000 upon any circuit court clerk who provides remote access to land records through any means without a written certification of compatibility. The clerk shall be personally liable for any civil penalty imposed. The bill also prohibits any funds from being released from the Technology Trust Fund by the Compensation Board to any circuit court clerk or credited to any locality until the Board receives the written certification of compatibility. Any person whose property or person is injured by the release of any personal identifying information by any circuit court clerk who fails to receive the written certification of compatibility and who releases through a website established under the auspices of the clerk's office, a locality or a private provider may sue and recover for any damages sustained and the costs of suit. A claim of governmental immunity shall not be a defense to a suit under this section.

*Patron - Nixon*

**7 SB610** **Supreme Court.** Allows the Chief Justice to designate senior, retired, or active judges of the Court of Appeals to serve on panels of the Supreme Court that consider petitions for appeal.

*Patron - Stolle*

**7 SB636** **Drug treatment courts.** Establishes drug treatment courts as specialized court dockets within the existing structure of Virginia's court system, offering judicial monitoring of intensive treatment and strict supervision of addicts in drug and drug-related cases.

*Patron - Lucas*

## Crimes and Offenses Generally

### Passed

**D HB1** **Feticide.** Provides that any person who unlawfully, willfully, deliberately, maliciously and with premeditation kills the fetus of another is guilty of a Class 2 felony. The bill also provides that any person who unlawfully, willfully, deliberately and maliciously kills the fetus of another is guilty

of a felony punishable by confinement in a state correctional facility for not less than five nor more than 40 years. This bill is identical to SB 319.

*Patron - Cosgrove*

**D HB43** **Restricted permit to operate a motor vehicle.** Authorizes a court to issue a restricted permit to operate a motor vehicle to a person in order for that person to travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation.

*Patron - Reese*

**D HB67** **Definition of a law-enforcement officer.** Corrects a subsection reference that was overlooked in the recodification of Title 9 into Title 9.1 in 2003.

*Patron - Sherwood*

**D HB79** **Possession or transportation of firearms by certain persons.** Provides that a person who is not a citizen and is not lawfully present in the United States shall be subject to punishment as a Class 6 felon for possession of any firearm. Currently, the law prohibits the possession of an assault weapon by any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence.

*Patron - Wright*

**D HB119** **Venue of mob crimes.** Provides that venue for all actions and prosecutions of any mob crime shall be in the county or city wherein such crime occurred, or of the county or city from which the victim may have been taken. Currently, such venue lies only in the circuit court of such city or county.

*Patron - Albo*

**D HB127** **DUI; previous offender and breath test refusal.** Punishes refusal to submit to a blood alcohol test as a Class 2 misdemeanor if the offender has a prior offense of DUI or refusal within 10 years, and as a Class 1 misdemeanor if the offender has two prior such offenses. Both offenses also carry a three-year license suspension.

*Patron - Albo*

**D HB152** **Department of Charitable Gaming; permits.** Prohibits the Department of Charitable gaming from denying, suspending, or revoking the permit of any organization solely because of its failure to meet the required minimum percentage of its gross receipts required to be used for charitable purposes, as prescribed by regulations adopted pursuant to subdivision 1 of § 18.2-340.19, provided that (i) the organization is otherwise in compliance with the laws and regulations governing charitable gaming in the Commonwealth; (ii) there are no pending criminal charges or prior convictions against an officer of the organization or game manager involving a felony related to fraud, theft, or financial crimes, or involving a misdemeanor related to moral turpitude; and (iii) the Department determines that an organization has used sufficient proceeds for the lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized. The bill also provides that this "waiver" shall expire on December 31, 2005, or when replacement regulations adopted pursuant to subdivision 1 of § 18.2-340.19 by the Charitable Gaming Board, become effective, whichever occurs first.

*Patron - Albo*

**D HB167 Crimes; carrying concealed weapon.** Adds machete to the list of those weapons that are illegal to carry on the person hidden, from observation.

*Patron - Albo*

**D HB184 Malicious bodily injury; caustic substance.** Provides that maliciously and intentionally causing bodily injury to another by means of an infectious biological substance or radiological agent is a felony punishable by confinement in a state correctional facility for five to 30 years

*Patron - Oder*

**D HB215 Concealed weapons permit.** Provides that an out-of-state concealed weapons permit authorizes the holder of the permit to carry a handgun in the Commonwealth if the permit holder is at least 21 years of age. The bill allows recognition of the other state's permit even if the other state has a lower age requirement and permits weapons other than handguns. Virginia's age requirement (21 years) would apply and the only weapon authorized while the permit holder is in Virginia is a handgun. The bill allows the Superintendent of State Police, in consultation with the Attorney General, to enter into reciprocity agreements with any state qualifying for recognition under these requirements. In addition, the bill establishes a procedure for nonresidents of the Commonwealth who are at least 21 years old to apply to the Virginia Department of State Police for a five-year permit to carry a concealed handgun, which includes proof of demonstrated competence with a handgun. The bill also requires residents of the Commonwealth to submit proof of demonstrated competence when applying for a concealed handgun permit. Previously, it was left to the court's discretion as to whether or not to require proof of competency. This bill incorporates HB 641.

*Patron - Athey*

**D HB217 Mandatory minimum fine for a first offense DUI.** Provides that there is a mandatory minimum fine of \$250 for all first offense DUIs, not just for those offenders with an elevated blood alcohol content.

*Patron - Athey*

**D HB238 Concealed weapons permit.** Provides that an out-of-state concealed weapons permit authorizes the holder of the permit to carry a handgun in the Commonwealth if the permit holder is at least 21 years of age. The bill allows recognition of the other state's permit even if the other state has a lower age requirement and permits weapons other than handguns. Virginia's age requirement (21 years) would apply and the only weapon authorized while the permit holder is in Virginia is a handgun.

*Patron - Nutter*

**D HB286 Crimes; possession of weapon on school property.** Allows an off-duty law-enforcement officer to carry his handgun on school grounds. Currently, only a law-enforcement officer while engaged in his official duties may carry his weapon onto school grounds.

*Patron - Cosgrove*

**D HB324 Escape from a drug treatment facility.** Provides that a charge of escape from a drug treatment facility may be prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to commitment.

*Patron - Griffith*

**D HB375 Requirements for firearm sales.** Provides that for the purpose of firearm purchase, the permanent duty post of a member of the armed services is considered his resi-

dence. Where a purchaser presents a copy of his permanent orders assigning him to a duty post in Virginia along with photo-identification issued by the Department of Defense, no other documentation or residency shall be required by the seller. The bill also allows any type of communication authorized by the State Police, and not just a telephone call, to ascertain a prospective purchaser's criminal record. The bill removes the requirement that firearm safety information be posted and handed out where firearms are sold.

*Patron - Lingamfelter*

**D HB382 Concealed handgun permit applications; social security numbers.** Allows a clerk of court to withhold from public disclosure the social security number in a concealed handgun permit application in response to a request to inspect or copy such permit application. However, the social security number shall not be withheld from a law-enforcement officer acting in the performance of his official duties.

*Patron - Lingamfelter*

**D HB402 Concealed handgun permit; issuance of permit.** Provides that a copy of a concealed handgun permit application will become a de facto permit if the court does not grant or deny the permit within 45 days of receipt of the completed application. The bill requires the clerk of the court to record the date that the completed application is received, and certify on the application if no action is taken by the court within the required 45-day time period. The clerk must send a copy of the certified application to the applicant, and the copy will serve as a de facto permit until the court grants a five-year concealed handgun permit or finds the applicant to be disqualified. If the five-year permit is denied, the applicant must surrender the de facto permit to the court. The clerk must also forward a copy of the certified application to the State Police and local law-enforcement agencies, so that the permit's existence and status will be known to law-enforcement agencies.

*Patron - Janis*

**D HB404 One gun a month.** Allows the holder of a valid Virginia concealed-carry permit to purchase more than one handgun a month. The bill also allows a person to purchase more than one handgun a month if purchased through a private sale. Private sale is defined as a sale by a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection of curios or relics, or who sells all or part of his personal collection of curios or relics. The bill incorporates HB 186.

*Patron - Janis*

**D HB414 Possession or transportation of explosives by convicted felons; penalties.** Provides that it is a Class 6 felony for a convicted felon to possess or transport explosive material, e.g., dynamite, black powder, pellet powder, smokeless gun powder, detonators, blasting caps and detonating cord, etc.

*Patron - Lewis*

**D HB437 Charitable gaming; prohibited practices; exceptions.** Provides that the statutory limits for the award of any bingo prize money shall not apply to any bingo game, commonly referred to as "Lucky Seven games" described in the bill, and sets prize limits for these games.

*Patron - Suit*

**D HB444 Concealed handgun application.** States that there is no requirement as to the length of time an applicant for a concealed handgun permit must have been a resident or domiciliary of the county or city where he applies.

*Patron - Suit*



**D HB569 Recruitment of juveniles for criminal street gang; penalty.** Includes within the definition of "criminal street gang" the current definition of "pattern of criminal gang activity." The bill creates a Class 1 misdemeanor for a person of any age to recruit a person into a criminal street gang. Current law punishes an adult recruiting a minor as a Class 6 felony. The bill creates a Class 6 felony for forcing a person to become a gang member through the use or threat of force against that person or another person. The bill makes a third or subsequent conviction within 10 years of prohibited criminal street gang participation and recruitment a Class 3 felony (five to 20 years). The bill allows for the forfeiture of any property, real or personal, used in connection with street gang activity. The bill also amends the obstruction of justice statute to include gang-related crimes. The bill adds gang activity to the list of crimes that a multijurisdictional grand jury can investigate. This bill is identical to SB 321.

*Patron - Albo*

**D HB632 Assisting individuals in unlawfully procuring prescription drugs; penalty.** Provides that any person who, for compensation, knowingly assists another in unlawfully procuring prescription drugs from a pharmacy or other source he knows is not licensed, registered or permitted by the licensing authority of the Commonwealth, any other state or territory of the United States, or the United States, is guilty of a Class 1 misdemeanor and, upon a second or subsequent conviction, a Class 6 felony.

*Patron - O'Bannon*

**D HB640 Malicious injury; law-enforcement officers.** Adds game wardens to the definition of law-enforcement officer so that the enhanced penalty will apply if they are the victims of malicious or unlawful wounding. Malicious wounding is a Class 3 felony (five-20 years) and malicious wounding of a law-enforcement officer is five-30 years with a mandatory minimum term of imprisonment of two years. In the case of unlawful wounding the penalty is a Class 6 felony (one-five years) with a mandatory minimum term of imprisonment of one year if the victim is a law-enforcement officer.

*Patron - Abbitt*

**D HB645 Buildings that can be burglarized.** Revises the statutory definition of burglary by replacing the list of buildings that can be burglarized with the term "any building permanently affixed to realty."

*Patron - Bell*

**D HB654 Persons authorized to take blood samples.** Provides that registered nurses, licensed practical nurses and phlebotomists are authorized to take blood samples in DUI cases and for DNA samples.

*Patron - Bell*

**D HB656 Assault and battery against a family or household member; penalty.** Revises the time period from 10 to 20 years in which three convictions for assault and battery against a family or household member must occur in order that the third one be a felony.

*Patron - Bell*

**D HB660 Aggravated sexual battery.** Provides that aggravated sexual battery committed through the use of the complaining witness's mental incapacity is, in and of itself, without any additional factors considered, a felony offense. Under current law, one of the following additional factors would be necessary: (i) the complaining witness is at least 13 but less than 15 years of age, (ii) the accused causes serious

bodily or mental injury to the complaining witness, or (iii) the accused uses or threatens to use a dangerous weapon.

*Patron - Bell*

**D HB663 Unlawful filming, videotaping or photographing of child; penalty.** Provides that videotaping, photographing or filming a nude or undergarment-clad nonconsenting person under the age of 18, under circumstances where the person would have a reasonable expectation of privacy, is punishable as a Class 6 felony. Currently, the offense is a Class 1 misdemeanor without regard to the age of the non-consenting person.

*Patron - Bell*

**D HB664 Arrest for drunk driving.** Allows a law-enforcement officer to arrest without a warrant a person who was involved in a motor vehicle accident within three hours of the occurrence of the accident at any location if the officer has probable cause to suspect that the person was driving or operating the motor vehicle while intoxicated. Under current law, the arrest must take place at the scene of the accident or at a hospital or medical facility to which the person has been transported.

*Patron - Bell*

**D HB667 Penalties for driving while intoxicated.** Reduces the blood alcohol content from 0.20 to 0.15 for purposes of mandatory confinement of five days, (10 days for second offense in 10 years), and reduces the blood alcohol content from 0.25 to 0.20 for purposes of mandatory confinement of 10 days, (20 days for second offense in 10 years).

*Patron - Bell*

**D HB718 Definition of sexual abuse.** Adds to the definition of sexual abuse used in criminal cases: "the complaining witness is under the age of 13, the accused causes or assists the complaining witness to touch the accused's, the witness's own, or another person's intimate parts or material directly covering such intimate parts."

*Patron - Shannon*

**D HB734 Penalizing employee for service on jury panel.** Provides that a person who is summoned to serve on jury duty is not required to work on the day of his jury service.

*Patron - Joannou*

**D HB760 Criminal street gang crimes.** Makes a third or subsequent conviction of sections prohibiting criminal street gang participation and recruitment within 10 years a Class 3 felony (five to 20 years in prison).

*Patron - Hurt*

**D HB786 Procedure for taking blood samples.** Adds pvp iodine and povidone iodine as substances that may be used to cleanse the part of the body from which a sample of blood is taken for testing for DUI.

*Patron - McDougle*

**D HB801 Hazing.** Extends criminal liability to those who haze gang members. Currently, the law is limited to student victims.

*Patron - Petersen*

**D HB863 Third offense assault and battery against a family or household member.** Provides that upon a conviction for assault and battery against a family or household member, when the person has been previously convicted of two offenses of (i) assault and battery against a family or household member in violation of § 18.2-57.2, (ii) malicious wounding in violation of § 18.2-51, (iii) aggravated malicious wounding in violation of § 18.2-51.2, (iv) malicious bodily injury by means

of a substance in violation of § 18.2-52, or (v) an offense under the law of any other jurisdiction which has the same elements as any of the above offenses, in any combination, all of which occurred within a period of 10 years, and each of which occurred on a different date, the person is guilty of a Class 6 felony. Currently, the Class 6 felony applies only if the prior convictions were for assault and battery against a family or household member.

*Patron - Byron*

**D HB871 Infected sexual battery; penalty.** Provides that any person who, knowing he is infected with HIV, syphilis or hepatitis B has sexual intercourse, cunnilingus, fellatio, anilingus or anal intercourse with another person without having previously disclosed the existence of his infection to the other person is guilty of a Class 1 misdemeanor. The current law provision that it is a Class 6 felony to engage in such activity with the intent to transmit the infection to another person remains unchanged.

*Patron - Byron*

**D HB872 Identity theft; fictitious name; identity theft passport; Attorney General to conduct criminal prosecutions; day care records; penalties.** Authorizes the Attorney General, with the concurrence of the attorney for the Commonwealth, to assist in the prosecution of the crimes of identity theft (§ 18.2-186.3) and the use of a person's identity with the intent to intimidate, coerce, or harass (§ 18.2-186.4). The bill allows for a conviction under the identity theft statutes when the defendant uses a false or fictitious name. The bill requires the Division of Motor Vehicles, upon notification from the Attorney General that an Identity Theft Passport has been issued to a driver, to note the same on the driver's abstract. The bill directs child day programs that reproduce or retain documents of a child's proof of identity that are required upon the child's enrollment into the program to destroy them upon the conclusion of the requisite period of retention. The procedures for the disposal, physical destruction or other disposition of the proof of identity containing social security numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or indecipherable by any means.

*Patron - Byron*

**D HB1055 Repeal of various statutes.** Repeals, by recommendation of the Title 18.2 Study Subcommittee of the Virginia State Crime Commission, 12 statutes in Title 18.2 that have been little used and whose offenses are covered by other statutes. In determining whether to recommend a statute for repeal, the subcommittee looked at various factors, including the date enacted, the number of convictions under the statute, whether the statute was the subject of any appellate court cases and whether the elements of the offenses were covered by other statutes. The statutes repealed include conversion of certain military property, sale of goods of another and failure to pay over proceeds, dogs not permitted in Capitol Square, trespassers forbidden to jump on or off railroad cars or trains, false statements by purchaser of real property as to use for personal residence, false statement or willful overvaluation of property for purposes of influencing lending institution, unlawful use of words "Official Tourist Information," commitment of persons convicted of certain offenses, detaining male or female in bawdy place against his or her will and conspiring to cause spouse to commit adultery.

*Patron - Albo*

**D HB1059 Mandatory minimum punishment.** Sets out a definition of mandatory minimum punishment to mean that the court shall impose the entire term of confine-

ment, the full amount of the fine and the complete requirement of community service. Currently the term is used inconsistently throughout the Code. This is a recommendation of the Title 18.2 Study Subcommittee of the Crime Commission.

*Patron - McDonnell*

**D HB1060 Selected provisions of Title 18.2.** Moves certain statutes out of Title 18.2 and into other titles of the Code. Bad check and civil liability provisions are moved to Title 8.01, authorizations for local ordinances are moved to Title 15.2 and nuisance provisions are moved to Title 48. This bill is a recommendation of the Title 18.2 Study Subcommittee of the Virginia State Crime Commission.

*Patron - McDonnell*

**D HB1093 Abuse and neglect of incapacitated adult.** Raises from a Class 6 felony to a Class 4 felony the penalty for abusing or neglecting an incapacitated adult where the abuse or neglect results in serious bodily injury or disease.

*Patron - Moran*

**D HB1107 Penalty for driving while intoxicated; subsequent offense.** Increases from 30 days to six months the minimum mandatory sentence for a third offense DUI committed within five years.

*Patron - Moran*

**D HB1123 Racketeer Influenced and Corrupt Organization (RICO) Act.** Creates a RICO act for Virginia under which various violations of the criminal law become racketeering. The Attorney General is authorized to conduct criminal prosecutions of RICO with the concurrence of the local attorney for the Commonwealth. Racketeering activity is defined as committing, attempting or conspiring to commit, or soliciting, coercing or intimidating another person to commit two or more offenses involving: gang crimes, terrorism, obstruction of justice, waste management, murder, voluntary manslaughter, kidnapping, certain woundings, robbery, arson, burglary, grand larceny, embezzlement, forgery, obtaining money by false pretenses, false statements to obtain property or credit, credit card offenses, money laundering, drug offenses, certain firearm offenses, illegal gambling, prostitution, abuse and neglect of incapacitated adults, producing child pornography, unlawful paramilitary activity, perjury, bribery, government fraud, Medicaid applications or possession of unstamped cigarettes. Using or investing an aggregate of \$10,000 or more of racketeering proceeds to acquire real property or to establish a criminal enterprise is a felony punishable by five-40 years of confinement and a fine of not more than \$1 million for a first offense and a Class 2 felony and a fine of not more than \$2 million for a second or subsequent offense. Money transmission of proceeds from a racketeering activity is a Class 6 felony. The sale, purchase, transport, receipt or possession of 3,000 or more packages of unstamped cigarettes for the purposes of evading taxes is a Class 6 felony. Subpoena duces tecum provisions are amended to include money transmitters and commercial businesses providing credit histories and reports. The bill contains venue and forfeiture provisions. This bill is identical to SB 320.

*Patron - McDonnell*

**D HB1125 Computer crimes committed by adults.** Clarifies language to ensure that 18-year-olds are covered by the statute criminalizing use of a communications system to solicit sexual activity with children.

*Patron - McDonnell*

**D HB1129 Audiovisual recording of motion pictures unlawful; penalty.** Prohibits recording of a motion picture while it is being shown at a movie theater and punishes

such behavior as a Class 1 misdemeanor. A movie theater owner or lessee or his agent or employee who has probable cause to believe that a person has made such a recording may detain such person for a period not to exceed one hour pending arrival of a law-enforcement officer and shall not be civilly liable for such a detention.

*Patron - McDonnell*

**D HB1130 Forfeiture of vehicle for third DUI offense.** Provides that the Commonwealth may seize and order forfeited the motor vehicle solely owned by a person convicted of a felony DUI. Seizure does not occur until conviction and the exhaustion of all appeals. An immediate family member of the owner of the motor vehicle who was not the driver at the time of the violation may petition the court for the release of the motor vehicle. If he proves by a preponderance of the evidence that his immediate family has only one motor vehicle and will suffer a substantial hardship if that vehicle is seized and forfeited, the court may release the vehicle. In the event the vehicle is sold to a bona fide purchaser subsequent to the arrest but prior to seizure in order to avoid seizure and forfeiture, the Commonwealth will have a right of action against the seller for the proceeds of the sale.

*Patron - McDonnell*

**D HB1138 Mandatory ignition interlock.** Provides that, in addition to any penalty provided by law for a DUI conviction, the court shall, for any offense where an offender's blood alcohol content equals or exceeds 0.15 percent, as a condition of a restricted license or as a condition of license restoration, require an ignition interlock.

*Patron - McDonnell*

**D HB1143 Multiple DUI offenders; Trauma Center Fund.** Establishes in the state treasury a special nonreverting fund to be known as the Trauma Center Fund. The Fund shall consist of any moneys paid into it by those who are convicted of two or more DUI-related offenses within 10 years and any moneys appropriated by the General Assembly. Any person so convicted must pay \$25 to the Trauma Center Fund for the purpose of defraying the costs of providing emergency medical care to victims of automobile accidents attributable to alcohol or drug use. The Department of Rehabilitative Services is to award and administer grants from the Fund to appropriate trauma centers based on written criteria that it develops.

*Patron - McDonnell*

**D HB1144 Purchase of firearms.** Provides that the law governing purchase of firearms in Virginia by Virginians shall not apply to restrict purchase, trade or transfer of firearms by a resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another state and that when a resident of Virginia makes a purchase, trade or transfer of firearms in another state, the laws and regulations of that state and of the United States governing the purchase, trade or transfer of firearms shall apply. The bill specifies that a National Criminal Background Check System check must be performed prior to the purchase, trade or transfer.

*Patron - McDonnell*

**D HB1147 Penalty for driving while intoxicated; subsequent offense.** Creates a mandatory minimum term of 20 days for a second offense within five years, formerly five days; for a second offense within five to 10 years, 10 days in jail, formerly no mandatory minimum; for a third offense within 10 years, 90 days, formerly 10 days; and for a third offense within five years, 180 days, formerly 30 days.

*Patron - McDonnell*

**D HB1149 Predicate crimes by criminal street gangs; penalty.** Expands the list of predicate criminal acts that define a pattern of criminal activity and a criminal street gang to include certain drug sale, distribution, transportation, possession and manufacturing crimes and recruitment of a juvenile into a street gang.

*Patron - McDonnell*

**D HB1205 Concealed handgun permits.** Exempts retired officers of the law-enforcement division of the Virginia Marine Resources Commission from concealed weapons requirements. The bill also exempts certain retired law-enforcement officers who have reached the age of 55, other than officers terminated for cause, from the requirements. The bill provides that an order denying the issuance of a concealed handgun permit must state the basis for the denial and advise the applicant as to his right to and requirements for perfecting an appeal of the order. A law-enforcement officer with the U.S. Marshals Service would not have to pay a fee for a concealed handgun permit. For purposes of reciprocity, the official government-issued law-enforcement identification card issued to an active-duty law-enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun permit shall serve as the officer's concealed handgun permit. Finally, the bill sets forth a definition of a "law-enforcement officer" to be used throughout § 18.2-308 that includes individuals defined as a law-enforcement officer in § 9.1-101, including full-time law-enforcement officers employed by a law-enforcement agency of the United States or a political subdivision who perform similar duties to those set forth in § 9.1-101; campus police officers; law-enforcement agents of the United States Armed Forces; and federal agents authorized to carry weapons.

*Patron - Cline*

**D HB1233 Domestic violence; sexual assault.** Requires the Department of Criminal Justice Services to establish training standards and a model policy for protocols for local and regional sexual assault response teams. Provides that temporary child support may be one of the conditions imposed on a respondent in a family abuse protective order. The bill requires the state police and local law-enforcement agencies to have policies that provide guidance to officers on domestic violence incidents involving law-enforcement officers and repeat offenders. The Department of Social Services is required to establish minimum training requirements on family abuse and domestic violence for child protective services workers and supervisors. The Office of the Executive Secretary of the Supreme Court is required to determine appropriate standards for the approval of education and treatment programs for persons accused of assault and battery against a family or household member and arrange for such programs to be approved by an appropriate entity. The bill also provides that a respondent to a protective order who commits an assault and battery resulting in serious bodily injury to a person protected by the protective order is guilty of a Class 6 felony. A respondent who violates the protective order by furtively entering the home of any protected party while the party is present or entering and remaining in the home of the protected party until the protected party arrives is guilty of a Class 6 felony. This bill is identical to SB 236.

*Patron - Griffith*

**D HB1293 Venue for criminal sexual assault prosecutions.** Provides that venue for trial of any person transporting or attempting to transport through or across this Commonwealth, any person for the purposes of committing or attempting to commit criminal sexual assault is in any county or city in which any part of such transportation occurred. The bill also provides that when the county or city where the

offense is alleged to have occurred cannot be determined, the trial of any person charged with committing or attempting to commit criminal sexual assault against a person under 18 years of age may be in the county or city in which the crime is alleged to have occurred or in the county or city where the person under 18 years of age (the victim) resided at the time of the offense.

*Patron - Bell*

**D HB1303 Pneumatic guns.** Allows a locality to regulate or restrict the use of pneumatic guns by ordinance, including requiring that minors under the age of 16 have adult supervision when using pneumatic guns. No such ordinance shall prohibit the use of pneumatic guns at shooting ranges or other property where firearms may be discharged. Commercial or private areas may be established for the use of pneumatic paintball guns, but such areas must provide protective equipment for the face and ears of participants, and signs must be posted warning against entry into the area by unprotected persons. The bill defines a "pneumatic gun" as an implement, designed as a gun, that expels a BB or pellet by action of pneumatic pressure. The bill clarifies definitions of other types of firearms to distinguish between firearms and pneumatic guns. The bill states that if a school operates a Junior Reserve Officers Training Corps (JROTC) program, the school cannot prohibit the JROTC from conducting marksmanship training when such training is a normal element of the program, and that the school administration shall cooperate with the JROTC staff in implementing such training.

*Patron - Lingamfelter*

**D HB1307 Persons charged with first offense of assault and battery against a family or household member.** Allows a court to order participation in a local community-based probation program established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if such program is available, when a person charged with first offense of assault and battery against a family or household member is placed on probation under deferred proceedings.

*Patron - Hurt*

**D HJ196 Implementation plan for criminal code revisions.** Requests the Virginia State Crime Commission, in conjunction with the Virginia Sentencing Commission and the Office of the Executive Secretary of the Supreme Court, to develop an implementation plan for the revisions to Title 18.2 (Crimes and Offenses Generally) proposed by the 2004 General Assembly because of the widespread significance and volume of changes to Title 18.2 and the number of persons and entities who will be effected by the revisions.

*Patron - McDonnell*

**D SB99 Concealed handgun permit.** Modifies provision that exempts a retired law-enforcement officer from having to have a permit to carry a concealed handgun to provide that a retired officer who has reached 55 years of age qualifies for this provision. Under current law a retired law-enforcement officer qualifies only if he has 15 years of service or retired with a service-related disability. The bill also waives the concealed handgun permit fee (maximum \$50) for law-enforcement officers retired from the U.S. Marshals Service.

*Patron - Devolites*

**D SB202 Refusal of DUI breath or blood tests; procedures.** Removes the requirement that the magistrate reaffirm to a DUI arrestee his liability for refusal to submit to a preliminary blood or breath test after the arresting officer has already informed the arrestee. The bill also requires that the arresting officer shall inform the DUI arrestee from a form provided by the Office of the Executive Secretary of the Supreme

Court and that the arresting officer shall acknowledge on such form that he has read the form to the arrestee.

*Patron - Reynolds*

**D SB236 Domestic violence; sexual assault.** Requires the Department of Criminal Justice Services to establish training standards and a model policy for law-enforcement personnel in handling sexual assault and stalking cases and to establish training standards and model policy and protocols for local and regional sexual assault response teams. Provides that temporary child support may be one of the conditions imposed on a respondent in a family abuse protective order. The bill requires the state police and local law-enforcement agencies to have policies that provide guidance to officers on domestic violence incidents involving law-enforcement officers and repeat offenders. The Department of Social Services is required to establish minimum training requirements on family abuse and domestic violence for child protective services workers and supervisors. The Office of the Executive Secretary of the Supreme Court is required to determine appropriate standards for the approval of education and treatment programs for persons accused of assault and battery against a family or household member and arrange for such programs to be approved by an appropriate entity. The bill provides that a respondent to a protective order who commits an assault and battery resulting in serious bodily injury to a person protected by the protective order is guilty of a Class 6 felony. The bill also provides that if a respondent to a protective order seriously injures a protected party, or furtively enters and remains in the home of a protected party, he is guilty of a Class 6 felony. This bill is identical to HB 1233.

*Patron - Norment*

**D SB276 Reporting of assault and battery of a spouse or partner by military personnel.** Requires a court to report a finding of guilt of assault and battery of a household member by an active duty member of the United States Armed Forces to family advocacy representatives of the United States Armed Forces.

*Patron - Wampler*

**D SB319 Killing a fetus.** Provides that any person who maliciously, willfully, deliberately, and unlawfully kills the fetus of another is guilty of a felony punishable by five to 40 years in prison and that if the act is done with premeditation it is punishable as a Class 2 felony. This bill is identical to HB 1.

*Patron - Stolle*

**D SB320 Racketeer Influenced and Corrupt Organization (RICO) Act.** Creates a RICO act for Virginia under which various violations of the alcoholic beverage, banking, and criminal law become racketeering if conducted by persons in concert for the purpose of racketeering. Racketeering is punished as a felony with confinement of 5-40 years and a fine of not more than \$1 million. A second or subsequent offense is a Class 2 felony and a fine of not more than \$2 million. The bill punishes engaging in illegal money transmission as a Class 6 felony. The Attorney General is authorized to prosecute violations of the Act. The bill provides that if a person possesses fewer than 3,000 packages of untaxed cigarettes, he is guilty of a Class 2 misdemeanor. The bill fixes the number to 3,000 or more packages of unstamped cigarette packages a person, other than a licensed dealer, must have in his possession to be presumed to be evading the payment of taxes and raises the penalty from a Class 2 misdemeanor to a Class 6 felony. This bill is identical to HB 1123.

*Patron - Stolle*

**D SB321 Crimes by gangs; definitions; recruitment; three strikes; forfeiture; obstruction of justice; penalties.** Includes within the definition of "criminal street gang" the current definition of "pattern of criminal gang activity." The bill creates a Class 1 misdemeanor for a person of any age to recruit a person into a criminal street gang. Current law punishes an adult recruiting a minor as a Class 6 felony. The bill creates a Class 6 felony for forcing a person to become a gang member through the use or threat of force against that person or another person. The bill makes a third or subsequent conviction within 10 years of prohibited criminal street gang participation and recruitment a Class 3 felony (five to 20 years). The bill allows for the forfeiture of any property, real or personal, used in connection with street gang activity. The bill also amends the obstruction of justice statute to include gang-related crimes. The bill adds gang activity to the list of crimes that a multijurisdictional grand jury can investigate. This bill is identical to HB 569.

*Patron - Stolle*

**D SB325 Counterfeit drugs; the Drug Control Act; penalty.** Renders it unlawful in the same manner and degree as for imitation controlled substances to knowingly manufacture, sell, possess, distribute, dispense or facilitate the distribution or dispensing of any drug known to be counterfeit. "Counterfeit drug" is defined as "a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug."

*Patron - Stolle*

**D SB326 Concealed weapons; concealed handgun permits.** Provides that the possession of a handgun while engaged in lawful hunting shall not be construed as hunting with a handgun if the person hunting carries a concealed handgun permit. The bill also exempts from the requirements game wardens, Virginia Marine Police officers retired from the Law Enforcement Division of the Virginia Marine Resources Commission, and other law-enforcement officials who have reached the age of 55, other than officers terminated for cause. Furthermore, a retired law-enforcement officer from the Department of Game and Inland Fisheries or the U.S. Marshals Service is exempt from paying a fee for a concealed handgun permit.

When applying for a concealed handgun permit, there is no requirement as to the length of time an applicant must have been a resident or domiciliary of the county or city where he applies. An applicant is required to provide his social security number on an application, but the bill provides an exemption that allows the social security numbers to be withheld from public disclosure. However, the social security number may not be withheld from a law-enforcement official acting in the performance of his official duties. If an application for a concealed handgun permit is denied, the denial order must state the basis for the denial and state the applicant's right for perfecting an appeal of the decision. The bill clarifies that misdemeanors set forth in Title 46.2 shall not be considered disqualifications for a concealed handgun permit. If a court does not issue or deny an application for a concealed handgun permit within the required 45-day period, the bill establishes a procedure by which the application itself will become a de facto concealed handgun permit, valid for 90 days.

The bill would recognize a concealed weapons permit or license issued by another state to a person 21 years of age or older as a valid concealed handgun permit in the Commonwealth. The law currently recognizes only certain out-of-state

concealed handgun permits. For purposes of reciprocity, the official government-issued identification cards issued to active-duty law-enforcement officers in the Commonwealth who are exempt from obtaining concealed handgun permits shall serve a concealed handgun permit. Finally, the bill sets forth a definition of "law-enforcement officer" to be used throughout § 18.2-308.

*Patron - Stolle*

**D SB329 DUI; previous offender and breath test refusal.** Provides that it is a Class 1 misdemeanor for a person who has been convicted of DUI, and who has been issued, and is subject to the provisions of a restricted permit, to drive with a blood alcohol concentration of 0.02 percent or more. The bill also punishes refusal to submit to a blood alcohol test as a Class 2 misdemeanor if the offender has a prior offense of DUI or refusal within 10 years, and as a Class 1 misdemeanor if the offender has two prior such offenses. Both offenses also carry a three-year license suspension.

*Patron - Stolle*

**D SB341 Concealed handgun reciprocity; law-enforcement officers.** Provides that for the purposes of participation in concealed handgun reciprocity agreements with other jurisdictions, the official government identification card issued to an active duty law-enforcement officer in the Commonwealth is deemed to be a concealed handgun permit.

*Patron - Williams*

**D SB648 Retired law-enforcement officers; photo identification cards.** Requires that if requested of the employer upon retirement, a law-enforcement officer be issued a photo identification card indicating that he is a retired law-enforcement officer. The bill also requires that such identification cards be provided upon request to law-enforcement officers who retired before July 1, 2004.

*Patron - Houck*

**D SB659 Sunday closing laws.** Repeals Virginia's "Blue laws."

*Patron - Quayle*

**D SB660 Guns in airports.** Provides that it is a Class 1 misdemeanor for any person to possess or transport into any air carrier airport terminal in the Commonwealth any (i) gun or other weapon designed or intended to propel a missile or projectile of any kind, (ii) frame, receiver, muffler, silencer, missile, projectile or ammunition designed for use with a dangerous weapon, or (iii) any other dangerous weapon, including explosives, tasers, stun weapons and those weapons specified in subsection A of § 18.2-308. This prohibition does not apply to law-enforcement officers or a passenger of an airline who transports a lawful firearm, weapon or ammunition into or out of an air carrier airport terminal to present the firearm, weapon or ammunition to a U.S. Customs agent in advance of an international flight, to check the firearm, weapon or ammunition with his luggage, or to retrieve the firearm, weapon or ammunition from the baggage claim area. The bill provides that any other statute, rule, regulation or ordinance concerning the possession or transportation of weapons in airports in the Commonwealth is invalid.

*Patron - Stolle*

**D SB677 Assault and battery; volunteer firefighters.** Adds volunteer firefighters and lifesaving or rescue squad members who are members of a bona fide volunteer fire department or volunteer rescue or emergency medical squad to the list of protected classes which, if assaulted, the perpetrator is guilty of a Class 6 felony and will receive a mandatory minimum six-month term of incarceration. The designation will

apply regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such persons as employees.

*Patron - Rerras*

## Failed

: **HB41 Crimes; trespass upon church or school property.** Adds a proviso to the current law prohibiting trespass upon church or school property at night without consent, which is punished as a Class 3 misdemeanor. The proviso requires that signs be posted warning that such trespass is a Class 3 misdemeanor in order for such trespass to be a crime.

*Patron - Reese*

: **HB51 Eluding police; penalties.** Provides that if any person who, having received a visible or audible signal from any law-enforcement officer to bring his motor vehicle to a stop, drives such motor vehicle in a willful and wanton disregard of such signal and causes an injury or death, he is guilty of a Class 5 felony.

*Patron - Cosgrove*

: **HB66 Impersonating an officer.** Provides that any person who commits a felony crime against a person while impersonating an officer is guilty of a separate and distinct Class 6 felony.

*Patron - Cosgrove*

: **HB109 Concealed handgun permit; fees.** Waives the concealed handgun permit fee (maximum \$50) for law-enforcement officers retired from the U.S. Marshals Service. This bill is incorporated into HB 1205.

*Patron - Purkey*

: **HB114 Where abortion must be performed.** Provides that any abortion must be performed in a hospital licensed by the State Department of Health or under the control of the State Board of Mental Health, Mental Retardation and Substance Abuse Services, or in a medical facility or clinic located no more than 15 highway miles from a hospital emergency room.

*Patron - Marshall, R.G.*

: **HB126 Crimes; inducement to perjure.** Provides that if any person within this Commonwealth procures or induces another to commit perjury or give false testimony under oath, either within or without this Commonwealth, he is guilty of a Class 5 felony and will be adjudged forever incapable of holding any office of honor, profit or trust under the Constitution or serving as a juror. The bill also provides that venue for the trial of any person accused of such procurement or inducement shall be in the city or county in which the perjury or false testimony was to be given or in the city or county where any act was done in furtherance of the procurement or inducement.

*Patron - Albo*

: **HB128 DUI; restricted license issued to a person in VASAP.** Allows the issuance of a restricted license to a person who has entered VASAP in order for that person to travel to court-ordered probation. This bill is incorporated into HB 43.

*Patron - Albo*

: **HB129 Crimes; death penalty.** Abolishes the death penalty for all Class 1 felonies committed on or after July 1, 2004.

*Patron - Hargrove*

: **HB130 Subsequent offenses of stalking.** Provides that a second stalking conviction occurring within two years shall be a Class 6 felony rather than a Class 1 misdemeanor. Currently there is no such increased penalty. This would complement the existing increased penalty (from a Class 1 misdemeanor to a Class 6 felony) that results from a third or subsequent conviction within five years.

*Patron - Pollard*

: **HB136 Crimes; regulation of dance halls; penalty.** Increases from a Class 3 misdemeanor to a Class 1 misdemeanor the penalty for violating an ordinance regulating public dance halls.

*Patron - Shuler*

: **HB164 Crimes; obstruction of justice.** Provides that if any person by threats of bodily harm or force knowingly attempts to intimidate or impede a witness in a proceeding pending in a court within this Commonwealth, he is guilty of a Class 5 felony. The bill also provides that venue for the trial of any person accused of obstruction of justice shall be in the city or county in which the proceeding was pending or in the city or county where any act was done in furtherance of the intimidation, obstruction, or impeding.

*Patron - Albo*

: **HB173 Assault and battery; volunteer firefighters.** Adds volunteer firefighters to the list of protected classes which, if assaulted, the perpetrator will receive minimum mandatory jail time of varying length.

*Patron - Lewis*

: **HB186 Crimes and offenses generally; transfer of certain firearms.** Provides that a holder of a valid permit to carry a concealed weapon need not submit to a criminal background check to buy, rent, trade or receive a firearm from a dealer. The amendments would also allow the holder of a concealed handgun permit to purchase more than one handgun within a 30-day period. This bill is incorporated into HB 404.

*Patron - Black*

: **HB196 Feticide; penalty.** Provides that feticide is murder when the person who committed the act or acts resulting in the death of the fetus did so with malice aforethought, the person intended to cause the death of the pregnant woman or her fetus, the death of the fetus was not the result of a lawful abortion or an abortion to which the pregnant woman consented, and the person who committed the act or acts resulting in the death of the fetus was not the pregnant woman. This bill is incorporated into HB 1.

*Patron - Black*

: **HB226 Avoiding arrest.** Provides that intentionally preventing a lawful arrest means fleeing from a law-enforcement officer when the officer communicates to the person that he is under arrest and the reasonable person who receives such communication knows or should know that he is not free to leave. Currently, the law requires that the officer have the present ability to make the arrest. The bill also provides that it is an affirmative defense to such a prosecution that the defendant reasonably believed the person attempting to arrest him was not a law-enforcement officer.

*Patron - Cosgrove*

: **HB227 Concealed handgun reciprocity; law-enforcement officers.** Provides that for the purposes of participation in concealed handgun reciprocity agreements with other jurisdictions, the official government identification card issued to an active duty law-enforcement officer residing in the Com-

monwealth and employed by a law-enforcement agency in the Commonwealth is deemed to be a concealed handgun permit. This bill is incorporated into HB 1205.

*Patron - Cosgrove*

: **HB228 Conduct punishable as involuntary manslaughter.** Provides that a death caused by illegal automobile racing is punishable as involuntary manslaughter. This bill is incorporated into HB 993.

*Patron - Cosgrove*

: **HB230 Protection of infants.** Provides that any person, other than the mother, who willfully, deliberately and intentionally engages in unlawful conduct that causes the death or permanent serious bodily injury to a child in utero is guilty of a Class 2 felony. If the conduct is not intentional, it is a Class 4 felony. The bill also provides that any woman who, without a health care professional in attendance, gives birth after 24 weeks gestation and fails to report the birth within 72 hours is guilty of a Class 1 misdemeanor. If the birth is a stillbirth or the infant dies and there is an attempt to conceal the birth or the identity of the parent, it is a Class 6 felony. This bill is incorporated into HB 1.

*Patron - Kilgore*

: **HB248 Concealed weapons; retired law-enforcement officers.** Permits retired law-enforcement officers who have reached 55 years of age to carry concealed weapons, subject to certain consultations. This bill is incorporated into HB 1205.

*Patron - Petersen*

: **HB349 Assault and battery of probation and parole officers.** Adds probation and parole officers to that list of enforcement personnel who, if they are victims of assault and battery, are given different status. Punishment for assault and battery is a Class 1 misdemeanor. Punishment for assault and battery of law-enforcement personnel, now to include probation and parole officers, is a Class 6 felony. This bill is incorporated into HB 1105.

*Patron - Albo*

: **HB371 Crimes; profane swearing and intoxication in public; penalty.** Provides that a locality may provide by ordinance that a person found guilty of a second or subsequent offense of public intoxication in that locality shall be guilty of a Class 2 misdemeanor. Currently, such person would be guilty of a Class 4 misdemeanor. This bill is identical to SB 40.

*Patron - Rust*

: **HB377 Use or display of firearm in committing felony.** Increases mandatory term of imprisonment for use of a firearm in the commission of certain felonies from three to five years for a first offense and from five to eight years for a second offense.

*Patron - Lingamfelter*

: **HB378 Killing of an unborn child; penalty.** Provides that the killing of an unborn child is murder when the person who committed the act or acts resulting in the death of the unborn child did so with malice aforethought, the person intended to cause the death of the pregnant woman or her unborn child, the death of the unborn child was not the result of a lawful abortion or an abortion to which the pregnant woman consented, and the person who committed the act or acts resulting in the death of the unborn child was not the pregnant woman. This bill is incorporated into HB 1.

*Patron - Lingamfelter*

: **HB405 Assault and battery; larceny.** Provides that an assault and battery in the commission of a larceny is a Class 4 felony (two to 10 years) and, if there is bodily injury, the crime is punishable by confinement in a state correctional facility for two to 20 years.

*Patron - Janis*

: **HB419 Forfeiture; street gangs.** Allows for the forfeiture of any property, real or personal, used in connection with street gang activity. This bill is incorporated into HB 569.

*Patron - Lingamfelter*

: **HB450 Criminal street gang predicate crimes.** Expands the list of predicate criminal acts that define a pattern of criminal activity and a criminal street gang to include certain drug sale and manufacturing crimes, and brandishing a firearm and recruitment of a juvenile into a street gang. This bill is incorporated into HB 1059.

*Patron - McQuigg*

: **HB498 Killing an unborn child.** Provides that any person who maliciously, willfully, deliberately, unlawfully and with premeditation kills the fetus of another is guilty of a Class 2 felony (20 years to life). This bill is incorporated into HB 1.

*Patron - Kilgore*

: **HB568 Withholding visitation or custody of a child.** Raises the penalties for withholding visitation or custody of a child, in contravention of a court order, when the child is within the Commonwealth. The bill also provides for affirmative defenses to the charge and provides that no court shall find a person in contempt who is convicted of withholding visitation and custody. This bill is incorporated into HB 858

*Patron - Albo*

: **HB571 Crimes; obstruction of justice.** The bill makes it a Class 5 felony to obstruct or impede the administration of justice in any court relating to a violation of or conspiracy to violate the prohibition against participating in a criminal street gang or the prohibition against recruiting juveniles to participate in a criminal street gang. This bill is incorporated into HB 569.

*Patron - Albo*

: **HB572 Crimes by gangs; definitions.** Includes within the definition of "criminal street gang" the current definition of "pattern of criminal gang activity." This bill is incorporated into HB 569.

*Patron - Albo*

: **HB595 Incarceration for conviction of DUI.** Provides that any period of incarceration imposed pursuant to a DUI conviction is to be served continuously, in one period, with no allowances for service on weekends or other noncontinuous service.

*Patron - Janis*

: **HB641 Out-of-state concealed handgun permits.** Provides that concealed handgun permits issued by another state are valid in Virginia if the permit holder also carries valid, government-issued photo identification. This bill is incorporated into HB 215.

*Patron - Abbitt*

: **HB648 Crimes; conviction of third offense peeping; penalty.** Makes it a Class 6 felony for a third or subsequent conviction for an offense under the peeping or spying section. The bill also requires that any person convicted within

10 years of three or more designated misdemeanors shall register under the Sex Offender and Crimes Against Minors Act.

*Patron - Bell*

: **HB655 Sexual crimes.** Eliminates in the rape, forcible sodomy and object sexual penetration statutes the different standard that defines the offense if the victim and perpetrator are married to each other. This includes removing from the forcible sodomy and object sexual penetration statutes the provision that such crimes cannot be committed against a spouse unless the spouses were living separate and apart or there was bodily injury caused by force or violence, as the 2002 General Assembly did in the rape statute (often called the marital rape exemption). Because of the equalization of the elements of the offense in the rape, forcible sodomy and object sexual penetration statutes, the marital sexual assault statute is repealed.

*Patron - Bell*

: **HB657 Infected sexual battery; penalty.** Provides that any person who, knowing he is infected with genital herpes, has sexual intercourse, cunnilingus, fellatio, anallingus or anal intercourse with the intent to transmit the infection to another person, is guilty of a Class 6 felony.

*Patron - Bell*

: **HB659 Impersonating public service company personnel.** Provides that any person who willfully impersonates, with the intent to make another believe he is, a public service company employee and who falsely assumes or exercises the functions, powers, duties or privileges incident to the position or enters upon the property of another while impersonating a public service employee is guilty of a Class 1 misdemeanor.

*Patron - Bell*

: **HB665 Habitual offender law.** Reinstates the habitual offender law for those convicted of DUI; driving on a license suspended for DUI; and refusal to submit to a blood alcohol test.

*Patron - Bell*

: **HB666 Driving after a license suspension for DUI.** Provides that it is an affirmative defense to a prosecution for driving after a license suspension for DUI that the defendant was operating a motor vehicle in compliance with the restrictions of a restricted license issued pursuant to § 18.2-271.1. Currently, the Commonwealth must prove that the driving was in noncompliance. The bill also provides that, notwithstanding such compliance, if the defendant unreasonably refuses to submit to a blood alcohol test in accordance with § 18.2-268.2, he shall be deemed guilty of a violation of driving after a license suspension for DUI.

*Patron - Bell*

: **HB671 Injury to child in utero; penalty.** Punishes as a Class 2 felony willful, deliberate and intentional conduct that is unlawful and causes death or permanent serious bodily injury to a child in utero. If the conduct is willful and deliberate but not intentional it is punished as a Class 4 felony. This bill is incorporated into HB 1.

*Patron - Bell*

: **HB674 Maiming, etc., of another resulting from driving while intoxicated.** Provides that any person who, as a result of driving while intoxicated in a manner so gross, wanton and culpable as to show a reckless disregard for human life, unintentionally maims, disfigures or disables another person, is guilty of a Class 6 felony. Currently, the law punishes such conduct if the person causes the serious bodily injury of

another person resulting in permanent and significant physical impairment.

*Patron - Bell*

: **HB722 Unauthorized possession of two or more signed credit cards or credit card numbers.** Clarifies that possession of two unauthorized credit cards is credit card theft and not forgery. This bill is incorporated into HB 1053.

*Patron - Shannon*

: **HB764 Persons charged for the first time with certain drug possession offenses.** Amends disposition for "first offenders," who would be guilty of felonies or Class 1 misdemeanors, to reduce the penalty one "level" and convict those defendants of the lesser crime upon completion of terms of probation rather than defer disposition and dispose of the cases without conviction. For unclassified misdemeanors and those classified as Class 2, 3 and 4 misdemeanors, deferred disposition with a finding of not guilty would remain an option for the court.

*Patron - Hurt*

: **HB765 Concealed weapons; law-enforcement officers.** Provides that the exception from the requirements of the section relating to the carrying of concealed weapons for law-enforcement officers applies wherever the officer happens to travel in the Commonwealth. The exception is not limited to the jurisdiction in which the law-enforcement officer works. This bill is incorporated into HB 1205.

*Patron - Hurt*

: **HB768 Dismissal of one of dual charges for driving while intoxicated and reckless driving upon conviction of other charge.** Provides that when any person is charged with DUI or any similar ordinance of any county, city, or town and reckless driving or any ordinance of any county, city or town incorporating the reckless driving statute growing out of the same act, is tried simultaneously for both charges or acts, and is convicted of one of these charges, the court shall dismiss the remaining charge.

*Patron - Hurt*

: **HB772 Killing of an unborn child; penalty.** Provides that the killing of an unborn child is murder when the person who committed the act or acts resulting in the death of the unborn child did so with malice aforethought, the person intended to cause the death of the pregnant woman or her unborn child, the death of the unborn child was not the result of a lawful abortion or an abortion to which the pregnant woman consented, and the person who committed the act or acts resulting in the death of the unborn child was not the pregnant woman. This bill is incorporated into HB 1.

*Patron - McDougle*

: **HB912 Modification of sentencing guidelines for multiple drug convictions.** Provides that for any conviction under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 (drug offenses), the sentencing guidelines shall not include a recommendation for probation if the offender has a prior felony conviction or adjudication for an offense under that article.

*Patron - Phillips*

: **HB929 Concealed handgun reciprocity; law-enforcement officers.** Provides that for the purposes of participation in concealed handgun reciprocity agreements with other jurisdictions, the official government identification card issued to an active duty law-enforcement officer in the Commonwealth is deemed to be a concealed handgun permit. This bill is incorporated into HB 1205.

*Patron - Suit*



: **HB936 Attending a VASAP meeting while intoxicated.** Provides that any person who attends a meeting of an alcohol safety action program, pursuant to an order of the court under § 18.2-271.1, while he is under the influence of alcohol or other self-administered intoxicants, is guilty of a misdemeanor punishable by a \$5,000 fine and permanent revocation of his operator's license and of his privilege to operate a motor vehicle in the Commonwealth.

*Patron - Purkey*

: **HB954 Testing of drug offenders for infection with certain sexually transmitted diseases and other reportable diseases.** Requires the court trying the case of any person alleged to have committed any drug offense or any offense that was motivated by, or closely related to, the use of drugs to order the person, upon a finding of probable cause that the person has committed the crime with which he is charged, to undergo testing for those sexually transmitted diseases and other reportable diseases that are listed as reportable diseases by the Board of Health and are identified by the Commissioner of Health as being of epidemic proportions among injection drug abusers. The test results must be kept confidential under state and federal patient privacy law and regulations. In the case of positive test results, the Department of Health must offer the defendant appropriate counseling and must conduct surveillance and investigation. The test results will not be admissible as evidence in any criminal proceeding. The cost of the tests will be paid by the Commonwealth and taxed as part of the cost of the criminal proceedings. The Department of Health must annually compile aggregate data by local jurisdiction and for the state at large, without personal identifiers, on defendants whose test results are reported as positive for sexually transmitted diseases pursuant to this section, including, but not limited to: (i) the defendant's gender, (ii) the drug or drugs alleged to have been used by the defendant, (iii) any sexually transmitted disease for which a positive test result was obtained, and (iv) any known subsequent referrals of the defendant for treatment of or testing for any sexually transmitted disease during the reporting period. A report of the aggregate data, without personal identifiers, required to be compiled pursuant to this section shall be posted prominently on the Department of Health's website in a manner that allows the general public to access the results for each local jurisdiction in the Commonwealth as well as the state at large. The Commissioner of Health is charged with identifying, from among the list of reportable diseases, those sexually transmitted diseases and other diseases that are of epidemic proportions among injection drug abusers.

*Patron - Lingamfelter*

: **HB962 Concealed handgun permit.** Exempts from the carry permit requirements any retired member of the Law-Enforcement Division of the Virginia Marine Resources Commission with a service-related disability or following at least 15 years of service with such agency, other than a person terminated for cause, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the Commission. This bill is incorporated into HB 1205.

*Patron - Barlow*

: **HB1020 Damages recoverable for encroachment in timber cutting.** Allows a person whose timber is cut without permission to pursue damages based upon a rebuttable presumption that the timber cutter is fully liable for double damages unless he provides written notice of his intent to cut timber upon land clearly marked and claimed as his at least 10

days prior to beginning operations, without objection from the adjacent landowner. This bill is incorporated into HB 493.

*Patron - Dillard*

: **HB1025 Establishment of optional gun-free school zones.** Provides that, if previously authorized by local ordinance, each school division may establish a gun-free school zone limited to the physical boundaries of the school property and those areas under exclusive use by the school division for school-sponsored functions or extracurricular activities.

*Patron - Dillard*

: **HB1033 Assault and battery upon a human fetus.** Provides that a fetus may be the victim of an assault and battery if it is born with injuries resulting from an intentional act committed against it or its mother. This bill is incorporated into HB 1.

*Patron - Tata*

: **HB1034 Multiple DUI offenders.** Creates a new article regulating multiple DUI offenders in a manner similar to the old Habitual Offender Act. This bill is incorporated into HB 665.

*Patron - Melvin*

: **HB1035 Possession of firearms following the conviction of certain crimes; penalty.** Prohibits persons convicted of stalking or sexual battery from possessing or transporting firearms or prohibited concealed weapons for a period of five years following conviction. There is a provision to allow the person to petition the circuit court to reinstate the right to carry or transport firearms.

*Patron - Ebbin*

: **HB1086 Firearms; purchase and sale of firearms in other states.** Changes provisions that only allow lawful purchase and sale of firearms outside of the Commonwealth in contiguous states to allow for the purchase and sale of firearms in any other state where the purchase meets state and federal requirements. The bill reflects changes in federal law that allow for the sale and purchase of firearms in noncontiguous states. This bill is incorporated into HB 1302.

*Patron - Nutter*

: **HB1091 Forfeiture of vehicle for third DUI offense.** Provides that any person convicted a third or subsequent time for DUI within 10 years shall suffer the seizure and forfeiture of his vehicle. This bill is incorporated into HB 1130.

*Patron - Scott, J.M.*

: **HB1105 Malicious bodily injury to probation and parole officers.** Includes parole and probation officers in the class of individuals (law-enforcement officers, firefighters, search and rescue personnel, and emergency medical service providers) for whom a malicious bodily injury is a felony punishable by a prison sentence of from five to 30 years and for whom an unlawful bodily injury (without malice) is punishable as a Class 6 felony.

*Patron - Moran*

: **HB1152 Hunting restrictions.** Reduces restrictions on hunting near subdivisions.

*Patron - McDonnell*

: **HB1153 Maximum speed limits in certain residence districts; penalty.** Provides that no portion of the \$200

fine for speeding in a residential area shall be suspended. This bill is incorporated into HB 253.

*Patron - McDonnell*

: **HB1204 Revocation of license for multiple convictions of driving while intoxicated.** Provides that the license of a person convicted of DUI three times in 10 years shall be permanently revoked. This bill is incorporated into HB 676.

*Patron - Cline*

: **HB1244 Malicious bodily injury; penalty.** Provides that causing bodily injury by means of an infectious biological agent or radiological agent is punishable by confinement in a state correctional facility for between five and 30 years if done maliciously and as a Class 6 felony if done unlawfully but not maliciously. This bill is incorporated into HB 184.

*Patron - Griffith*

: **HB1247 Possession of firearms following the conviction of certain crimes; penalty.** Prohibits persons convicted of stalking or sexual battery from possessing or transporting firearms or prohibited concealed weapons for a period of five years following conviction. There is a provision to allow the person to petition the circuit court to reinstate the right to carry or transport firearms.

*Patron - Scott, J.M.*

: **HB1315 Abortion; penalty.** Requires, in an abortion performed after the first trimester, that the unborn child be anesthetized in a manner suitable for patients undergoing amputation. A physician who performs an abortion without first anesthetizing the fetus is guilty of a Class 1 misdemeanor.

*Patron - Black*

: **HB1323 Crimes; interfering with medical treatment; penalty.** Makes it a felony for a railroad company or an employee of the company to interfere with the medical treatment of an injured employee of such company, and provides a maximum penalty of two years in prison and a \$10,000 fine.

*Patron - Callahan*

: **HB1341 Capital punishment for minors.** Restricts the death penalty to those who are 18 years of age or older at the time of the capital offense. Currently, the age is 16 or older at the time of the offense.

*Patron - Eisenberg*

: **HB1478 Qualifications for concealed handgun permit.** Requires that a court consult with the Department of State Police to perform a background check on the National Instant Criminal Background Check System (NICS) before issuing a concealed handgun permit to an applicant. If the NICS check indicates that applicant is ineligible to possess or transport a firearm under federal law, the applicant will be disqualified from obtaining a concealed handgun permit. Performing a NICS check to obtain a concealed handgun permit would allow the holder of a valid permit to purchase a gun without an additional background check. The bill also supplants the current list of options to prove proficiency with a handgun for the purpose of qualifying for a concealed handgun permit with one option: a State Police-sanctioned handgun training course. Individuals formerly employed as law-enforcement officers in the Commonwealth or for the Armed Forces of the United States who were not terminated from the position for cause are exempt from the proficiency training course.

*Patron - Sickles*

: **SB47 Death penalty; moratorium on executions.** Provides that the Commonwealth shall not conduct executions of prisoners sentenced to death. All other matters of law relating to the death penalty, such as bringing and trying capital charges, sentencing proceedings, appeals and habeas review are not affected by the bill.

*Patron - Marsh*

: **SB48 Transfer of firearms; criminal records check.** Adds a definition of "firearms show vendor" and requires that a criminal history record information check be performed on the prospective transferee before the vendor may transfer firearms at a gun show. Under current law, only licensed dealers must obtain such a check.

*Patron - Marsh*

: **SB143 Concealed handgun permits; denial or revocation of permit.** Clarifies that a person whose concealed handgun permit is revoked by a court has a right to an ore tenus hearing, and that notice of such hearing and the basis for the revocation must be provided to the permit holder. The bill also provides that a sheriff, chief of police, or attorney for the Commonwealth may not delegate the authority under subsection E 13 of § 18.2-308 to make a sworn written statement that an applicant for a permit is likely to use a weapon unlawfully or negligently, and if such a sworn statement is the basis for a permit denial or revocation, Part 4 of the Rules of the Supreme Court will apply at an ore tenus hearing. A person aggrieved by a decision of the Court of Appeals relating to a permit denial or revocation would be able to petition to appeal the decision to the Supreme Court.

*Patron - Cuccinelli*

: **SB245 Crimes; regulation of dance halls; penalty.** Increases from a Class 3 misdemeanor to a Class 1 misdemeanor the maximum penalty that a locality may impose for violating an ordinance regulating public dance halls.

*Patron - Edwards*

: **SB287 Concealed handgun permit; fees.** Waives the concealed handgun permit fee (maximum \$50) for law-enforcement officers retired from the U.S. Marshals Service. This bill is incorporated into SB 99.

*Patron - O'Brien*

: **SB331 Assault and battery; larceny.** Provides that an assault and battery in the commission of a larceny is a Class 4 felony (two to 10 years) and, if there is bodily injury, the crime is punishable by confinement in a state correctional facility for two to 20 years.

*Patron - Stolle*

: **SB371 Abortion; penalty.** Requires, in an abortion performed after the first trimester, that the unborn child be anesthetized in a manner suitable for patients undergoing amputation. The physician must submit a notarized report to the Department of Health within 90 days attesting to the estimated age at which the unborn child was aborted and whether the unborn child was first anesthetized. A physician who performs an abortion without first anesthetizing the unborn child is guilty of a Class 6 felony.

*Patron - Cuccinelli*

: **SB423 Sex crimes against children.** Provides that carnal knowledge of a child who is 13 years of age or older by an adult in a custodial or supervisory relationship is a Class 3 felony. The penalty for carnal knowledge of a committed or detained child 15 years of age or older by a person providing services to juveniles under the purview of the juvenile court or

committed to the custody of the Department of Juvenile Justice is increased to a Class 4 felony from a Class 6 felony. The penalty for indecent liberties with a child by a person in a custodial or supervisory relationship is increased to a Class 4 felony from a Class 6 felony.

*Patron - Wagner*

: **SB443 DUI; penalty.** Provides for a mandatory minimum sentence of 180 days (six months) for a third DUI conviction in 10 years. Under current law the mandatory minimum sentence is 10 days for a third offense within 10 years and 30 days for a third offense within five years. The offense will remain a Class 6 felony, which carries a penalty of one to five years confinement. This bill is incorporated into SB 384.

*Patron - Rerras*

: **SB473 Hate crimes.** Adds sexual orientation to the categories of acts for which a person may seek injunctive relief or file an action for damages. The bill also adds sexual orientation to the categories of victims whose intentional selection for a "hate crime" involving assault or trespass amplifies the Class 1 misdemeanor to a Class 6 felony penalty. The bill also adds sexual orientation to the definition of "hate crime" for purposes of a central repository of information regarding hate crimes maintained by the State Police.

*Patron - Ticer*

: **SB485 Concealed handgun permits.** Provides that a valid concealed handgun permit or license issued by another state shall be valid in the Commonwealth, provided the permit holder is not a resident of Virginia and, if the permit does not include a photograph of the holder, he carries a current state or federal government-issued photo identification. Also requires that the Attorney General enter into reciprocal agreements with the states that require it for recognition of the validity of Virginia concealed handgun permits. The bill removes the requirement that the out-of-state permit holders meet Virginia requirements for issuance.

*Patron - Obenshain*

: **SB488 Driving under the influence; penalty.** Changes the wording of the penalty provisions for a third (or fourth) offense by stating that the enhanced penalties apply if a person is convicted "three or more times" rather than if a person is "convicted of a third offense." This bill is incorporated into SB 384.

*Patron - Mims*

: **SB489 Mandatory minimum jail term for DUI based on blood alcohol content.** Imposes a mandatory minimum jail term of five days upon conviction for DUI (10 days for second offense) for a blood alcohol content of 0.16 percent as opposed to the current 0.20 percent. This bill is incorporated into SB 384.

*Patron - Mims*

: **SB490 Penalties for driving while intoxicated.** Removes sanctions for multiple DUI offenses occurring within five years and raises sanctions for multiple DUI offenses occurring within 10 years to include a mandatory minimum sentence of one year for a third offense committed within 10 years. The bill increases additional punishments predicated on blood alcohol levels registered at the time of the offense. The bill punishes a refusal to submit to a blood test as a Class 6 felony with a mandatory minimum sentence of one year if the defendant has two prior DUI convictions. This bill is incorporated into SB 329.

*Patron - Mims*

: **SB491 Dismissal of one of dual charges for driving while intoxicated and reckless driving upon conviction of other charge.** Provides that when any person charged with DUI or any similar ordinance of any county, city, or town and reckless driving or any ordinance of any county, city or town incorporating the reckless driving statute growing out of the same act, is tried simultaneously for both charges or acts, and is convicted of one of these charges, the court shall dismiss the remaining charge. This bill is incorporated into SB 384.

*Patron - Mims*

: **SB552 Loaded firearms in restaurants.** Prohibits the carrying of a loaded firearm in a restaurant or club with an ABC license. There is an exception for law-enforcement officers and for the owners and employees of the club or restaurant who have a concealed handgun permit.

*Patron - Howell*

: **SB579 Carrying concealed handgun; alcohol consumption.** Repeals the prohibition on carrying a concealed handgun in a restaurant or club and revises the Class 1 misdemeanor provision by providing that it is a Class 1 misdemeanor to carry a concealed handgun in a public place after consuming alcohol or while under the influence of an illegal drug. The bill provides that a blood alcohol level of 0.02 or less is not a violation. The bill provides that anyone who has a concealed handgun permit is deemed to have consented to have his blood and breath samples taken. An unreasonable refusal is grounds for revocation of the handgun permit for five years and subjects the person to a civil penalty of not more than \$500.

*Patron - Cuccinelli*

## Carried Over

**7 HB134 Prohibited executions.** Provides that the Department of Corrections shall promulgate regulations setting forth procedures to assure that no person sentenced to death shall be put to death while she is pregnant.

*Patron - Marshall, R.G.*

**7 HB170 False discount coupons; larceny.** Provides that any person who uses a false discount coupon to obtain money or property is guilty of larceny. A definition of "false discount coupon" is added.

*Patron - Wright*

**7 HB397 Sale of violent video games.** Makes the sale, rental, loan or commercial display of a violent video or computer game to a juvenile a Class 1 misdemeanor. "Violent video or computer game" is defined as a video or computer game that contains realistic or photographic-like depictions of aggressive conflict in which the player kills, injures, or otherwise causes physical harm to a human form in the game who is depicted, by dress or other recognizable symbols, as a public law-enforcement officer.

*Patron - Amundson*

**7 HB514 Crimes; criminal sexual assault; definition of mental incapacity and physical helplessness; penalty.** Provides that a person shall be deemed to have accomplished a sex act against the will of the complaining witness and through the use of the mental incapacity and physical helplessness of the complaining witness if he has, prior to the act complained of, administered a drug or controlled substance to the complaining witness without the consent or knowledge of the complaining witness and the drug had the effect of impairing the judgment, self-control, actions or consciousness of the complaining witness and prevented the complaining witness from understanding the nature or consequences of the sex-

ual act and rendered the complaining witness physically unable to communicate an unwillingness to act.

*Patron - Marrs*

**7 HB566 Computer trespass.** Provides that adding or altering information without authority is computer trespass. Adds to the aggravating factors for which computer trespass is elevated to a Class 6 felony using a computer in a way that involves a computer virus or similar computer program and obtaining the ability to use three or more computers or computer networks without notice to or knowledge of and express or implied permission of, the owners of those computers or computer networks, or a prior existing personal, business or contractual relationship with the owner.

*Patron - Albo*

**7 HB614 Driving motor vehicle after ingesting illegal Schedule I or Schedule II drugs.** Makes driving after ingesting any amount of illegally possessed Schedule I or Schedule II drugs a Class 2 misdemeanor.

*Patron - Carrico*

**7 HB646 Crimes; maiming, killing or poisoning animals.** Increases from a Class 1 misdemeanor to a Class 5 felony the maiming, killing or poisoning of a companion animal of another or of the companion animal of the defendant if done with the intent to defraud any insurer.

*Patron - Bell*

**7 HB668 Juvenile alcohol offenses.** Makes it clear that it is illegal for an underage person to consume alcoholic beverages as well as to purchase or possess them. The bill also provides that it is a Class 1 misdemeanor to give or provide alcohol to someone who is prohibited from possessing alcohol.

*Patron - Bell*

**7 HB669 Crimes; DUI; blood test.** Amends the implied consent statute to extend from three hours to six hours the time period in which a blood or breath test can be taken after a stop.

*Patron - Bell*

**7 HB725 Concealed weapons; handmade cutting instruments.** Prohibits a person from carrying about his person a concealed cutting instrument that has no practical use other than as a weapon.

*Patron - Shannon*

**7 HB775 Trial de novo in drug deferral proceedings.** Provides that any accused who consents to deferred disposition in a drug case and is convicted shall not be entitled to deferred disposition upon appeal, at trial de novo in circuit court.

*Patron - McDougle*

**7 HB858 Violation of court order regarding custody and visitation; penalty.** Raises the penalties for first, second and subsequent violations committed by any person who knowingly, wrongfully and intentionally withholds a child from either of the child's parents or other legal guardian in a clear and significant violation of a court order respecting the custody or visitation of such child.

*Patron - Cosgrove*

**7 HB990 Driving with special license plates after conviction of DUI.** Requires persons convicted of drunk driving a second or subsequent time who have registered motor vehicles in Virginia to use yellow license plates with red letters and numbers.

*Patron - Hugo*

**7 HB1053 Criminal penalty revisions.** Adds a new felony class of five to 40 years to the existing six classes in order to classify as many unclassified felonies as possible. A Class 1 felony (life imprisonment or death sentence) is renamed a capital felony and a Class 2 felony (20 years to life) is renumbered a Class 1 felony. The new felony of five to 40 years becomes a Class 2 felony. The crimes of abduction and assault are broken into degrees. The penalties for malicious wounding of a police officer and malicious wounding with a caustic substance are raised to Class 2 felonies (five to 40 years) from the current penalty of five to 30 years. The "marital exemptions" for forcible sodomy and object sexual penetration are eliminated, as was done with rape during the 2002 General Assembly Session. The penalty for conspiring or attempting to abduct a person is raised to the same level as conspiracies and attempts for other crimes. Many of the revisions made are ancillary Code changes necessitated by the substantive changes. This bill is recommended by the Title 18.2 Study Subcommittee of the Virginia State Crime Commission and is a response to HJR 687 (2001), which requested the Crime Commission to study the organizations and inconsistencies in Title 18.2, the level and extent of penalty and to review the proportionality of criminal penalties. The bill has an effective date of July 1, 2005.

*Patron - Albo*

**7 HB1054 Sexual offenses; penalties.** In order to comply with *Lawrence v. Texas*, 123 S. Ct. 2472 (2003), the bill repeals the statute making fornication a Class 4 misdemeanor and amends the lewd and lascivious behavior statute to specify that the behavior is illegal when performed in a public place. Without repealing the existing crimes against nature statute, the bill proposes a new statute that will ensure that such behavior is illegal when committed in a public place. The bill also amends certain statutes dealing with prostitution and sexual crimes against juveniles to ensure that if there is a court decision rendering the crimes against nature statute invalid, the behavior will still be illegal if committed with a child, if done in public or if done in connection with prostitution.

*Patron - Albo*

**7 HB1217 Preliminary analysis of breath to determine alcoholic content of blood.** Provides that the results of a preliminary blood alcohol breath analysis may be admitted into evidence in any DUI prosecution (i) when the person refuses to have samples of his blood or breath taken, (ii) in rebuttal to testimony offered regarding a difference in the defendant's blood alcohol content occurring in the period of time between operation of the vehicle and administration of a blood or breath test, or (iii) when an expert witness testifies in any rebuttal testimony. Currently, the results of the preliminary breath test are not admissible.

*Patron - Landes*

**7 HB1232 Enticement to violate protective order.** Provides that any person, including any party protected under the protective order, who entices another to violate a protective order, is guilty of a Class 1 misdemeanor.

*Patron - Griffith*

**7 HB1250 Possession or transportation of firearms or concealed weapons by convicted felons; penalties.** Prohibits any person who, as a juvenile aged 14 years or older, committed a delinquent act equivalent to a violent felony from ever possessing, transporting, or carrying a firearm. The restriction would be lifted in the case of nonviolent felonies at the age of 29. Currently, the prohibition expires when the per-

son is 29 and is applicable to all felonies, whether violent or nonviolent.

*Patron - Scott, J.M.*

**7 HB1476 Firearms; firearm eligibility check; penalty.** Allows an individual to submit an application to the Department of State Police to determine if he is eligible to possess or transport a firearm. The eligibility check would allow a person to determine if he were eligible to possess or transport a firearm outside of the context of a firearm purchase, when the background check is usually performed. The Department shall specify the application to be used, which will contain the information required to be submitted for a firearms purchase pursuant to § 18.2-308.2.2, and may charge a fee of up to \$20. When the applicant submits a completed, notarized application and fee, the Department shall review its criminal history record information to determine if the applicant is prohibited from possessing or transporting a firearm by state or federal law. The Department must notify the applicant by mail that he is "eligible to possess firearms as of the date the check was completed" or "ineligible to possess firearms as of the date the check was completed." The Department must make copies of eligibility check applications available to licensed firearm dealers and on its website. The bill states that the Department is immune from liability arising out of the performance of the eligibility check. No person or agency may require or request an individual to obtain a firearms check, and a violation of this provision is a Class 1 misdemeanor, and the Department must include notice of such both on the application and in the notification letter.

*Patron - Sickles*

**7 SB40 Crimes; profane swearing and intoxication in public; penalty.** Provides that a locality may provide by ordinance that a person found guilty of a second or subsequent offense of public intoxication in that locality shall be guilty of a Class 2 misdemeanor. Currently, such person would be guilty of a Class 4 misdemeanor. This bill is identical to HB 371.

*Patron - Howell*

**7 SB192 Embezzlement by public official; penalty.** Provides that it is a Class 4 felony for a public official or employee to knowingly misuse, misappropriate or unlawfully dispose of any public funds, and provides one year of incarceration in a state correctional facility with no suspension of sentence for each \$50,000 misused, misappropriated or disposed of unlawfully.

*Patron - Reynolds*

**7 SB275 Computer trespass; virus.** Creates a definition of computer virus and provides that it is a Class 1 misdemeanor to knowingly and maliciously insert a computer virus into a computer, computer program, computer software, or computer network of another without the knowledge and permission of the owner.

*Patron - Devolites*

**7 SB456 Contraception not to constitute abortion.** Provides that contraception is not subject to or governed by the abortion law set forth in Title 18.2. "Contraception" is defined, for all purposes, as the use of any process, device, or method to prevent pregnancy, including steroidal, chemical, physical or barrier, natural or permanent methods for preventing the union of an ovum with the spermatozoon or the subsequent implantation of the fertilized ovum in the uterus.

*Patron - Whipple*

**7 SB477 Crimes against nature.** Provides that human carnal knowledge is not a crime where all persons are

consenting adults who are not in a public place and not engaged in prostitution.

*Patron - Ticer*

**7 SB484 Modification of sentencing guidelines for methamphetamine.** Provides that for any conviction involving any substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers, the discretionary sentencing guidelines applicable to cocaine shall be used.

*Patron - Obenshain*

## Criminal Procedure

### Passed

**D HB71 Property bail bondsmen.** Provides that a property bail bondsman needs to obtain a certificate from only one circuit court judge in order to operate statewide, rather than from a circuit court judge in each jurisdiction in which he intends to write bonds. This bill is a recommendation of the Judicial Council.

*Patron - Melvin*

**D HB118 Attorney General; wiretap orders.** Expands the list of crimes for which the Attorney General may seek a wiretap order to include crimes by mobs and crimes by gangs. Criminal sexual assault is included only for felony offenses that are not Class 6.

*Patron - Albo*

**D HB120 Discovery in misdemeanor cases in circuit court.** Provides that in any criminal prosecution for a misdemeanor by trial de novo in circuit court, the attorney for the Commonwealth shall have a duty to adequately and fully provide discovery as provided under Rule 7C:5 (district court criminal discovery rule) of the Rules of the Supreme Court. Currently, by law or rule, no discovery is available on appeal of misdemeanor convictions to circuit court.

*Patron - Albo*

**D HB570 Arrest and detention; illegal aliens.** Provides that all law-enforcement officers have the authority to enforce immigration laws and that a law-enforcement officer may, in the course of acting upon reasonable suspicion that an individual has committed or is committing a crime, arrest the individual without a warrant upon receiving confirmation from the Bureau of Immigration and Customs Enforcement that the individual is an illegal alien, and has previously been convicted of a felony in the United States and deported or left the United States after such conviction. A magistrate may issue a warrant and the person may be detained for not more than 72 hours or until taken into federal custody, whichever occurs first. The bill creates a presumption that an individual shall not be admitted to bail if he is detained pursuant to this provision. This bill is identical to SB 493.

*Patron - Albo*

**D HB594 Reports to be made by local law-enforcement officers to the Central Criminal Records Exchange (CCRE).** Includes DUI as a reportable offense to CCRE by law-enforcement officers upon arrest. Currently, DUI is specifically excluded.

*Patron - Janis*

**D HB650 Crimes; wiretaps.** Corrects an oversight in the wording of the current provision making it a crime to inten-

tionally use, or endeavor to use, the contents of any electronic communication, knowing or having reason to know that the information was obtained through the interception of an electronic communication.

*Patron - Bell*

**D HB755 Capital murder sentencing order.** Provides that when a court sets aside a sentence of death and imposes a sentence of imprisonment for life, it shall include in the sentencing order an explanation for the reduction in sentence.

*Patron - Hurt*

**D HB776 Attempted violent felonies.** Provides that persons arrested for attempted violent felonies and burglary must have a DNA sample taken. Currently, attempts are not included.

*Patron - McDougle*

**D HB889 Presumption against bail; repeat DUI offenders.** Provides a rebuttable presumption against bail for a person charged with a DUI-related offense if the person has been convicted of three such offenses within the past five years on different dates and has been at liberty between each conviction. This bill is identical to HB 1132 and an identical provision is in SB 442.

*Patron - Bell*

**D HB916 Criminal history records search; justices; judges and substitute judges; magistrates.** Requires criminal history records checks of all persons elected by the General Assembly as justices of the Supreme Court, judges of the Court of Appeals, and judges of the circuit and district courts, and of all persons appointed by the circuit courts as magistrates or substitute judges. The bill also prohibits the appointment of substitute judges and magistrates with certain criminal backgrounds in the same manner as the prohibitions for appointment of special conservators of the peace.

*Patron - Phillips*

**D HB942 Summoning of grand jurors.** Allows the judge or judges of the circuit court who sit in a county or city to prepare the list of grand jurors. Current law seems to require that all the judges of a circuit participate in the selection and the signing of the court orders, etc.

*Patron - Pollard*

**D HB1012 Criminal procedure; admission to bail.** Creates a rebuttable presumption against bail for any person who is held in custody when such person is charged with participating in a criminal street gang or the soliciting of a juvenile to participate in a criminal street gang. The bill adds the participation in and the recruitment for a criminal street gang to the list of felonies for which there must be a presentence report unless waived by the court and the defendant and the attorney for the Commonwealth. The bill specifies information regarding gang membership that may be included in the presentence report. This bill is identical to SB 492.

*Patron - Rust*

**D HB1056 Indigent Defense Commission.** Establishes the Indigent Defense Commission, which will establish criteria for court-appointed lawyers as well as assume the duties of the existing Public Defender Commission, which is abolished by this bill. All of the existing Public Defender offices are retained and no new ones are added. This bill is identical to SB 330.

*Patron - Moran*

**D HB1058 Transfer of forfeiture statutes to the criminal procedure code.** Moves forfeiture provisions from Title 18.2 (criminal law) to Title 19.2 (criminal procedure) without substantive change.

*Patron - McDonnell*

**D HB1083 Admission of victim impact testimony.** Clarifies that victim impact testimony is to be heard by the trier of fact whether the defendant is found guilty after trial or upon a guilty plea.

*Patron - Scott, E.T.*

**D HB1095 Exclusion of witnesses in criminal trials.** Provides that any victim who is to be called as a witness in a criminal trial shall be exempt from the rule authorizing the exclusion of all witnesses unless, in accordance with the provisions of § 19.2-265.01 (presence of victim would cause impairment of conduct of a fair trial), his exclusion is specifically required.

*Patron - Moran*

**D HB1132 Admission to bail for multiple DUI offenders.** Provides a presumption against bail for a person arrested for a DUI crime if the person has been convicted three times of a DUI crime within the past five years. This bill is identical to HB 889.

*Patron - McDonnell*

**D HB1139 Appointment of magistrates.** Provides that the authority of the chief circuit court judge to appoint magistrates and chief magistrates is to be exercised in consultation with the chief general district and juvenile court judges and that all appointments of magistrates are for four-year terms even if the appointment is to fill a vacancy.

*Patron - McDonnell*

**D HB1234 Virginia Domestic Violence Victim Fund.** Creates the Virginia Domestic Violence Victim Fund. The Fund is to be administered by the Department of Criminal Justice Services, and the resources used to support the prosecution of domestic violence cases and victim services. The Fund shall be supported by dedication of a portion of increased court fees. The bill provides that \$10 of the \$20 tax on marriage licenses goes to the Department of Social Services for providing services to victims of domestic violence. The Department of Criminal Justice Services, in cooperation with the Statewide Facilitator for Victims of Domestic Violence within the Office of the Attorney General, is required to make all reasonable efforts to secure federal funds or other grant monies for domestic violence prosecution and services.

*Patron - Griffith*

**D HB1308 Pretrial programs.** Clarifies that pretrial service programs are for adults and juveniles transferred for trial as adults. The bill also repeals cross-references that are no longer necessary.

*Patron - Hurt*

**D HJ288 Rules of Court.** Encourages the Supreme Court of Virginia to amend the Rules of Court on electronic filing to allow electronic filing by election of any party of the litigation. This resolution is identical to SJR 130.

*Patron - Phillips*

**D SB162 Duties of the attorney for the Commonwealth; magistrates.** Repeals the provision requiring attorneys for the Commonwealth to provide legal advice and training to magistrates due to the potential conflict raised by the prosecutor advising a judicial officer. Magistrates receive training from

the Supreme Court's Executive Secretary's Office, as provided by law.

*Patron - Marsh*

**D SB177 Appointed counsel in capital cases.** Provides that at least two attorneys shall be appointed in a capital case (2002 legislation requires that as of July 1, 2004, an attorney from a capital defense unit of the Public Defender Commission be appointed). The bill allows the capital defense unit attorney to make a motion to the circuit court to withdraw as counsel if prior to the indictment the Commonwealth declares in writing that it will not seek the death penalty. The court is to allow the capital attorney to withdraw and to appoint a regular court-appointed attorney.

*Patron - Stolle*

**D SB298 Criminal procedure; conservators of the peace.** Adds special agents of the Department of Homeland Security to the list of those who are conservators of the peace.

*Patron - O'Brien*

**D SB330 Indigent Defense Commission.** Establishes the Indigent Defense Commission, which will establish criteria for court-appointed lawyers as well as assume the duties of the existing Public Defender Commission, which is abolished by this bill. All of the existing Public Defender offices are retained and no new ones are added. This bill is identical to HB 1056.

*Patron - Stolle*

**D SB333 Issuance of writ of actual innocence for nonbiological evidence.** Establishes a one-opportunity procedure for a convicted felon to petition the Court of Appeals for a writ of actual innocence based on nonbiological previously unknown or unavailable evidence. The Court of Appeals may summarily dismiss the petition but if it determines that a resolution of the case requires further development of the facts, it may order the circuit court to conduct a hearing to certify findings of fact on certain issues. After considering the petition and the Commonwealth's response, the previous records of the case and the record of any hearing, the Court may dismiss the case or grant relief. A petitioner whose writ is not summarily dismissed by the Court of Appeals is entitled to court-appointed counsel in the same manner as an indigent defendant in a criminal case. The bill establishes a process similar to the one that already exists in the Code for previously unknown or untested biological evidence.

*Patron - Stolle*

**D SB384 Enhanced punishment for third DUI, etc.** Increases the mandatory minimum sentence for a second DUI within five years from five to 20 days, establishes a mandatory minimum for a second within ten years to 10 days, a third within 10 years from 60 to 90 days and a third within five years from 30 to 180 days. The blood alcohol level required for additional mandatory minimum penalties is lowered by .05 percent. The bill also extends the seven-day administrative operator's license suspension for a DUI arrest to 60 days for a second alleged offense, and until trial for a third alleged offense. In addition, the sentence of a person convicted of DUI while driving on a revoked license who has previously been convicted of DUI is to run concurrently with any other sentence.

*Patron - Norment*

**D SB390 Conservators of the peace.** Provides that all conservator of the peace appointments are void on September 15, 2004, unless the conservator has obtained a valid registration issued by the Department of Criminal Justice Services. In addition, each conservator must provide a temporary registration letter issued by the Department of Criminal Justice Ser-

vices prior to seeking appointment by the circuit court. A circuit court appointment letter must be filed with the Department of Criminal Justice Services in order to receive a special conservator of the peace photo registration card.

*Patron - Norment*

**D SB442 Admission to bail; DUI.** Creates a rebuttable presumption that bail shall be denied to a person arrested for DUI if he has three previous convictions within the past five years for any of the following: DUI, DUI manslaughter and DUI maiming. The bill also includes DUI as a reportable offense to the Central Criminal Records Exchange (CCRE) by law-enforcement officers upon arrest. Currently, it is specifically excluded.

*Patron - Rerras*

**D SB492 Criminal procedure; admission to bail.** Creates a rebuttable presumption against bail for any person who is held in custody when such person is charged with participating in a criminal street gang or the soliciting of a juvenile to participate in a criminal street gang. The bill adds the participation in and the recruitment for a criminal street gang to the list of felonies for which there must be a presentence report unless waived by the court and the defendant and the attorney for the Commonwealth. The bill specifies information regarding gang membership that may be included in the presentence report. This bill is identical to HB 1012.

*Patron - Mims*

**D SB493 Arrest and detention; illegal aliens.** Provides that all law-enforcement officers have the authority to enforce immigration laws and that a law-enforcement officer may, in the course of acting upon reasonable suspicion that an individual has committed or is committing a crime, arrest the individual without a warrant upon receiving confirmation from the Bureau of Immigration and Customs Enforcement that the individual is an illegal alien, and has previously been convicted of a felony in the United States and deported or left the United States after such conviction. A magistrate may issue a warrant and the person may be detained for not more than 72 hours or until taken into federal custody, whichever occurs first. The bill creates a presumption that an individual shall not be admitted to bail if he is detained pursuant to this provision. This bill is identical to HB 570.

*Patron - Mims*

**D SB550 Family abuse.** Changes the term primary physical aggressor to predominant physical aggressor in section that requires arrest in most family abuse cases when the law-enforcement officer has probable cause to believe that family assault or violation of a protective order occurred. The officer is required to arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the primary (now predominant) physical aggressor (unless there are special circumstances that would dictate a course of action other than an arrest). The bill sets standards for determining who is the predominant physical aggressor. This bill is a recommendation of the Family Violence Subcommittee of the Virginia State Crime Commission.

*Patron - Howell*

**D SB551 Juvenile courts; distribution of protective order information.** Requires juvenile court intake officers to provide to a person seeking a protective order a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders for family and household members. The Virginia State Crime Commission, in conjunction with the Office of the Executive Secretary of the Supreme Court and the Department of Juvenile Justice, is required to develop the written explanation and the Executive Secretary

must make the explanation available to law enforcement and to each court service unit for distribution.

*Patron - Howell*

**D SB575 Sex Offender and Crimes Against Minors Registry Act.** Adds to the list of those required to register under the Act, any person who has solicited or has attempted to solicit, by use of a communications system, certain acts that constitute violations of the taking indecent liberties with children statute. This bill is identical to HB 759.

*Patron - Obenshain*

**D SB609 Final judgments in circuit court; when modifiable and appealable.** Repeals the provision enacted during the 2003 General Assembly Session that final judgments in circuit court criminal cases remain under the control of the circuit court for 90 days rather than the current 21 days. The filing deadlines for appeals and the transfer of the trial record to the Court of Appeals are proportionately increased to maintain consistency with current practice. The provision was scheduled to become effective on July 1, 2004, so it has never been in effect.

*Patron - Stolle*

**D SB633 Report of arrest of adult school students to school superintendent for certain offenses.** Requires that a public school student who is 18 or over and arrested for certain offenses be reported to the division superintendent. The offenses are the same as those for which a juvenile student would be reported (e.g., firearms; homicide, felonious assault, sexual assault; drug offenses; arson; burglary; robbery). The bill extends this list to include criminal street gang related activity.

*Patron - Saslaw*

**D SB669 Criminal procedure; magistrates.** Eliminates the prohibition of appointing a person as a magistrate if such person's spouse is a law-enforcement officer or an employee of the clerk of a district court.

*Patron - Obenshain*

**D SJ130 Rules of Court.** Encourages the Supreme Court of Virginia to amend the Rules of Court on electronic filing to allow electronic filing by election of any party of the litigation. This resolution is identical to HJR 288.

*Patron - Devolites*

## Failed

**: HB323 Mental illness; civil commitment.** Allows the Department of Corrections to use any nationally recognized, scientifically validated sex offender recidivism instrument to determine if a prisoner should be civilly committed because of his high propensity for recidivism.

*Patron - Griffith*

**: HB492 Compensation of court-appointed counsel.** Sets the compensation of court-appointed attorneys at 75 percent of the compensation in United States federal courts.

*Patron - Kilgore*

**: HB590 Arrest in lieu of service of summons in minor misdemeanor case.** Allows an officer who has temporary custody of a person who committed a minor misdemeanor to either arrest the person or issue a summons. Currently, only a summons can be issued unless the person refuses to sign it or presents some other danger that gives rise to the officer's right to place the individual under arrest.

*Patron - Janis*

**: HB631 Expungement of criminal records; unjust convictions.** Requires, in all cases where the expungement of a criminal record is based on an absolute pardon for the commission of a crime for which the petitioner had been unjustly convicted or a writ of actual innocence has been issued and the petitioner has been confined to a state or local correctional facility for at least six months, that the circuit court also attach an order entitling the petitioner to (i) waiver of tuition and other mandatory fees for any public institution of higher education in the Commonwealth, (ii) lifetime authorization to enter Virginia's state parks for up to seven days per year without having to pay an admittance or parking fee, (iii) assessment and guidance services including, but not limited to, aptitude testing, mental health assessment, substance abuse counseling and job placement service, to be provided by the appropriate state agency at no cost, (iv) lifetime membership to the Virginia Museum of Fine Arts, and (v) a transition assistance grant of \$15,000, in all cases. This bill is incorporated into HB 638.

*Patron - O'Bannon*

**: HB647 Forfeiture on recognizance.** Clarifies that a criminal defendant's bond may be forfeited not only upon his failure to appear in court as required but upon his failure to meet the conditions of his recognizance, as well.

*Patron - Bell*

**: HB723 Sentencing proceeding by the jury after conviction.** Provides that the attorney for the Commonwealth shall advise a sentencing jury that a criminal defendant is entitled to receive a reduction in time served in incarceration for good behavior and shall advise the jury of the maximum reduction in time served that may be earned by a person convicted of a felony or, if applicable, a person convicted of a Class 1 misdemeanor. This bill is incorporated into HB 1292.

*Patron - Shannon*

**: HB785 Speedy trial and speedy sentencing.** Provides that when a defendant is at liberty pending trial, he shall be tried within six months of arraignment, and that when a defendant is found guilty, the court shall pronounce sentence within six months of a finding of guilt. Currently, a defendant at liberty must be tried within nine months and sentence must be pronounced without unreasonable delay.

*Patron - Hurt*

**: HB865 Issuance of warrants against law-enforcement officers.** Provides that, before an arrest warrant or summons may be issued against any law-enforcement officer pursuant to a complaint made to a magistrate alleging that the law-enforcement officer committed a misdemeanor or felony while he was in the performance of his official duties, a hearing shall be held before a district court to determine if sufficient cause exists for the issuance thereof. If the court finds sufficient cause, it shall issue a warrant or summons, as appropriate.

*Patron - Byron*

**: HB1292 Sentencing proceeding by the jury after conviction.** Provides that the attorney for the Commonwealth may advise the sentencing jury, after conviction, of a criminal defendant's entitlement to receive a reduction in time served in incarceration for good behavior, of the maximum reduction in time served that may be earned by a person convicted of a felony, and of the availability of geriatric parole.

*Patron - Bell*

**: HB1318 Timeliness of bail review hearing.** Provides that every person charged with a criminal offense who is



not free on bail shall be brought before a judge on the first day on which such court sits after the person is charged but in no case more than five days following his arrest, at which time the judge shall inform the accused of the amount of his bail and his right to counsel. Currently, there is no five-day limit following arrest.

*Patron - Louderback*

: **HB1356 Criminal procedure; public defender offices.** Requires the Public Defender Commission to establish an office in any judicial circuit that does not have one.

*Patron - Hamilton*

: **SB23 Prepayment of traffic infractions.** Conforms this section to previous enactments allowing for waiver of appearance and prepayment of traffic fines for infractions resulting in accidents.

*Patron - Marsh*

: **SB250 Interception of wire, electronic or oral communications.** Provides that it shall not be a criminal offense for a person to intercept a wire, electronic or oral communication, where such person is a party to the communication and where all of the parties to the communication have given prior consent to such interception. The offense is a Class 1 misdemeanor. Currently, there is no crime if the person intercepting is a party or if one of the parties consents.

*Patron - Deeds*

: **SB496 Deferred disposition; criminal offenses.** Provides that a court shall not defer a conviction when the facts found by the court would justify a finding of guilt, unless there is specific statutory authorization for such deferral for the criminal offense with which the defendant is charged.

*Patron - Mims*

## Carried Over

**7 HB34 Public defenders' offices.** Requires the establishment of a public defender's office in the City of Chesapeake.

*Patron - Cosgrove*

**7 HB522 Suspension or modification of sentence for cooperation with prosecution.** Provides that when a person has been sentenced for a felony to the Department of Corrections, the court that heard the case may, after a hearing upon motion of the Commonwealth and with good cause therefor, suspend all or part, or otherwise modify, the unserved portion of the person's sentence if such a suspension or modification is compatible with the public interest. This intends to accommodate a case where an inmate cooperates and testifies in the prosecution of another person.

*Patron - Cosgrove*

**7 HB583 Public defender offices.** Requires the establishment of public defender offices in the City of Newport News.

*Patron - Hamilton*

**7 HB950 Public defender offices.** Requires the establishment of a public defender office in Arlington County and the City of Falls Church.

*Patron - Ebbin*

**7 HB1073 Arrest outside county or city where charge is to be tried.** Expands arrest jurisdiction of a law-enforcement officer to provide that he may execute anywhere in the Commonwealth a capias or warrant issued by a judicial

officer from his jurisdiction. Under current law, a law-enforcement officer may execute within his jurisdiction a warrant, capias or summons issued anywhere in the Commonwealth.

*Patron - Armstrong*

**7 HB1169 Sentencing proceeding by the jury after conviction.** Provides that if a jury sentences a defendant to less than the mandatory minimum punishment required by law for an offense, the court shall fix punishment at the mandatory minimum.

*Patron - Frederick*

**7 HB1454 Public defender offices.** Requires the establishment of a public defender office in the City of Hampton.

*Patron - Gear*

**7 SB218 Issuance of writ of actual innocence for nonbiological evidence.** Establishes a procedure for a convicted felon to petition the Court of Appeals for a writ of actual innocence based on nonbiological evidence that was previously unknown or unavailable. The Court of Appeals may summarily dismiss the petition but if it determines that a resolution of the case requires further development of the facts, it may order the circuit court to conduct a hearing to certify findings of fact on certain issues. After considering the petition and the Commonwealth's response, the previous records of the case and the record of any hearing, the Court may dismiss the case or grant relief. A petitioner whose writ is not summarily dismissed by the Court of Appeals is entitled to court-appointed counsel in the same manner as an indigent defendant in a criminal case. The bill establishes a process similar to the one that already exists in the Code for previously unknown or untested biological evidence.

*Patron - Marsh*

**7 SB238 Transmission of prisoner orders.** Provides that the certified copies of the orders that the clerk of court must transmit to the Department of Corrections when a person is convicted of a felony shall be transmitted by facsimile or by electronic mail. Under current law the method of transmission is not specified. The bill also clarifies that the 30 days in which the transmission must occur runs from the date the judge enters the final order.

*Patron - Norment*

**7 SB450 Public defender offices.** Requires the establishment of public defender offices in Arlington County and the City of Falls Church.

*Patron - Whipple*

**7 SB640 Mentally ill defendants.** Provides that a defendant in a criminal matter may be hospitalized if so seriously mentally ill as to be unable to care for himself. Under current law the standard is "imminently dangerous to self or others."

*Patron - Edwards*

## Domestic Relations

### Passed

**D HB20 Persons who may perform marriage rites.** Allows circuit court judges to appoint persons who are residents of the circuit in which the judge sits to perform marriages anywhere in the Commonwealth. Legislation enacted in 2003 limited the area to the jurisdiction in which the person resides.

Prior to the 2003 legislation, a judge could appoint a person who resided in the jurisdiction for which the court was held to perform a marriage anywhere in the Commonwealth. This bill is identical to SB 274 except that HB 20 contains an emergency clause.

*Patron - Scott, J.M.*

**D HB441 Custody and visitation; best interests of the child.** Provides that in considering the best interests of the child with respect to custody and visitation, the court may disregard the propensity of each parent to actively support the child's contact and relationship with the other if the court finds a history of family abuse.

*Patron - Suit*

**D HB447 Mandatory parenting classes in cases involving custody, visitation or support.** Eliminates the requirement that parties attend a four-hour seminar on the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities in uncontested custody, visitation and support cases and provides that the court may require the parties to attend such seminars or programs in uncontested cases only if the court finds good cause.

*Patron - Suit*

**D HB511 Child support.** Revises the child support guideline by (i) providing that "gross income" shall not include income received by the payor parent from a second job that was taken in order to pay off child support arrearages and that cessation of the income is not the basis for a material change in circumstances; (ii) replacing the provision for "extraordinary medical and dental expenses" with a requirement that the parents pay in proportion to their incomes any reasonable and necessary unreimbursed medical or dental expenses in excess of \$250 per year per child; (iii) making computation and payment of medical and dental expenses in sole and split custody arrangements identical to that for shared custody arrangements (under which expenses are allocated in accordance with the parties' income shares and paid in addition to the basic child support obligation); (iv) directing the court to consider actual tax savings a party derives from the child-care cost deductions or credits; and (v) changing the guideline review from being completed every three years to being completed every four years. This bill is identical to SB 208.

*Patron - Marrs*

**D HB751 Affirmation of Marriage Act for the Commonwealth of Virginia.** States that a civil union, partnership contract or other arrangement between persons of the same sex purporting to bestow the privileges or obligations of marriage is prohibited and that such an arrangement entered into in another state or jurisdiction is void in Virginia and any contractual rights created thereby are void and unenforceable.

*Patron - Marshall, R.G.*

**D HB1111 Divorce; property distribution.** Adds the use, expenditure or dissipation of marital property for a non-marital separate purpose in anticipation of divorce or after the last separation, to the factors that the court is directed to consider in determining the division or transfer of marital property, the amount of any monetary award, the apportionment of marital debts, and the method of payment. This bill is identical to SB 51.

*Patron - Moran*

**D SB51 Divorce; property distribution.** Adds the use, expenditure or dissipation of marital property for a non-marital separate purpose in anticipation of divorce or after the last separation, to the factors that the court is directed to con-

sider in determining the division or transfer of marital property, the amount of any monetary award, the apportionment of marital debts, and the method of payment. This bill is identical to HB 1111.

*Patron - Puller*

**D SB208 Child support.** Revises the child support guideline by (i) providing that "gross income" shall not include income received by the payor parent from a second job that was taken in order to pay off child support arrearages and that cessation of the income is not the basis for a material change in circumstances; (ii) replacing the provision for "extraordinary medical and dental expenses" with a requirement that the parents pay in proportion to their incomes any reasonable and necessary unreimbursed medical or dental expenses in excess of \$250 per year per child; (iii) making computation and payment of medical and dental expenses in sole and split custody arrangements identical to that for shared custody arrangements (under which expenses are allocated in accordance with the parties' income shares and paid in addition to the basic child support obligation); (iv) directing the court to consider actual tax savings a party derives from the child-care cost deductions or credits; and (v) changing the guideline review from being completed every three years to being completed every four years. This bill is identical to HB 511.

*Patron - Quayle*

**D SB274 Persons who may perform marriage rites.** Allows circuit court judges to appoint persons who are residents of the circuit in which the judge sits to perform marriages anywhere in the Commonwealth. Legislation enacted in 2003 limited the area to the jurisdiction in which the person resides. Prior to the 2003 legislation, a judge could appoint a person who resided in the jurisdiction for which the court was held to perform a marriage anywhere in the Commonwealth. This bill is identical to HB 20 except that SB 274 does not contain an emergency clause.

*Patron - Devolites*

**D SB497 Child support petition.** Clarifies that the retroactive modification of a child support order is not dependent on the court in which the petition was originally filed. Child support orders may be modified retroactively only to the date that the petition for modification was filed. When the modification petition is originally filed in juvenile and domestic relations district court and removed to circuit court, some circuit court judges have ruled that the circuit court can order child support retroactive to the date of filing in circuit court and others have ruled that retroactivity goes back to the date of filing in juvenile court. This bill provides that the child support may be modified back to the date that the modification petition was filed in any court.

*Patron - Mims*

## Failed

**: HB191 Domestic relations; applicants for marriage license.** Makes it permissive to distribute certain health information to applicants for a marriage license.

*Patron - Black*

**: HB261 Divorce, custody, visitation and support; penalties.** Provides that custodial and noncustodial parents shall be subject to the same penalties for failure to comply with court orders relating to divorce, custody, visitation and support.

*Patron - Jones, D.C.*

**: HB421 Persons who may perform marriage rites.** Clarifies that a minister authorized to perform marriage

ceremonies in the Commonwealth may do so anywhere in the Commonwealth.

*Patron - Watts*

: **HB727 Same sex marriage; impeachment of judge.** Provides that any judge who rules Virginia's prohibition against marriage between persons of the same sex (§ 20-45.2) unconstitutional is deemed to have committed malfeasance in office and may be subject to impeachment under the Virginia Constitution.

*Patron - Marshall, R.G.*

: **HB750 Affirmation of Marriage Act for the Commonwealth of Virginia.** Provides that the Commonwealth of Virginia is under no constitutional or legal obligation to recognize a marriage, civil union, partnership contract or other arrangement purporting to bestow any of the privileges or obligations of marriage under the laws of another state or territory of the United States unless such marriage conforms to the laws of the Commonwealth. This bill has an emergency clause.

*Patron - Marshall, R.G.*

: **HB781 Spousal support; effect of cohabitation.** Strikes the separate provisions for termination of spousal support where the payee spouse is cohabiting with another person and provides that for purposes of changing maintenance and support payable to a spouse the terms "marriage" and "remarriage" shall be defined to include habitually cohabiting with another person in a relationship analogous to a marriage for one year or more.

*Patron - McDougle*

: **HB807 Domestic relations; tax on marriage license.** Eliminates the \$20 tax on a marriage license if the parties to the application have received four hours of counseling from a person authorized to perform marriages or from a professional counselor.

*Patron - Petersen*

: **HB1239 Spousal support; physically abusive spouses.** Prohibits courts from awarding spousal support to any spouse who was physically abusive to the other during the marriage, and authorizes courts to amend existing orders on the same grounds. Evidence of abuse must be clear and convincing.

*Patron - Griffith*

: **HB1284 Juveniles; petitions filed for custody and visitation of any and all children of the parties.** Provides that only one petition need be filed and only one filing fee shall be required for filing a petition for custody and visitation for any and all children of the parties. This bill is incorporated into HB 344.

*Patron - Suit*

: **SB15 Persons who may perform marriage rites.** Allows circuit court judges to appoint persons who are residents of the circuit in which the judge sits to perform marriages anywhere in the Commonwealth. Legislation enacted in 2003 limited the area to the jurisdiction in which the person resides. Prior to the 2003 legislation, a judge could appoint a person who resided in the jurisdiction for which the court was held to perform a marriage anywhere in the Commonwealth. The bill has an emergency clause.

*Patron - Edwards*

: **SB237 Virginia Domestic Violence Victim Fund.** Creates the Virginia Domestic Violence Victim Fund. The Fund is to be administered by the Department of Criminal Justice Services, and the resources used to support the prosecution

of domestic violence cases and victim services. The Fund shall be supported by dedication of a portion of court fees. The bill provides that \$10 of the \$20 tax on marriage licenses will go to the Department of Social Services for providing services to victims of domestic violence. The Department of Criminal Justice Services, in cooperation with the Statewide Facilitator for Victims of Domestic Violence within the Office of the Attorney General, is required to make all reasonable efforts to secure federal funds or other grant moneys for domestic violence prosecutions and services.

*Patron - Norment*

: **SB251 Spousal support.** Creates a rebuttable presumption that if spousal support is awarded it shall continue for a period equal to 50 percent of the length of time between the date of the marriage and the date of separation.

*Patron - Deeds*

: **SB379 Domestic relations; tax on marriage license.** Eliminates the \$20 tax on a marriage license if the parties to the application have received four hours of counseling from a person authorized to perform marriages or from a professional counselor.

*Patron - Deeds*

: **SB524 Paternity tests.** Provides that in cases of unwed parents, administrative and judicial child support orders must contain a statement that paternity has been established through scientifically reliable genetic tests. This provision does not apply where the alleged father has adopted the child, knew that the child was conceived through artificial insemination, is deceased or such testing is impractical or inappropriate for the circumstances of a particular case.

*Patron - Hanger*

## Carried Over

**7 HB326 Application of support orders; fraud.** Provides that upon proof that either party has committed fraud upon the court, including but not limited to giving false testimony regarding assets and income, the court may issue a new support order, nunc pro tunc to the original date of the hearing at which the fraud was committed.

*Patron - Griffith*

**7 HB386 Divorce, custody and visitation.** Provides that substance abuse, cruelty, or causing reasonable apprehension of bodily hurt are fault grounds for divorce. Requires a party in a divorce who is seeking joint or sole custody to be awarded at least 120 overnights in any calendar year and joint or sole legal custody unless both parties agree in writing to a parenting plan that addresses custody or the court makes a written finding that such arrangement is not in the best interests of the child. This provision does not apply to a party who has committed adultery, sodomy or buggery outside the marriage; been convicted of a felony and sentenced to confinement for more than one year; been guilty of cruelty towards the spouse, caused the spouse reasonable apprehension of bodily hurt, willfully deserted or abandoned the spouse; or been guilty of cruelty to the parties' children or caused the children reasonable apprehension of bodily hurt; or abused drugs or alcohol. It is presumed that it is in the best interests of the child to spend a minimum of 120 overnights with each party in every calendar year in visitation arrangements.

*Patron - Lingamfelter*

**7 HB1240 Child Support Guidelines Review Panel.** Establishes the Child Support Guidelines Review Panel in the legislative branch of state government. The Panel is

responsible for reviewing the guidelines for child support every three years. This bill is a recommendation of the Joint Rules Committee.

*Patron - Griffith*

**7 SB435 Child support guideline.** Modifies the calculation of child support in shared custody by repealing the multiplier and distinguishing between variable and fixed costs. Variable costs are based on the percentage of time a parent has custody of the child.

*Patron - Wagner*

**7 SB510 Uniform Child Custody Jurisdiction and Enforcement Act.** Makes several modifications to the continuing jurisdiction provisions of the Act. The changes provide that the state with initial jurisdiction does not lose jurisdiction until both parents move out of that state. The current provision says until the "child's parents" move out of the state and it is unclear what happens if one parent moves to another state. The Act is a uniform act proposed by the National Conference of Commissioners on Uniform State Laws and was enacted in 2001 to replace the Uniform Child Custody Jurisdiction Act, which Virginia enacted in 1979.

*Patron - Mims*

**7 SB680 Divorce decrees; spousal support, modification and enforcement.** Provides that agreements that are incorporated into a divorce decree are subject to revision by the court upon a showing of clear and convincing evidence that a term or provision is causing manifest injustice or that a change in condition has made such term or provision unconscionable. In the case of a divorce decree, the bill allows the court to order incarceration for contempt only when the court is convinced beyond a reasonable doubt that the contempt is willful, intentional and malicious. The bill also provides that a court may not award spousal support unless there is an agreement between the parties to do so. The bill states that spousal support terminates upon cohabitation.

*Patron - Deeds*

## Education

### Passed

**D HB9 Advisory Council on the Virginia Business-Education Partnership Program.** Abolishes the Advisory Council on the Virginia Business-Education Partnership Program and the Virginia Business-Education Partnership Program. The program was created in 1993 to assist local programs in obtaining federal funding to establish local business-education partnerships. The council was established at the same time to assist the Secretary of Education in implementing the program and facilitating the development of strategic partnerships between the public and private sectors to enhance public education and workforce training. State funding for the program ended in 2001 and federal funding ceased on December 31, 2003. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill incorporates HB 208.

*Patron - Cox*

**D HB318 Supplemental compensation; teachers called to active duty.** Provides that public school employees whose active duty service with the regular armed forces of the United States or the National Guard or other reserve compo-

nent has required their absence from their full-time employment in a school division will receive supplemental pay as determined by and from the relevant local school division if the military compensation of such employee is less than the regular salary paid to such employee by the school division. Classified state employees receive a similar benefit pursuant to Executive Order 44, issued March 26, 2003.

*Patron - Cox*

**D HB380 Charter School Excellence and Accountability Act.** Amends the charter schools statute to (i) allow charter schools to contract with private institutions of higher education for school facilities, services, and other undertakings, including construction; (ii) add evidence of the support of school division residents for a charter school to those items that may be included in proposed charter agreement materials; (iii) allow charter applicants to submit the proposed charter agreement to the Board of Education for review and comment, and to require inclusion of the Board's findings in the charter application to the local school board; (iv) delete the authority of school boards to limit the number of charter schools within the division and the statutory cap on the maximum number of charter schools (two schools or not more than 10 percent of the total number of schools in the division, whichever is greater); (v) delete the requirement that half the charter schools in the division be designed to benefit at-risk pupils, and instead direct school boards to give priority to applications designed to benefit these students, particularly those at-risk students currently served by schools that have not achieved full accreditation; (vi) direct the Board to report annually to the General Assembly the number of public charter school applications granted and denied, and the reasons for any such denials; and (vii) increase the maximum charter term from three to five years. The Board of Education must set objective criteria for the review and comment on the applications; the Board's comments cannot relate to whether the local school board should approve the application. The bill also amends the State and Local Government Conflicts of Interests Act to allow the governing body, administrators, and other personnel within a public charter school to have an ownership or financial interest in renovating, lending, granting, or leasing public charter school facilities, if such interest has been disclosed in the public charter school application. The provisions of this bill will sunset on July 1, 2009.

*Patron - Lingamfelter*

**D HB433 Certain school board benefits, expenses and reimbursements; Arlington County.** Authorizes the Arlington County School Board (an elected school board of a division comprised of a county having the county manager plan of government) to grant itself fringe benefits, expenses, and reimbursements, or any of them, as it deems appropriate, and in the manner and form as such fringe benefits, expenses, and reimbursements are provided for school board employees, after satisfying notice and public hearing requirements. The Arlington County School Board may establish such fringe benefits, expenses, and reimbursements by July 1 in any year in which two of the five members are to be elected. Any increased fringe benefits, expenses, and reimbursements will become effective on January 1 of the following year.

*Patron - Brink*

**D HB513 Model student conduct policies.** Directs the Board of Education, in developing model student conduct policies, to include standards for school board policies on self-defense. School boards must adopt student conduct policies that are at least consistent with the Board's model, and may adopt more stringent policies.

*Patron - Marrs*

**D HB545 Academic research and advanced education enterprise.** Requires the Virginia Research and Technology Advisory Commission to continue its examination of establishing integrated research and academic campuses in the Commonwealth. The commission will conduct a feasibility study on building an academic research and advanced education enterprise in northern Virginia and Hampton Roads to provide a vehicle for multiuniversity collaboration and closer ties to industry.

*Patron - May*

**D HB573 Licensure of principals.** Directs the Board of Education to require passage of the School Leader's Licensure Assessment (SLLA) as a condition of initial licensure for principals and other school leaders, as may be determined by the Board, on and after July 1, 2005. This bill is a recommendation of the HJR 20/SJR 58 Commission to Review, Study, and Reform Educational Leadership. The SLLA is a performance-based assessment for the licensure of school principals and assistant principals or vice-principals. The assessment was developed and is administered by the Educational Testing Service and is based on the standards of the Interstate School Leader's Licensure Assessment Consortium. Alaska, Arkansas, Kentucky, Maryland, Mississippi, Missouri, and North Carolina currently use the SLLA.

*Patron - Hamilton*

**D HB575 School closings; waiver of makeup days.** Permits the Board of Education to waive the requirement that school divisions provide additional teaching days to compensate for school closings resulting from a declared state of emergency. If the Board grants such a waiver, there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. However, the local appropriations for educational purposes necessary to fund 180 teaching days shall not be proportionally reduced by any local governing body due any reduction in the length of the term of any school or school division permitted by such waiver.

*Patron - Hamilton*

**D HB675 Qualifications for providing home instruction.** Requires persons providing home instruction to hold a high school diploma. Under current law, such individuals must hold a baccalaureate degree.

*Patron - Bell*

**D HB769 Career and technical education.** Directs local school boards to include, within the currently required career and technical education program, curricula that promote knowledge of entrepreneurship and small business ownership. Current programs are to address "all types of employment opportunities," such as apprenticeships, the military, and career education schools. The bill also requires that notice of dual enrollment opportunities between high schools and community colleges be provided to students and parents.

*Patron - Hurt*

**D HB869 Reporting of certain acts by school authorities to law enforcement.** Expands the enumerated activities that school principals must report to local law enforcement by providing that reportable offenses involving "firearms" on school property address any weapon prohibited on school property or at a school-sponsored activity pursuant to § 18.2-308.1, as well as (i) any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material; (ii) the frame or receiver of any such weapon; (iii) any firearm muffler or firearm silencer; or (iv) any destructive device. "Firearm" shall not include any

weapon in which ammunition may be discharged by pneumatic pressure. By linking the definition of "firearm" to the definition in § 22.1-277.07 (Gun-Free Schools), the bill captures possession of knives and other weapons.

*Patron - Byron*

**D HB978 School division consolidation.** Directs the Board of Education, consistent with its authority pursuant to Article VIII, § 5 of the Constitution of Virginia to designate school divisions to promulgate regulations that provide for a process whereby school divisions may submit proposals for the consolidation of school divisions. Such regulations shall provide for, among other things, a public notice and hearing process to be conducted by the applicant school divisions. School division proposals must include, among other things, (i) evidence of the cost savings to be realized by such consolidation; (ii) a plan for the transfer of title to school board property to the resulting school board; (iii) procedures and a schedule for the proposed consolidation, including completion of current division superintendent and school board member terms; (iv) a plan for proportional school board representation of the localities comprising the new school division, including details regarding the appointment or election processes currently ensuring such representation and other information as may be necessary to evidence compliance with federal and state laws governing voting rights; and (v) evidence of local support for the proposed consolidation. For five years following completion of such consolidation, the computation of the state and local share for an educational program meeting the standards of quality for school divisions resulting from consolidations shall be the lower composite index of local ability-to-pay of the applicant school divisions, as provided in the appropriation act.

*Patron - Reese*

**D HB1013 At-Risk Student Academic Achievement Program.** Creates the At-Risk Student Academic Achievement Program and Fund, to provide noncompetitive grants to public school divisions to implement research-based programs or programs identified as best practices that are designed to (i) improve the academic achievement of at-risk public school students on the Standards of Learning assessments; (ii) decrease the rate of dropout among at-risk public school students; and (iii) increase the number of such students obtaining the advanced studies diploma. The amount of grants and required local matching funds shall be determined as provided in the appropriation act. Funds received through this Program shall be used to supplement, not supplant, any local funds currently provided for at-risk programs within the school division.

*Patron - Dillard*

**D HB1014 Standards of Quality.** Reorganizes the Standards of Quality and makes substantive amendments that would (i) increase from one half-time to one full-time principal in elementary schools with fewer than 300 students; (ii) provide one full-time assistant principal for each 400 students in each school, regardless of grade level; (iii) require five elementary resource positions per 1,000 students in kindergarten through grade five for art, music, and physical education; (iv) lower the pupil-teacher ratio from 25:1 to 21:1 in middle and high schools, to ensure the provision of scheduled teacher planning time; (v) reduce the required speech pathologist case-load from 68 to 60 students; (vi) require one full-time reading specialist for each 1,000 students in average daily membership; (vii) require two technology support positions per 1,000 students in kindergarten through grade 12 divisionwide; and (viii) modify the current funding mechanism for remediation. A second enactment clause provides that the amendments requiring additional state funding (such as increasing principals or lowering pupil-teacher ratios) will not become effective unless

funded in the 2004 appropriation act. The bill also includes a number of technical and editorial changes. The Board of Education proposed and approved these changes on June 25, 2003. Because the Virginia Constitution grants the General Assembly "ultimate authority" over educational policy and provides that the Standards are to be "prescribed from time to time by the Board of Education" but are subject to revision "only by the General Assembly," legislation is necessary to enact the Board's proposals.

*Patron - Dillard*

**D HB1015 Family life education.** Adds steps to take to avoid sexual assault and the availability of counseling and legal resources, and, in the event of such sexual assault, the importance of immediate medical attention and advice, as well as legal requirements to those items that the Board of Education is to include in its curriculum guidelines for family life education. Pursuant to the Standards of Accreditation (8 VAC 20-131-170), local school boards are authorized to implement the Standards of Learning for the Family Life Education program promulgated by the Board of Education or a Family Life Education program consistent with the Board's guidelines, which shall have the goals of "reducing the incidence of pregnancy and sexually-transmitted diseases and substance abuse among teenagers."

*Patron - Dillard*

**D HB1018 Alternatives to student dissection of animals.** Requires school divisions to provide students with alternatives to animal dissection in relevant public school courses or curriculum and directs the Board of Education to develop guidelines for such alternatives addressing (i) the use of detailed models of animal anatomy and computer simulations as alternatives to dissection; (ii) notification of students and parents of the option to decline to participate in animal dissection; and (iii) such other issues as the Board deems appropriate. Statutes addressing alternatives to animal dissection have been enacted in several states, including California, Florida, Illinois, Louisiana, Maine, New York, Pennsylvania, and Rhode Island.

*Patron - Dillard*

**D HB1038 Notice of duty to report child abuse or neglect.** Requires each public school board and each administrator of every private or parochial school to post in each of their schools a notice, pursuant to § 63.2-1509, that: (i) any teacher or other person employed in a public or private school who has reason to suspect that a child is an abused or neglected child, including any child who may be abandoned, is required to report such suspected cases of child abuse or neglect to local or state social services agencies or the person in charge of the relevant school or his designee; and (ii) all persons required to report cases of such suspected child abuse or neglect are immune from civil or criminal liability or administrative penalty or sanction on account of such reports unless such person acted in bad faith or with malicious purpose. The notice must also include the Virginia Department of Social Services' toll-free child abuse and neglect hotline. A second enactment clause requires that the notice will be prepared and distributed to each public school board by the office of the Attorney General. Further, the Attorney General will also furnish, upon request, the notice to any private school. This bill is identical to SB 576.

*Patron - Saxman*

**D HB1048 Teachers; local eligibility license.** Prohibits the issuance of local eligibility licenses to teachers providing instruction in special education, and limits the issuance of these licenses to those teachers providing instruction in courses that do not represent core academic areas as defined by

P.L. 107-110 (the federal No Child Left Behind Act (NCLB)). The bill is designed to comply with NCLB provisions addressing "highly qualified" teachers. The 2002 reauthorization of the Elementary and Secondary Education Act, NCLB requires, among other things, that schools receiving certain federal Title I funds ensure that "highly qualified" teachers are in place in all core academic subjects by 2005-2006. In addition, beginning with the 2002-2003 school year, all new hires must be "highly qualified." To satisfy the "highly qualified" classification, teachers must be fully licensed; emergency or similar temporary licensure will not suffice. In addition, new and current teachers must hold undergraduate degrees and meet various state testing and subject matter competency requirements.

*Patron - Hamilton*

**D HB1108 Department of Correctional Education.** Authorizes the Department of Correctional Education to provide community-based educational programs to adult probationers and parolees in residential diversion centers and to adult prisoners who are participating during their incarceration in the short-term, highly structured, military-style program provided by residential detention centers.

*Patron - Moran*

**D HB1117 School board policies prohibiting firearms.** Authorizes school divisions to establish disciplinary policies prohibiting the possession of firearms on school property, school buses, and at school-sponsored activities by students, and authorizes school divisions to take disciplinary actions against students who violate such policies. The bill indicates that the act is declaratory of existing law. The bill would allow school boards to establish policies to discipline students who carry weapons on school property, including an unloaded firearm in a closed container. An October 2003 opinion of the Attorney General indicated that a school board "has authority to discipline, in the context of the complete analysis of this opinion, a student whose action is in conformance with the language of Chapter 619 of the 2003 Acts of Assembly (the "2003 amendment"), which amends and reenacts § 18.2-308.1(B), pertaining to the possession of an unloaded firearm in a locked vehicle trunk." While noting that the "interaction between §§ 18.2-308.1(B) and 22.1-277.07(A) is not a model of clarity," the Attorney General stated that "[a]s long as the regulations of the school authorities are not inconsistent with the 2003 amendment, school authorities are authorized to promulgate reasonable regulations that may result in the discipline of a student whose action is in conformance with the language of the 2003 amendment pertaining to the possession of an unloaded firearm." The 2003 amendment to subsection B of § 18.2-308.1 permits a student to possess a firearm that is unloaded and in a closed container, which "includes a locked vehicle trunk," on school property or at a school-sponsored activity.

*Patron - Weatherholtz*

**D HB1254 Standards of Quality; School Performance Report Card.** Directs the Board of Education, in its requirements related to the School Performance Report Card, to require the reporting of the Standards of Learning assessment scores and averages for each year. The Board shall make such reports available to the public within three months of the receipt of the scores, which shall be disaggregated for each school by gender, and by race or ethnicity. These reports shall (i) be posted on the portion of the Department of Education's website relating to the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment. Currently, the School Performance Report Card is required by the Board's Standards of Accreditation for Public Schools (8VAC20-131-270). The report card is to include information for the most recent three-

year period that sets forth, among other things, (a) SOL test scores and scores on the literacy and numeracy tests required for the Modified Standard Diploma for the school, school division, and state; (b) percentages of students tested, as well as the percentage of students not tested, to include a breakout of students with disabilities and limited English proficient students; (c) student attendance and dropout rates; (d) school safety data; (e) teacher qualifications; and (f) percentages of students in alternative programs that do not lead to a Standard, Advanced Studies, or Modified Standard Diploma and in academic year Governor's Schools

*Patron - Hull*

**D HB1256 School closings; makeup days.** Clarifies the circumstances in which state basic aid funding will be reduced because of school closings due to severe weather conditions or other emergency situations. The bill defines "severe weather conditions or other emergency situations" as "those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including, but not limited to, natural and man-made disasters, energy shortages or power failures." The bill states that the length of every school's term in every school division must be 180 teaching days or 990 teaching hours and, if the length of the term is reduced, the amount paid by the Commonwealth will be proportionally reduced. However, a schedule of makeup days that will avoid reduction in funding is set out, i.e., for five or fewer missed days, makeup days according to Board regulations cannot exceed the days missed; for five missed days, but no more than 15 missed days, five makeup days plus one day for every two days in excess of the initial five, but no more than nine make-up days; for more than 15 days, at least 10 makeup days. School divisions are authorized to make up the missed teaching days by providing the students with instructional hours equivalent to the missed days. In addition, the Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from a declared state of emergency. If the Board grants the waiver, no proportionate reduction in state funds will be made. The Board's regulations for this law may authorize the Superintendent of Public Instruction to approve reductions in school terms without reductions in funding. The Board is authorized, in a second enactment clause, to promulgate emergency regulations. This bill is identical to SB 452, except that SB 452 includes an emergency enactment clause that makes the bill effective upon passage.

*Patron - Van Lindingham*

**D HB1257 Standard diploma; verified units of credit.** Amends an uncodified act to direct local school boards to adopt procedures, pursuant to Board of Education guidelines, to award verified units of credit for standard diplomas to students who have (i) entered the ninth grade for the first time during the school years of 2000-2001, 2001-2002, and 2002-2003; and (ii) passed the relevant coursework. The 2002 Session of the General Assembly directed the Board to develop guidelines for the award of verified units of credit for standard diplomas to these students. An emergency clause makes the bill effective upon passage.

*Patron - Council*

**D HB1294 Enforcement of school corrective action plans.** Modifies the current school corrective action plan process within the Standards of Quality (SOQ) to (i) authorize the Board of Education to require an academic review, consistent with criteria to be established by the Board, of any school division upon obtaining evidence through the school academic review process that school failure is related to division level failures to implement the SOQ; (ii) require the

reviewed school division to submit for approval by the Board a corrective action plan setting forth specific actions and a schedule designed to ensure that schools within its school division achieve full accreditation status; (iii) add such corrective action plans to relevant school division's six-year improvement plan; (iv) allow the Board to pursue circuit court enforcement of the development or implementation of such plans by non-compliant school divisions; and (v) delete the current mandamus process. The Administrative Process Act is amended to provide an exemption for the determination of accreditation or academic review status of a public school or public school division or Board approval of a school division corrective action plan. Finally, a second enactment clause directs the Board to promulgate regulations to implement the act to be effective within 280 days of its enactment.

*Patron - Reid*

**D HB1326 Compulsory school attendance enforcement; parental responsibility; use of contempt power, summons; penalty.** Strengthens the mechanisms for enforcement of the compulsory school attendance law. The bill removes the restriction on the court's use of contempt power in enforcing compulsory school attendance and parental responsibility provisions. The court's authority to order the child or the parent, or both, into programs, such as extended day programs and summer school or other educational programs and treatment, such as counseling, is clarified and reinforced. The court is given the authority to summon and force a parent to appear in court with the child. The parental responsibility and involvement statute is amended to include compliance with compulsory school attendance. The parent may be charged with a Class 3 misdemeanor for violating the provisions of the parental responsibility law.

*Patron - Marrs*

**D HB1331 Hazing; Board of Education's guidelines and model policies for and school boards' regulations on codes of student conduct.** Requires the Board of Education to include hazing in its guidelines and model policies for codes of student conduct and school boards to prohibit hazing in their codes of student conduct. In addition, school boards must cite, in their standards for student conduct, the provisions of the criminal law prohibiting hazing, which renders convictions of violations a Class 1 misdemeanor, i.e., confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. In the past year, several high-profile and disturbing cases of hazing among high school athletic teams or cheerleaders have occurred in other states with devastating results to high school teachers, coaches, and administrators and the students and communities.

*Patron - Tata*

**D HB1336 Salaries of certain school boards.** Increases the salary of the Manassas Park School Board from \$1,800 to \$3,000. The Manassas Park School Board's salary has not been increased for 13 years. This bill is identical to SB 644.

*Patron - Parrish*

**D HB1443 Admission of certain persons to the public schools.** Ensures that students whose parents are deployed outside the United States will continue to be admitted to public schools in the Commonwealth without tuition. This bill provides for admission to the public schools of any person living with an individual who is defined as a parent, not solely for school purposes, pursuant to a special power of attorney executed by a custodial parent as provided in federal law while the custodial parent is deployed outside the United States as a member of the Virginia National Guard or as a member of the United States Armed Forces. The bill also assures that the stu-

dent will not be charged tuition because of being placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent and that the student will, when practicable, have the option to continue to attend the school in which he was enrolled while residing with his custodial parent. This bill addresses the residency issues created when a custodial parent, who is a resident of Virginia and a member of the Virginia National Guard or the United States Armed Forces, receives orders to report for active duty and deployment abroad and the child must, out of necessity, live with the noncustodial parent or another individual in a different school division. A technical amendment to § 22.1-270 aligns a cross reference to the amendments in the bill.

*Patron - Baskerville*

**D HJ117 Performance-based contracts for division superintendents.** Encourages school boards to use performance-based contracts to evaluate division superintendents. Performance-based contracts are agreements between division superintendents and the school board that set priorities for performance, tie the superintendent's salary to student achievement and certain other indicators of job performance, and provide time for implementing change. This resolution notes that performance contracts are growing in popularity among school boards across the nation due to considerable attention given to school reform, student achievement, and school accountability, and to the need to establish criteria for the accountability of school leaders. The resolution notes further that sustaining the progress in school reform and fulfilling the Commonwealth's vision of a public school system without peer requires innovative, daring, and visionary leaders who are unafraid to lead and are not intimidated by the future.

*Patron - Jones, D.C.*

**D HJ123 Alternative licensure for principals.** Requests the Board of Education to review its regulations as may be necessary to incorporate an alternative licensure route for principals and assistant principals. This bill is a recommendation of the HJR 20/SJR 58 Commission to Review, Study, and Reform Educational Leadership.

*Patron - Hamilton*

**D HJ260 Health and physical education.** Urges school divisions to provide age-appropriate and culturally sensitive health, nutrition and physical education necessary to develop the knowledge, attitudes, skills, and behaviors required for students to adopt and maintain healthy eating habits and physically active lifestyles.

*Patron - Tata*

**D SB145 Hearings for teacher dismissal and licensure revocation.** Requires the Board of education's regulations on teacher licensure to provide for Board action to suspend or revoke a teacher's license when (i) a school board hearing requested by the teacher has been held and has resulted in a dismissal of the teacher and a subsequent determination by the local school board to recommend to the Board the suspension or revocation of the teacher's license; or (ii) a teacher has resigned without requesting a hearing and the local school board has recommended to the Board suspension or revocation of the teacher's license. Local school boards shall not be required to conduct a separate hearing for recommendations of suspension or revocation. This bill supersedes current Board of Education regulations requiring a local school board hearing on revocation of the teacher's license when the teacher has been dismissed in addition to a subsequent action by the Board of Education (8 VAC 20-21-660).

*Patron - Cuccinelli*

**D SB270 Public school enrollment of homeless children.** Revises provisions addressing the public school enrollment of homeless children to reflect the definitions and requirements set forth in the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001---law that is included within the federal No Child Left Behind Act. School divisions are to coordinate the provision of services to such homeless students with relevant local social services agencies and other agencies and programs providing services to such students, and with other school divisions as may be necessary to resolve interdivisional issues. The bill also provides that superintendents cannot exclude from school attendance those homeless children who do not provide the requisite health or immunization information required of other students and deletes the outdated mumps immunization exemption. However, the student must be immediately referred to the local school division liaison who is required to assist the student in obtaining the necessary physical examinations or proof or completion of immunizations. Technical amendments delete references to "guardian," as § 22.1-1 includes guardians, legal custodians, and other persons having "control or charge of a child" within the definition of "parent" throughout Title 22.1.

*Patron - Quayle*

**D SB315 Green schools program; education programs to promote waste reduction and resource efficiency.** Authorizes the Board of Education to assist local school boards in the development and implementation of programs of instruction that comply with the provisions of Standard 1 of the Standards of Quality, specifically relating to citizenship and environmental issues and geography necessary for responsible participation in American society and the international community, by cooperating with the environmental groups, other relevant state agencies, such as, but not limited to, the Department of Environmental Quality and the Department of Health, and other stakeholders in the development of a green schools program for Virginia. Any such green schools program will focus on waste reduction through recycling and other mechanisms and educating students to help schools contain costs and to reduce waste production through resource efficiency. In the development and implementation of any such program, the Board must examine other states' green schools programs and must receive input from parents, teachers, school administrators, school boards, business and industry leaders, and local governments. The Board must also strive to identify businesses and other organizations that may provide support in the form of resources or funding for appropriate awards for any green schools program that may be implemented in the Commonwealth. This provision must not be construed to require the Board or any school board in the Commonwealth to implement a green school program or to imply or otherwise indicate that state or local funding is required to develop or implement any green school program.

*Patron - Howell*

**D SB404 Compulsory school attendance.** Provides that active pursuit of a general education development (GED) certificate by persons 16 through 18 years of age who are housed in adult correctional facilities but who are not enrolled in an individual student alternative education plan will satisfy the requirements of the compulsory school attendance law. This bill brings the law into conformance with the current practice, which is to provide GED programs for incarcerated person between 16 and 18 years of age.

*Patron - Reynolds*

**D SB416 Expedient and efficient reporting of standards of learning test results to schools and school divisions.** Requires the Board of Education, in consultation with



the chairpersons of the eight regional superintendents' study groups, to provide for timely review of the Standards of Learning test scores by school divisions for coding and other errors and prompt reporting to the local school divisions by the Department of Education of the test scores that will be used to determine each school's status pursuant to the provisions of the federal No Child Left Behind Act of 2001 (P.L. 107-110).

*Patron - Newman*

**D SB438 Notification of parents of certain students.** Directs local school boards to notify the parent of the educational rights of students who fail to graduate or who have failed to achieve the number of verified units of credit required for graduation as provided in the standards of accreditation. In addition, school boards are to notify the parent of students who (i) have been identified as having limited English proficiency of the opportunity for a free public education; or (ii) have been identified as disabled and receive special education of their right to a free public education to age 21, inclusive. In addition, local school boards are to notify parents of rising high school juniors and seniors of the number of verified units of credit required for graduation and the number of verified units the individual student requires. Pursuant to §§ 22.1-1 and 22.1-5, public schools are free to "persons of school age" (at least age five on or before September 30 of the school year and under 20 years of age on or before August 1). In addition, subsection D of § 22.1-5 sets forth for students for whom English is a second language the opportunity for a free public education through the age of 21. Finally, persons who have been identified as disabled who receive special education are entitled to a "free and appropriate education" through 21 years of age pursuant to the federal Individuals with Disabilities Education Act (IDEA) and § 22.1-213.

*Patron - Locke*

**D SB452 School closings; makeup days.** Clarifies the circumstances in which state basic aid funding will be reduced because of school closings due to severe weather conditions or other emergency situations. The bill defines "severe weather conditions or other emergency situations" as "those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including, but not limited to, natural and man-made disasters, energy shortages or power failures." The bill states that the length of every school's term in every school division must be 180 teaching days or 990 teaching hours and, if the length of the term is reduced, the amount paid by the Commonwealth will be proportionally reduced. However, a schedule of makeup days that will avoid reduction in funding is set out, i.e., for five or fewer missed days, makeup days according to Board regulations cannot exceed the days missed; for five missed days, but no more than 15 missed days, five makeup days plus one day for every two days in excess of the initial five, but no more than nine makeup days; for more than 15 days, at least 10 makeup days. School divisions are authorized to make up the missed teaching days by providing the students with instructional hours equivalent to the missed days. In addition, the Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from a declared state of emergency. If the Board grants the waiver, no proportionate reduction in state funds will be made. The Board's regulations for this law may authorize the Superintendent of Public Instruction to approve reductions in school terms without reductions in funding. The Board is authorized, in a second enactment clause, to promulgate emergency regulations. Technical amendments are included to improve readability, and an emergency clause makes the bill effective upon passage. With

the exception of the emergency clause, the bill is identical to HB 1256.

*Patron - Whipple*

**D SB479 Standards of Quality.** Reorganizes the Standards of Quality and makes substantive amendments that would (i) increase from one half-time to one full-time principal in elementary schools with fewer than 300 students; (ii) provide one full-time assistant principal for each 400 students in each school, regardless of grade level; (iii) require five elementary resource positions per 1,000 students in kindergarten through grade five for art, music, and physical education; (iv) lower the pupil-teacher ratio from 25:1 to 21:1 in middle and high schools, to ensure the provision of scheduled teacher planning time; (v) reduce the required speech pathologist case-load from 68 to 60 students; (vi) require one full-time reading specialist for each 1,000 students in average daily membership; (vii) require two technology support positions per 1,000 students in kindergarten through grade 12 divisionwide; and (viii) modify the current funding mechanism for remediation. A second enactment clause provides that any provision that is not required on June 30, 2004, and does require state funding will not take effect unless the state's share of the funding for the provision is included in the general appropriation act for the period July 1, 2004, through June 30, 2006, passed during the 2004 Session of the General Assembly and signed into law by the Governor. The Board of Education proposed and approved these changes on June 25, 2003. Because the Virginia Constitution grants the General Assembly "ultimate authority" over educational policy and provides that the Standards are to be "prescribed from time to time by the Board of Education" but are subject to revision "only by the General Assembly," legislation is necessary to enact the Board's proposals. The bill includes a second enactment clause providing that any new Standard of Quality incorporated into the bill shall not become effective unless an appropriation for the standard is included in the 2004-2006 Appropriation Act. The bill also includes a number of technical and editorial changes and is identical to HB 1014.

*Patron - Potts*

**D SB518 Smaller school divisions; adjusted state share.** Creates a mechanism whereby any school board of a school division in which fewer than 350 students (Highland County) were included in average daily membership (ADM) for the preceding school year, upon entering into certain cost-savings agreements with a contiguous school division for the sharing of educational, administrative, or support services, shall receive the state share for basic aid computed on the basis of the composite index of local ability-to-pay of the contiguous school division, calculated annually, for a period of 15 years. Board of Education eligibility criteria will address the cost-savings and service-sharing agreements and will provide for the adjustment of the state share for basic aid, consistent with the appropriation act. The local school board receiving the adjusted state share cannot use the additional funds received to supplant local funds appropriated for education. In addition, the adjusted state share cannot be used to reduce local operating expenditures for public education from the prior fiscal year. However, no school division shall be required to maintain a per pupil expenditure for operations that exceeds the per pupil expenditure in the prior fiscal year. If any such contractual agreements between the relevant school divisions terminate prior to the end of the applicable period, the state's obligation to provide the adjusted share shall cease. The agreement and adjusted state payment shall be in lieu of any existing funds a locality receives from a Small School Division Assistance grant. Pursuant to §§ 22.1-26 and 22.1-27, school boards are already empowered to operate joint schools and to make agreements with adjacent school boards "for furnishing public

school facilities and for school services." This bill is effective July 1, 2005.

*Patron - Hanger*

**D SB553 Joint schools.** Authorizes school boards to create joint or regional schools offering a specialized curriculum leading to a high school diploma and a postsecondary credential, such as industry certification, career certificate, or degree. The school boards may, by agreement, establish alternative school day and year schedules for the delivery of instruction, subject to any necessary Board of Education waivers. Such school boards may contract with an accredited institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education, as the case may be, to deliver such instruction.

*Patron - Lucas*

**D SB576 Notice of duty to report child abuse or neglect.** Requires each public school board and each administrator of every private or parochial school to post in each of their schools a notice, pursuant to § 63.2-1509, that: (i) any teacher or other person employed in a public or private school who has reason to suspect that a child is an abused or neglected child, including any child who may be abandoned, is required to report such suspected cases of child abuse or neglect to local or state social services agencies or the person in charge of the relevant school or his designee; and (ii) all persons required to report cases of such suspected child abuse or neglect are immune from civil or criminal liability or administrative penalty or sanction on account of such reports unless such person acted in bad faith or with malicious purpose. The notice must also include the Virginia Department of Social Services' toll-free child abuse and neglect hotline. A second enactment clause requires that the notice will be prepared and distributed to each public school board by the office of the Attorney General. Further, the Attorney General will also furnish, upon request, the notice to any private school. This bill is identical to HB 1038.

*Patron - Obenshain*

**D SB644 Salaries of certain school boards.** Increases the salary of the Manassas Park School Board from \$1,800 to \$3,000. The Manassas Park School Board's salary has not been increased for 13 years. This bill is identical to HB 1336.

*Patron - Colgan*

## Failed

**: HB161 Standards of Quality.** Reorganizes the Standards of Quality and makes substantive amendments that would (i) increase from one half-time to one full-time principal in elementary schools with fewer than 300 students; (ii) provide one full-time assistant principal for each 400 students in each school, regardless of grade level; (iii) require five elementary resource positions per 1,000 students in kindergarten through grade five for art, music, and physical education; (iv) lower the pupil-teacher ratio from 25:1 to 21:1 in middle and high schools, to ensure the provision of scheduled teacher planning time; (v) reduce the required speech pathologist case-load from 68 to 60 students; (vi) require one full-time reading specialist for each 1,000 students in average daily membership; (vii) require two technology support positions per 1,000 students in kindergarten through grade 12 divisionwide; and (viii) modify the current funding mechanism for remediation. A second enactment clause provides that the amendments requiring additional state funding (such as increasing principals or lowering pupil-teacher ratios) will not become effective unless

funded in the 2004 appropriation act. The bill also includes a number of technical and editorial changes. The Board of Education proposed and approved these changes on June 25, 2003. Because the Virginia Constitution grants the General Assembly "ultimate authority" over educational policy and provides that the Standards are to be "prescribed from time to time by the Board of Education" but are subject to revision "only by the General Assembly," legislation is necessary to enact the Board's proposals. This bill is incorporated into HB 1014.

*Patron - Reid*

**: HB193 Standards of Quality; apportionment of state and local share.** Directs the General Assembly, in apportioning the state and local share for the costs of meeting the Standards of Quality, beginning July 1, 2004, in any year in which general fund revenue growth is at least three percent greater than population and inflation growth combined for the previous year, to increase the state share by three percent of the total costs, so that, by full implementation of this bill, the local share shall not exceed 65 percent and the state share shall be equal to at least 35 percent of the total costs in each division. Such increases in the state share shall be granted to those school divisions whose local share is greater than or equal to 65 percent of the total costs in any fiscal biennium. The per pupil costs of providing such required educational programs for school divisions whose local share as of July 1, 2003, was less than 65 percent of the total costs shall be the same as their final per pupil amount for fiscal year 2004. Until such time that no school division's local share exceeds 65 percent, no school division shall receive additional state funding for reductions in enrollment; however, funding may be adjusted to (i) ensure that the school division's final per pupil amount remains at the fiscal year 2004 level; and (ii) address inflation and the biennial recalculation of the costs of providing an educational program required to meet the Standards of Quality, as provided in the appropriation act.

*Patron - Black*

**: HB208 Advisory Council on the Virginia Business-Education Partnership Program.** Abolishes the Advisory Council on the Virginia Business-Education Partnership Program and the Virginia Business-Education Partnership Program. The program was created in 1993 to assist local programs in obtaining federal funding to establish local business-education partnerships. The council was established at the same time to assist the Secretary of Education in implementing the program and facilitating the development of strategic partnerships between the public and private sectors to enhance public education and workforce training. State funding for the program ended in 2001 and federal funding ceased on December 31, 2003. This bill is identical to HB 9, which was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill is incorporated into HB 9.

*Patron - Athey*

**: HB289 Transportation of students.** Requires any local school division or other entity transporting public or private elementary or secondary school students to or from any public or private school, school-related activity, or child care facility to transport these students in a vehicle meeting federal school bus safety standards, as set forth in federal statute and regulations. School divisions and other entities may still use common carriers if the carrier is designed to transport at least 30 passengers. Codifying "Jacob's Law," enacted in South Carolina, the bill would, in effect, preclude the use of passenger vans and other vehicles for transporting public and private school pupils. The bill does not prohibit the transportation of

children to or from child care in nonconforming vehicles by a Virginia human services provider, or by a public transportation authority if each child is accompanied by his parent, for whom such transportation is necessary for his work, education, or training. The bill provides for a transition period; any vehicle purchased by such school division or entity before July 1, 2004, may continue to be used until July 1, 2009. Vehicles purchased on and after July 1, 2004, must meet the federal "school bus" definition. School divisions and other entities may purchase conforming vehicles pursuant to state contracts for the purchase of such vehicles. Parents of students using public school bus transportation have the option of designating a child care center or other before- or after-school program as such students' origin or destination for such transportation. Under current law, pupil transportation is not a required service for public school. Board of Education regulations address vehicle size and other safety concerns. The regulations contemplate several types of school buses, with designated passenger capacity for each. The regulations state that "[a] standard or mini-size passenger van which has not been reconstructed to meet Virginia state and federal school vehicle construction standards does not meet this definition [of a student activity vehicle]." (8 VAC 20-70-10 (updated through August 2003)).

*Patron - Griffith*

: **HB292 Public education appropriations; teacher salaries.** Provides that any increase in state funding for public education shall include an appropriation to support increases in teacher salaries and that the appropriate proportionate percentage of such increased funding to be directed for such salary increase shall be stipulated in the appropriation act.

*Patron - Ware, R.L.*

: **HB364 Standards of Learning assessments.** Provides that the results of any Standards of Learning (SOL) assessments cannot be considered in the awarding of a standard diploma until all public schools in the Commonwealth have achieved full accreditation. The Standards of Accreditation require the accumulation of a specific number of standard and verified units of credit for standard diplomas, beginning with the ninth grade class of 2001 (graduating class of 2004). The verified unit of credit is awarded upon passage of the relevant SOL test (additional tests approved by the Board of Education), as well as the course (8 VAC 20-131-110 A, B). During a transition period, beginning with the ninth grade classes of 2001, 2002, and 2003 (graduating classes of 2004-2006), students must earn two verified units of credit in English and four verified units "of the student's own choosing" to obtain a Standard Diploma. For the ninth grade class of 2004 (graduating class of 2007), receipt of a Standard Diploma will require six verified units--two in English, one each in mathematics, science, history, and one in a course of the student's choosing (8 VAC 20-131-50 B). The Advanced Studies Diploma, which is not affected by this bill, requires nine verified units of credit in various specified courses. Information released by the Virginia Department of Education on November 10, 2003, indicated that 1,414 (78 percent) of Virginia's 1,823 schools met or exceeded the standard for full accreditation. In the previous year, 65 percent (1,181 schools) met the standard.

*Patron - Van Yahres*

: **HB365 Standards of Quality; apportionment of state and local share.** Directs the General Assembly, in apportioning the state and local share for the costs of meeting the Standards of Quality, beginning July 1, 2004, in any year in which general fund revenue growth is at least three percent greater than population and inflation growth combined for the previous year, to increase the state share by three percent of the total costs, so that, by full implementation of this bill, the local share shall not exceed 65 percent and the state share shall be

equal to at least 35 percent of the total costs. Such increases in the state share shall be granted to those school divisions whose local share is greater than or equal to 65 percent of the total costs in any fiscal biennium. The per pupil costs of providing such required educational programs for school divisions whose local share as of July 1, 2003, was less than 65 percent of the total costs shall be the same as their final per pupil amount for fiscal year 2004. Until such time that no school division's local share exceeds 65 percent, no school division shall receive additional state funding for reductions in enrollment; however, funding may be adjusted to (i) ensure that the school division's final per pupil amount remains at the fiscal year 2004 level; and (ii) address inflation and the biennial recalculation of the costs of providing an educational program required to meet the Standards of Quality, as provided in the appropriation act. The bill also includes language citing "equal opportunity to a quality education in all areas of the Commonwealth" and stating that "funding formulas are the best and most equitable way for the Commonwealth to distribute the state's share of costs of educational programs."

*Patron - Rust*

: **HB392 Standards of Quality; apportionment of state and local share.** Directs the General Assembly, in apportioning the state and local share for the costs of meeting the Standards of Quality, beginning July 1, 2004, to annually increase the state share by five percent of the total costs, so that, by July 1, 2008, the local share shall not exceed 65 percent and the state share shall be equal to at least 35 percent of the total costs for localities whose local share is greater than or equal to 65 percent of the total costs in any fiscal biennium.

*Patron - Amundson*

: **HB393 Computation of composite index.** Requires the General Assembly to modify the current Standards of Quality (SOQ) funding formula and calculation of composite index of local ability-to-pay to incorporate three-year rolling averages for the state and local real property, sales tax, income, population, average daily membership, and other components, as provided in the appropriation act. The modified formula shall be implemented to address the costs of providing an educational program meeting the SOQ beginning with the 2005-2006 school year.

*Patron - Amundson*

: **HB394 Computation of composite index.** Requires the General Assembly to modify the current Standards of Quality (SOQ) funding formula and calculation of composite index of local ability-to-pay to (i) adjust the weights assigned to the real property, sales tax, and other revenue components; (ii) provide for a population density adjustment; and (iii) incorporate median adjusted gross income in certain localities, as provided in the appropriation act. The modified formula shall be implemented to address the costs of providing an educational program meeting the SOQ beginning with the 2005-2006 school year. This bill reflects a recommendation included in the Joint Legislative Audit and Review Commission (JLARC) Review on Elementary and Secondary School Funding (February 2002). The JLARC report recommended, among other things, an adjustment to the current weights assigned to the real property, adjusted gross income, and taxable sales components of the composite index (50 percent, 40 percent, and 10 percent, respectively), as these weights reflected "the proportions of total revenue derived from each tax base in the 1970s, when the composite index was developed." The 2002 report noted that real property, "other" revenue, and taxable sales comprised 44, 49, and seven percent, respectively, of total revenue in 1997; thus, the "proportion of revenue derived from real property and taxable sales has

decreased over time, while the proportion from 'other' revenues has increased."

*Patron - Amundson*

: **HB395 Virginia Public School Authority; grants for school construction.** Authorizes the Virginia Public School Authority to issue bonds to fund grants to local school divisions in the total amount of \$1 billion to pay the costs of school construction, school renovation, and other school infrastructure projects. One-half of the grants (\$500 million) shall be distributed to each school division in an equal amount of \$3,676,471. The remaining one-half shall be distributed to each local school division on a set per pupil amount based on each school division's actual September 30, 2002, fall membership data as a proportion of total actual September 30, 2002, fall membership data for all school divisions.

*Patron - Amundson*

: **HB468 School health report cards.** Directs the Board of Education to develop model guidelines for school health and fitness report cards, to be sent to parents of public school students annually. The report cards are to set forth individual student health and fitness information, including height and weight data and acceptable ranges for healthy living; suggested health and fitness activities; nutrition guidelines; and other related information designed to promote healthy behaviors among students. Local school boards are to establish procedures for the annual issuance of such report cards to students enrolled in the division, consistent with the Board's guidelines. The procedures shall include an evaluation process to assess subsequent individual student progress in response to such report card.

*Patron - Van Yahres*

: **HB480 Testing of home-schooled children.** Permits a student who is home-schooled, upon the written request of a parent, to take the battery of achievement tests that have been approved by the Board of Education for use in the public schools, including the Preliminary Scholastic Aptitude Test and Advanced Placement tests in the public schools. The bill provides that such student must take the same achievement tests on the same day, at the same time, and under the same testing conditions as public school students. The tests must be scored together with the tests of other students in the public schools in the manner prescribed by the school board. The student may take the achievement tests without charge; however, the school board may assess the same charge for the administration of Advanced Placement tests that is required of public school students.

*Patron - Black*

: **HB519 Observance of the Dr. Martin Luther King, Jr. Holiday.** Provides that the public schools of the Commonwealth will be closed for instructional and administrative purposes on the third Monday in January of each year in observance of the national King Holiday. A committee amendment, adopted by the House, would have permitted school boards to open schools on this date to make up lost teaching days.

*Patron - Jones, D.C.*

: **HB561 Computation of composite index; population density.** Requires the General Assembly to modify the current Standards of Quality funding formula and calculation of composite index of local ability-to-pay to apply a population density adjustment to the composite index to address the reduction in the ability to pay for education in those localities ranked at or above the 67th percentile of population density in the Commonwealth. After the application of such population density adjustment, the local share shall not exceed 0.8000 of the

total costs of providing such educational program. This bill reflects certain recommendations included in the Joint Legislative Audit and Review Commission Review on Elementary and Secondary School Funding (February 2002).

*Patron - Albo*

: **HB563 School board employee compensation.** Prohibits local school boards from providing compensation in any manner for any employee in an amount exceeding five times the average salary paid to a full-time equivalent licensed classroom teacher in the relevant school division.

*Patron - Albo*

: **HB672 Standards of Learning assessments; administration to legislators, others.** Directs the Board of Education to provide for the administration and scoring of such Standards of Learning assessments for those members of the General Assembly, Board of Education, and local school boards who wish to take such assessments, upon payment of fees sufficient to reimburse the cost of such test administration and scoring.

*Patron - Bell*

: **HB796 Computation of composite index.** Codifies the current Standards of Quality (SOQ) funding formula and calculation of composite index of local ability-to-pay, and modifies the formula that determines each locality's ability to pay for its share of providing an educational program meeting the prescribed SOQ to (i) incorporate tax values and population estimates for the fiscal year ending one year prior to the fiscal biennium in which the distribution takes place; (ii) provide for a population density adjustment in certain localities; and (iii) incorporate median, rather than average, adjusted gross income. In addition, the respective weights granted to the various wealth indicators are updated to use 1997 figures. This bill reflects certain recommendations included in the Joint Legislative Audit and Review Commission Review on Elementary and Secondary School Funding (February 2002).

*Patron - Watts*

: **HB841 Alternative education programs.** Amends Standard 1 of the Standards of Quality to require school boards to establish alternative education programs for disruptive, suspended, and expelled students. The bill also requires appropriate state funding to support quality educational programs designed to accommodate the educational and support services needs of such students.

*Patron - Baskerville*

: **HB845 Charter schools.** Directs local school boards to give priority to those public charter school applications targeting student populations served by schools that have not achieved full accreditation; currently, this priority consideration is limited to schools addressing at-risk students. In addition, individual school accreditation plans may be crafted for these schools. The bill also increases the maximum charter term approval or renewal from three to five years. Finally, the bill creates the Charter Schools Assistance Program and Fund, funded by private donations and gifts, to be administered by the Board of Education, to provide grants on a competitive basis to school divisions approving charter applications and successful public charter school applicants for the construction and lease of facilities for public charter schools. This bill is incorporated into HB 380.

*Patron - Baskerville*

: **HB901 Virginia Vocational Incentive Scholarship Program for Shipyard Workers Fund.** Provides that the General Assembly shall make an annual appropriation to the Fund for scholarships for shipyard workers enrolled in a three-

year program of educational instruction at Tidewater Community College that incorporates instruction in industrial applied sciences. The annual appropriation shall equal \$150,000; provided, however, that the annual appropriation when added to the beginning balance of the Fund on July 1 of the fiscal year shall not exceed \$200,000.

*Patron - Wardrup*

: **HB927 Safety belts in school buses.** Requires school buses purchased by, or for use by, any school or school division on or after July 1, 2004, to be equipped with safety belts or safety belts and shoulder harnesses of types approved by the Superintendent of State Police. All school buses would be required to be so equipped on and after July 1, 2009. The Board of Education must adopt policies, guidelines, and regulations to ensure that all passengers, including the driver, wear these belts or harnesses or both whenever the bus is in motion.

*Patron - Fralin*

: **HB1099 Teacher compensation; national average.** Establishes as a policy of the Commonwealth that the average salary for Virginia public school teachers equal or surpass the national average salary for public school teachers and directs the Board of Education and the General Assembly to implement this policy in prescribing and revising the Standards of Quality. The Director of Human Resource Management is to include in each biennial review of the compensation of teachers and other occupations requiring similar education and training the average salary for teachers in the Commonwealth, the national average salary for public school teachers, and the Commonwealth's national ranking for such salaries.

*Patron - Moran*

: **HB1161 Standards of Learning assessments; administration to teachers.** Directs the Board of Education to provide for the administration and scoring of such Standards of Learning assessments in the relevant subjects for public school teachers, and requires full-time teachers, whether probationary or on continuing contract status, to obtain a passing score annually as a condition of initial and continued employment. If a teacher provides instruction in a grade level for which there is no Standards of Learning assessment, such teacher shall be required to obtain a passing score on the relevant assessment for the next highest grade level. Failure of a probationary teacher to obtain such passing score shall result in such teacher's dismissal from employment. Failure of a continuing contract teacher to obtain a passing score will result in dismissal. These dismissals do not constitute a grievance for purposes of the teacher grievance procedures.

*Patron - Frederick*

: **HB1162 School personnel incentive award accounts.** Allows school boards, by resolution, to establish accounts in their schools committed solely for the grant of incentive awards to teachers and other school personnel. The school principal will manage the account and determine award recipients and amounts. Any remainder remains with the school account. The principal shall provide a description of award criteria and procedures for determining such amounts and an annual accounting of the funds with the division superintendent.

*Patron - Frederick*

: **HB1163 Teacher compensation.** Directs school boards to develop and implement teacher compensation practices that recognize and reward instructional excellence. These practices shall include, but shall not be limited to, (i) consideration of the results of the annual performance evaluations required for probationary teachers and (ii) procedures for the adjustment of compensation for continuing contract teachers

that are consistent with school division evaluation procedures and that recognize student academic progress and instructional excellence. Finally, the bill states that compensation, recognition, and rewards cannot be based solely on seniority and educational background, but shall be primarily based on performance.

*Patron - Frederick*

: **HB1273 Instructional materials.** Requires that instructional materials for physical and health education and for family life education be designed to provide medically and factually accurate and objective information.

*Patron - Amundson*

: **HB1339 Written contracts for school board employees.** Requires school boards to have a written contract with each person who is (i) employed on a full-time or part-time basis for a term of at least 10 months and (ii) not required to hold a license issued by the Board of Education. Written notice of the offer of such employment must be given to these persons not more than 10 days after the first regular school board meeting following the adoption of the school board budget by the appropriating body. This provision applies to various classified employees, such as bus drivers, cafeteria workers, and janitors. Some school boards contract for some of these services rather than hire the individuals to perform the work.

*Patron - Alexander*

: **HB1353 Extended Kindergarten Pilot Program.** Creates the Extended Kindergarten Pilot Program and Fund to provide grants on a competitive basis to school divisions for pilot programs of extended-year, full-day kindergarten for at-risk students. Such pilot programs shall incorporate, among other things, emphasis on academic and social readiness for school, small class size, and partnerships with the business community. Board of Education criteria will include indicators for students at risk for poor academic performance, procedures for determining amounts of grants to applicant school divisions, and an evaluation component to determine the effect of such extended kindergarten on the subsequent academic performance of participating students. The Board shall issue annually requests for proposals, in accordance with the appropriation act, for such grants. Local school boards may apply for these grants as provided in the Board's request for proposals. A sunset clause creates a July 1, 2007, expiration date.

*Patron - Ward*

: **HB1358 School calendar.** Adds to the "good cause" circumstances for which school divisions may be granted a waiver from the regular post-Labor Day school opening schedule a school division surrounded by a school division or divisions that have already received a waiver for other current "good cause" (severe weather, certain shared or innovative programs) and has at least 10 percent of its average daily membership comprised of nonresident students and shares program and curricula with other such school divisions.

*Patron - Griffith*

: **HJ73 Resolution; supplemental pay for school employees called to active duty.** Expresses the sense of the General Assembly that school divisions in the Commonwealth be encouraged to establish pay supplements for their employees called to active military duty.

*Patron - Cox*

: **HJ150 Recognizing the need for full funding of the Standards of Quality.** Recognizes the need for full funding of the Standards of Quality and that the legislature has an opportunity during the review and revision process to demon-

strate its commitment to public education by funding fully the newly prescribed Standards of Quality.

*Patron - Miles*

: **SB20 Virginia Public School Authority; School Construction Grant Act of 2004.** Authorizes the Virginia Public School Authority to issue bonds to fund grants to local school divisions in the total amount of \$1 billion to pay the costs of school construction, school renovation, and other school infrastructure projects. The schedule for the issuance of the bonds and the payment of the debt service on them shall be as provided in the general appropriation act, with the payment of debt service to be made from general funds. One-half of the grants (\$500 million) shall be distributed to each school division in an equal amount of \$3,676,471. The remaining one-half shall be distributed to each local school division on a set per pupil amount based on each school division's actual September 30, 2003, fall membership data as a proportion of total actual September 30, 2003, fall membership data for all school divisions. In implementing this bill, the Virginia Public School Authority shall not incur more than a total of \$250 million in debt in any fiscal year.

*Patron - Puller*

: **SB63 Character education; participation in community service.** Provides that character education programs in the public schools may include opportunities for voluntary participation in community service activities pursuant to guidelines developed by the Board of Education.

*Patron - Edwards*

: **SB138 Opening of the school year; school calendar to begin after Labor Day.** Repeals § 22.1-79.1 of the Code of Virginia---the statute that requires Virginia's public schools to set their school-year calendar so that the first day of school is after Labor Day and establishes the conditions for obtaining a waiver of the Labor Day rule from the Board of Education.

*Patron - Cuccinelli*

: **SB222 Cultural diversity policies for local school boards and institutions of higher education.** Requires the Board of Education to establish guidelines to assist school boards in developing cultural diversity policies that promote the knowledge of racial and ethnic cultures, and language minority populations represented in the public schools of the Commonwealth. School boards are required to develop cultural diversity policies that are consistent with Board guidelines and are designed to, among other things, prepare students to live and participate effectively in a global community and an increasingly pluralistic society, and promote communication between and reduce barriers among students and school personnel of diverse racial, ethnic, and cultural backgrounds. The Board must also identify best practices within and outside of the Commonwealth and disseminate this information to school divisions. The term, "cultural diversity policies," as used in the bill does not require mandatory training of students or school board employees concerning cultural diversity, nor does it require hiring quotas or the employment of persons on the basis of race or ethnicity. In addition, the bill requires the boards of visitors of each public institution of higher education in the Commonwealth and the State Board for Community Colleges to submit equal education opportunity plans to the State Council of Higher Education, the Governor, and the General Assembly on November 1 of each year. The plan requirements for the institutions of higher education will expire on July 1, 2009, one year after the expected expiration date for the reporting and monitoring phase of the agreement signed by

Governor Gilmore with the Office of Civil Rights of the United States Department of Education.

*Patron - Marsh*

: **SB299 Children with disabilities residing in state institutions operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS).** Provides that children residing in DMHMRSAS institutions in a school division who are appropriate to be placed in public schools will be identified by the school division in which the facility is located. In addition, each school board will prescribe rules to identify such children and no school division will be required to operate a specific program for the purpose of serving children placed in facilities operated by DMHMRSAS. The costs of education for DMHMRSAS children in the public schools will be borne by DMHMRSAS.

*Patron - O'Brien*

: **SB300 Computation of composite index.** Requires the General Assembly to modify the current Standards of Quality funding formula and calculation of composite index of local ability-to-pay to incorporate median adjusted gross income in certain localities, as provided in the appropriation act. This bill reflects a recommendation included in the Joint Legislative Audit and Review Commission Review on Elementary and Secondary School Funding (February 2002).

*Patron - O'Brien*

: **SB520 Written contracts for school board employees.** Requires school boards to have a written contract with each person who is (i) employed on a full-time or part-time basis for a term of at least 10 months and (ii) not required to hold a license issued by the Board of Education. Written notice of the offer of such employment must be given to these persons not more than 10 days after the first regular school board meeting following the adoption of the school board budget by the appropriating body. This provision applies to various classified employees, such as bus drivers, cafeteria workers, and janitors. Some school boards contract for some of these services rather than hire the individuals to perform the work.

*Patron - Hanger*

: **SJ77 Congress to amend No Child Left Behind Act.** Memorializes Congress to amend the No Child Left Behind Act immediately to include a mechanism for an automatic waiver from its provisions for school accountability for states, such as Virginia, that have successfully raised student achievement through their own standards and accountability reforms, and that this waiver be available to states so long as they maintain these proven standards and accountability programs. The resolution also requests that any action anticipated to enforce the Act be deferred until full funding to implement the law has been authorized.

*Patron - Hanger*

## Carried Over

**7 HB307 Adequacy of public education facilities in local school divisions.** Requires the Board of Education to undertake a comprehensive assessment of the adequacy of public education facilities in each local school division of the Commonwealth. The bill sets forth factors that the Board must consider and requires that the locality cooperate during the assessment process. If the Board determines that a local school division's public education facilities are inadequate or will be inadequate within five years, then the local school board will have one year to develop a plan for curing such inadequacy. If the Board determines that such plan will not achieve adequacy,

then it shall impose a public education residential impact fee upon the builder of each new residential unit in the local school division, until such time as the facilities are adequate. The Board shall base such fee on the pro-rata impact of each additional residential unit on (i) existing public education facilities, and on (ii) the costs of improving or constructing new public education facilities. The Board shall hold all collected fees on behalf of the local school division in the Virginia Public School Construction Grants Fund, or the local Capital School Projects Fund, if established by the local governing body, and disbursements shall be made in accordance with the provisions of each fund. The Board is authorized to promulgate regulations for the implementation of the act.

*Patron - Marshall, R.G.*

**7 HB337 No Child Left Behind; Virginia withdrawal.** Requires Virginia's withdrawal from participation in the federal No Child Left Behind Act, effective July 1, 2005. The federal No Child Left Behind Act (NCLB), enacted in January 2002, requirements for standards, assessments, and consequences, including annual testing practices, the employment of highly qualified instructional personnel, data collection, and evidence of adequate yearly progress in the academic achievement of all students. Receipt of certain federal education funds is contingent upon compliance with the Act. While the federal law requires the Commonwealth to make modifications to its assessment policies and procedures prescribed in its current accountability system, its Consolidated State Application Accountability Workbook for NCLB funding was approved by the U.S. Department of Education in spring 2003.

*Patron - Pollard*

**7 HB456 Alternative diplomas; absence of verified credits.** Directs the Board of Education to establish guidelines for local school boards to award alternative diplomas for which 22 credits and satisfactory completion of coursework are required, but for which no verified units of credit are required. School boards shall report annually to the Board of Education the number of such diplomas awarded. The issuance of such diplomas cannot be considered in determinations of school accreditation. Currently, the Standards of Accreditation require the accumulation of a specific number of standard and verified units of credit for standard diplomas, beginning with the ninth grade class of 2001 (graduating class of 2004). The verified unit of credit is awarded upon passage of the relevant Standards of Learning (SOL) test (additional tests approved by the Board of Education), as well as the course (8 VAC 20-131-110 A, B). The Standard Diploma requires six verified units of credit, while the Advanced Studies Diploma requires nine (8 VAC 20-131-50). School accreditation is based on pass rates for the SOL assessments (8 VAC 20-131-300).

*Patron - McQuigg*

**7 HB1272 Data on certain school employee convictions.** Directs school boards to require on an application for employment certification (i) that the applicant has not been convicted of a felony or any offense involving the sexual molestation, physical or sexual abuse or rape of a child; and (ii) whether the applicant has been convicted of a crime of moral turpitude, and, if so, that 10 years have elapsed since the completion of the sentence resulting from any such conviction. Current law requires certification regarding the existence of any conviction of a crime of moral turpitude (as well as a certification that the applicant has not been convicted of certain felonies).

*Patron - Melvin*

**7 HB1420 Reporting of students' nonattendance at school.** Streamlines, clarifies, and strengthens the requirements for reporting and resolving students' nonattendance and

unexcused absences. The bill requires that the school principal also be notified of a student's absence from school throughout the reporting process. After five unexcused absences during the school year, the attendance officer must contact the parent directly to obtain an explanation for the student's absence, inform him of the consequences of the student's continued nonattendance, and of the required written documentation explaining the student's absence. The written documentation must be a notarized statement from the parent that the student was absent due to a family emergency or a written statement from a licensed physician or other health care provider, or a health care facility confirming that the student was absent due to illness. Current law requires that a plan be developed to resolve the issues related to the student's nonattendance. Under the provisions of this bill, the plan must now include the written documentation submitted by the parent regarding the student's absence. If the student is absent for an additional day after the school attendance officer has contacted the parent concerning the unexcused absence, and the attendance officer and the school principal have not been notified of the student's absence by the parent, the attendance officer must schedule a conference with the parent, school principal or his designee, other school personnel and community service providers, and the student to resolve the issues of his nonattendance. If the student has an unexcused absence after this step in the process, the attendance officer or the division superintendent must enforce the compulsory school attendance law. However, the provisions allowing the attendance officer or the division superintendent to seek immediate enforcement of the compulsory school attendance law and to proceed against the student and his parent for violation of the compulsory school attendance law have not been changed.

*Patron - Marshall, D.W.*

**7 SB294 Schools to provide information to non-custodial parents.** Requires that, unless a court order has been issued to the contrary, the noncustodial parent of a student enrolled in any public or private elementary, middle, or high school or day care center must be provided the full and complete information concerning the child's school or day care activities, scholastic record, test results, academic achievement and progress, and school behavior in the same manner and form as is provided to the custodial parent by the public or private elementary, middle, or high school or day care center.

*Patron - O'Brien*

**7 SB425 Diplomas; student-selected verified credits.** Directs the Board of Education to establish guidelines for local school boards to award diplomas for which 22 credits and satisfactory completion of coursework are required, but for which (i) any required verified units of credit may be selected by the student and (ii) certain industry certifications may be substituted for Standards of Learning assessments to earn verified units of credit. Such diploma requirements shall be designed to ensure that students have acquired the knowledge and skills required to enter a vocation upon graduation. School boards shall report annually to the Board of Education the number of such diplomas awarded. In no event shall the issuance of such diplomas be considered in determinations of school accreditation. Currently, the Standards of Accreditation (SOA) require the accumulation of a specific number of standard and verified units of credit for standard diplomas, beginning with the ninth grade class of 2001 (graduating class of 2004). The verified unit of credit is awarded upon passage of the relevant Standards of Learning (SOL) test (additional tests approved by the Board of Education), as well as the course (8 VAC 20-131-110 A, B). The Standard Diploma requires 22 credits, six of which must be verified units of credit, while the Advanced Studies Diploma requires 24 credits, with nine verified units. The SOA currently require verified units of credit in

specific subjects, such as English, mathematics, science, and history and social science. The Modified Standard Diploma is awarded to students with disabilities who are "unlikely to meet the credit requirements for a Standard Diploma" (8 VAC 20-131-50). School accreditation is based on pass rates for the SOL assessments (8 VAC 20-131-300).

*Patron - Wagner*

**7 SB459 Standards of Quality; Standard 3.** Provides that student outcome measures of the Standards of Learning assessments and other Virginia State Assessment Program Tests must be used for the purposes for which they have been designed and determined valid, reliable, and fair by the Standards of Learning Test Technical Advisory Committee, in accordance with accepted standards for educational testing. The Board of Education, in determining the validity of such tests, shall include Standards of Learning program effectiveness or consequential validity as recommended by the Standards of Learning Test Technical Advisory Committee. However, the results of Standards of Learning assessments and other Virginia State Assessment Program Tests may not constitute the sole or primary basis for student promotion, retention, or the awarding or denial of diplomas or school accreditation.

*Patron - Whipple*

**7 SB666 Computation of composite index.** Requires the General Assembly to modify the current Standards of Quality (SOQ) funding formula and calculation of composite index of local ability-to-pay that determines each locality's ability to pay for its share of providing an educational program meeting the prescribed SOQ to incorporate within the real estate indicator of local wealth the land use taxation value for those properties within a land-use plan. Localities may adopt land-use plans and provide for the use value assessment and taxation of certain properties, such as those designated for agricultural, horticultural, forest, or open-space use. The current composite index of local ability to pay incorporates the "true value" of real property (rather than any special use assessed values) weighted 50 percent, with adjusted gross income weighted at 40 percent, and taxable retail sales weighted at 10 percent, as indicators of local wealth.

*Patron - Mims*

## Educational Institutions

### Passed

**D HB64 Faculty representatives to boards of visitors, the State Board for Community Colleges, and local community college boards.** Authorizes the boards of visitors of four-year public institutions of higher education, the State Board for Community Colleges, and local community college boards to appoint a nonvoting, advisory faculty representative to their boards. In the case of the State Board for Community Colleges, the representative will be chosen from among persons elected by the Chancellor's Faculty Advisory Committee. Faculty representatives to boards of visitors and local community college boards will be chosen from among those individuals elected by the faculty, faculty senate, or other equivalent group of the institution. The State Board for Community Colleges, local community college boards, and boards of visitors may exclude the faculty representative from discussions of faculty grievances, faculty or staff disciplinary matters, salaries, or other matters, in their discretion.

*Patron - Shuler*

**D HB82 University of Virginia's College at Wise; reduced tuition.** Allows the University of Virginia's College at Wise to charge reduced tuition to any person enrolled at the College who lives within a 50-mile radius of the College, is domiciled in, and is entitled to in-state tuition charges in Tennessee institutions, contingent upon reciprocal reduced tuition arrangements being offered by Tennessee to Virginia students. In addition, the College and its partners or associates offering programs jointly at a regional off-campus center may also charge reduced tuition to any Tennessee resident enrolled in such joint programs who lives within a 50-mile radius of the College and is entitled to in-state tuition charges in Tennessee institutions of higher learning if Tennessee has similar reciprocal arrangements for Virginians. Any such respective partners or associates must separately establish and charge tuition rates for their independent classes or programs at such regional centers. This provision grants authority similar to that already granted to the University of Virginia's College at Wise students residing in Kentucky.

*Patron - Kilgore*

**D HB478 University of Virginia Medical Center; procurement exemptions.** Extends the procurement exemptions granted to the University of Virginia Medical Center to information technology and telecommunications projects and exempts the Medical Center from the oversight of the Virginia Information Technologies Agency (VITA). The exemptions set out in this bill existed under prior law as in effect before transferring information technology and telecommunications procurement authority to VITA (successor to the Department for Information Technology). These exemptions were preserved as delegated authority in enactment clause 2 in Chapter 579 of the 2002 Acts of Assembly and clauses 15 and 16 of Chapters 981 and 1021 of the 2003 Acts of Assembly. The bill renders these exemptions permanent in the new law. The bill also adds a cross reference to the Virginia Public Procurement Act stating the exemption and updates other cross references.

*Patron - Nixon*

**D HB547 State Council of Higher Education for Virginia; policies and strategies to develop human capital.** Requires the State Council of Higher Education for Virginia (SCHEV) to develop policies and strategies to eliminate the barriers between the Commonwealth's institutions of higher education and industry and enhance the development of human capital in the Commonwealth. These policies and strategies shall include a review of (i) offering incentives for industry to partner with universities in the practical training of undergraduate and graduate students; (ii) providing opportunities and incentives for corporate scientists and engineers to have adjunct appointments at universities to train and collaborate with faculty and students; (iii) assisting universities in acquiring funding to build or buy facilities where academic labs and corporate entities can work together; (iv) providing opportunities and assistance for academic researchers to take one- to two- year sabbaticals in a corporate setting or national lab and bring that experience back to the institution; (v) increasing the two-year leave of absence for science and engineering faculty to generate more industrial-sponsored research; (vi) allowing industry to fully fund faculty salaries and allow the faculty to work in industry while remaining a university employee, with proper safeguards in place; and (vii) allowing faculty to be part-time university employees and part-time industry employees, also with proper safeguards in place.

*Patron - May*

**D HB617 Distance learning.** Requires, effective January 1, 2005, that each public institution of higher education include information in its strategic plan indicating to what



extent, if any, it will use distance learning to expand access, improve quality, and minimize the cost of education. For institutions using or planning to use distance learning in the future, such information shall include the degree to which distance learning will be integrated into the curriculum, benchmarks for measuring such integration, and a schedule for the evaluation of such courses. The State Council of Higher Education must assist the governing boards in the development of such information. In addition, community colleges are required to maximize the availability and use of distance learning courses addressing workforce training needs.

*Patron - Carrico*

### **D HB637 Regulation of private, for-profit schools.**

Eliminates division of regulatory responsibility between the State Council of Higher Education (SCHEV) and the Board of Education for privately owned, for-profit career training schools by granting SCHEV regulatory authority for private institutions of higher education operating in Virginia and post-secondary schools (which may or may not offer degree programs). The Board of Education will only license and regulate schools for students with disabilities; it will no longer review nondegree credit, certificate, and diploma programs offered by postsecondary schools offering diplomas or certificates. The bill offers definitions of noncollege degree schools (those offering academic-vocational programs and those limited to vocational (nondegree) programs). School definitions are distinguished by "degree," "nondegree," "college degree," and "noncollege degree" offerings. The bill also directs SCHEV to appoint the Career College Advisory Board, comprised of college and university representatives and other members, to assist in "academic and administrative matters related to private proprietary institutions of higher education and academic-vocational noncollege degree schools." The bill also provides that private institutions shall not be required to obtain another authorization from the Council to operate in Virginia if (i) they were formed, chartered or established in the Commonwealth, or chartered by an Act of Congress; (ii) have maintained a main or branch campus continuously in the Commonwealth for at least 10 calendar years under their current ownership; (iii) were continuously approved or authorized to confer or grant academic or professional degrees by the Council, by the Board of Education or by an act of the General Assembly during those 10 years; and (iv) are fully accredited by an accrediting agency that is recognized by, and has met the criteria for Title IV eligibility of the United States Department of Education. If authorization to confer or grant academic or professional degrees is revoked, the institution must seek reauthorization and must do so annually until it meets this criteria. Other changes in the bill provide that (a) only institutions of higher education and academic-vocational noncollege degree schools may offer degree programs; (b) academic-vocational and vocational noncollege degree schools are subject to various contractual, name, and other requirements that were previously limited only to private institutions of higher education (typically, four-year private institutions and other private entities using "college" in their names); and (c) SCHEV will maintain a list of postsecondary schools it has certified or licensed for operation in Virginia. SCHEV certification is required to operate as a postsecondary school (private institutions of higher education and academic-vocational or vocational noncollege degree schools); SCHEV approval is required for degree granting and use of the words "college" or "university" (institutions of higher education and academic-vocational noncollege degree schools).

*Patron - Tata*

**D HB642 The Miller School of Albemarle.** Reduces the appointments to be made by the Governor and the Judge of the Circuit Court of Albemarle County to the Board of Trustees

of The Miller School of Albemarle from five to two members, and allows the Board to consist of as many as 23 trustees. The Board, which already appoints five members of the currently 15-member Board, will appoint all remaining members, i.e., 19 members. The number of consecutive terms is reduced from three to two. Persons serving as of July 1, 2004, may complete their respective terms. The Miller School was created in 1874 by the General Assembly to "give effect to a compromise of the litigation in respect to the construction and effect of the will of Samuel Miller...." This educational institution was formerly known as the Miller Manual Labor School. Located outside Charlottesville, the Miller School is not a public school, but is an independent coeducational institution, enrolling about 165 boarding and day students in grades six through 12.

*Patron - Abbitt*

**D HB710 Unfunded scholarships.** Eliminates the restriction on the number of unfunded graduate and undergraduate scholarships public institutions of higher education may award to resident and nonresident students. The total value of all such scholarships, however, remains unchanged.

*Patron - Nutter*

**D HB712 Policies for required reinstatement of certain military students.** Directs the State Council of Higher Education (SCHEV) to include in its guidelines for tuition relief, refunds, and reinstatement for military students who withdrew from enrollment in a public institution of higher education due to service in a "defense crisis" provisions addressing (i) procedures for the required reenrollment of students whose call to active duty military service precluded their completion of a semester or equivalent term and (ii) policies providing for the required reenrollment of such military students. The current SCHEV guidelines direct the institutions to "detail the circumstances under which a student shall be allowed to re-enroll" and state that "[g]enerally, a student who is called to active duty or is mobilized should be assured a reasonable opportunity to re-enroll ... without having to re-apply for admission if the student returns to the same institution within one year ...."

*Patron - Oder*

**D HB932 Institute for Advanced Learning and Research.** Increases the membership of the governing board of the Institute for Advanced Learning and Research from nine to 15 by adding six citizen representatives, two each appointed by the Governor, the Senate Committee on Privileges and Elections, and the Speaker of the House of Delegates. Created by the 2002 Session, the Institute is located in Danville and was founded by Averett University, Danville Community College, and Virginia Polytechnic Institute and State University. The Institute is authorized to enter into and administer agreements with institutions of higher education to deliver traditional and electronic education and is to diversify the region's economy by providing a site for the development of technology and a trained workforce and expanding access to higher education in Southside Virginia.

*Patron - Marshall, D.W.*

**D HB933 Institute for Advanced Learning and Research.** Adds the Institute for Advanced Learning and Research to the list of those entities characterized as "educational institutions" and "governmental instrumentalities for the dissemination of education." Created by the 2002 Session, the Institute is located in Danville and was founded by Averett University, Danville Community College, and Virginia Polytechnic Institute and State University. The Institute is to diversify the region's economy by providing a site for the development of technology and a trained workforce and expanding access to higher education in Southside Virginia. Current law designates as "educational institutions" the Com-

monwealth's four-year public colleges and universities, the Virginia Community College System, the Woodrow Wilson Rehabilitation Center, the Virginia Schools for the Deaf and the Blind, the Eastern Virginia Medical School, and the Southwest Virginia Higher Education Center. This classification as an educational institution will enable the Institute to issue bonds with the approval of its governing board and the Governor (§§ 23-15 and 23-19), acquire property (§ 23-16), be eligible for its bonds to be purchased by the Virginia College Building Authority (§§ 23-30.24, 23-30.25, 23-30.27, and 23-30.28), establish a campus police department (§ 23-232), and authorize such campus police to purchase their service handguns (§ 23-232). This designation will not empower the Institute to establish unfunded scholarships (§ 23-31), nor will it place the Institute under the State Council of Higher Education for Virginia (SCHEV), the coordinating council for two- and four-year public colleges and universities. In addition, the designation does not require the Institute to submit an annual report to SCHEV regarding financial statements (§ 23-1.01). The term "educational institution" appears in a variety of contexts throughout the Code. The term, for purposes of § 23-14, does not necessarily include all entities described as "institutions of higher education" or "institutions of higher learning" elsewhere in the Code. "Educational institution" is used broadly in Code provisions addressing matters such as employment, prohibited contracts, and certain field permits. "Educational institutions" may also sell real estate (§ 13.1-901); establish educational television stations (§ 15.2-966); have students excluded from certain toll payments (§ 22.1-187); and have governing board members reimbursed for travel expenses (§ 23-3). Public "educational institutions" receiving state funds may not discriminate against persons with disabilities (§ 51.5-43). Not referenced in § 23-14, nor subject to SCHEV as a coordinating council, are these designated "educational institutions": the Miller School of Albemarle, the Board of Regents of Gunston Hall, the Frontier Culture Museum, the Science Museum of Virginia, the Jamestown-Yorktown Foundation, and The Library of Virginia. The term has also been used in reference to private correspondence schools (§ 22.1-319). Designation as an "institution of higher education" has been applied to the Virginia Museum of Fine Arts, (which is not designated as an "educational institution") as well as the Science Museum of Virginia, and specifically makes these entities eligible to receive property and funds from localities (§ 23-3.1) and to maintain their state appropriations, despite any increases in endowment funds (§ 23-9.2).

*Patron - Marshall, D.W.*

**D HB989 Higher education; transfer of course credit.** Directs the State Council of Higher Education (SCHEV), in cooperation with the governing boards of the public two- and four-year institutions of higher education, to develop a State Transfer Module that designates those general education courses offered within various associate degree programs at the public two-year institutions that are transferable for credit or admission with standing as a junior (third year) to the public four-year institutions. The bill also directs SCHEV to (i) facilitate the development of dual admissions and articulation agreements between the public and private two- and four-year institutions; and (ii) develop and make available to the public information identifying all general education courses offered at public two-year institutions and designating those that are accepted for purposes of transfer for course credit. Any articulation agreements will be subject to admissions requirements of the four-year institutions.

*Patron - Hugo*

**D HB1029 University of Mary Washington.** Changes the name of Mary Washington College to the University of Mary Washington. The State Council of Higher Educa-

tion for Virginia (SCHEV) is not charged with responsibility for review and approval of a name change for a public institution of higher education; however, SCHEV is required, pursuant to § 23-9.6:1, to "study any proposed escalation of any public institution to a degree-granting level higher than that level to which it is presently restricted" and to review and approve any proposed modifications in institutional missions. The Board of Visitors of Mary Washington College (MWC) approved the name change unanimously on November 22, 2003. This past year, the Carnegie Foundation, which certifies on a national basis the classification of all institutions of higher learning, reclassified MWC as a university, rather than a baccalaureate liberal arts college, based upon the number of graduate degrees awarded. This bill is identical to SB 464.

*Patron - Cole*

**D HB1296 James Madison University.** Facilitates James Madison University's ability to begin construction needed as a result of fire damage. On November 16, 2003, James Madison University's "medical arts" building burned, thereby rendering the building uninhabitable. The bill authorizes James Madison University to proceed immediately with the construction necessary to rebuild this structure by exempting James Madison University, for only this capital project, from the public procurement process and the Art and Architectural Review Board's evaluation. The bill also authorizes the Secretary of Finance to provide James Madison University with anticipation loans to begin the construction, with the loans being reimbursed from the insurance proceeds and other funds.

*Patron - Putney*

**D HB1313 Virginia Institute of Marine Science; library named.** Designates the library at the Virginia Institute of Marine Science (VIMS) the William Jennings Hargis, Jr. Library. Dr. Hargis received the Virginia Life Achievement in Science award in 2003, and is the former VIMS director. Pursuant to § 23-49.1:1, VIMS is subject to the supervision, management and control of the board of visitors of the College of William and Mary.

*Patron - Morgan*

**D HJ122 Campus safety.** Directs the Virginia State Crime Commission to study campus safety at public and private institutions of higher education in Virginia. The Commission shall examine (i) current Virginia policies, procedures, and programs used to promote safety at institutions of higher education; (ii) the nature of criminal offenses at Virginia's public and private institutions of higher education; (iii) the use of best practices or models for campus safety nationally; and (iv) the need to develop statewide procedures to ensure the dissemination of information pertaining to best practices for campus safety.

*Patron - Hamilton*

**D SB153 Roanoke Higher Education Authority; Board of Trustees.** Revises the Board of Trustees for the Roanoke Higher Education Authority to delete the Executive Director of the Fifth District Employment and Training Consortium and to add the president or his designee of Virginia Intermont College.

*Patron - Edwards*

**D SB173 Regulation of certain private and out-of-state institutions of higher education.** Revises the definition of "institution of higher education" as set forth in the law regulating private and out-of-state colleges, universities, etc., to provide an explicit exception for any public institution of higher education established in statute as an authority and declared a governmental instrumentality pursuant to § 23-14. Present law provides an exception for all state-supported insti-

tutions of higher education that are listed in § 23-9.5. However, Eastern Virginia Medical School is covered by the law by virtue of the fact that it is not so listed as a "state-supported institution of higher education" (although EVMS does receive some state funds). Thus, this public institution is currently inadvertently captured under the reporting, etc. requirements of the law relating to private and out-of-state entities.

*Patron - Stolle*

**D SB230 Brown v. Board of Education Scholarship Program and Fund.** Creates the Brown v. Board of Education Scholarship Program for the purpose of assisting students who were enrolled in the public schools of Virginia between 1954 and 1964, in jurisdictions in which such public schools were closed to avoid desegregation, in obtaining a high school diploma, the General Education Development certificate, career or technical education or training, or an undergraduate degree from a public institution of higher education in Virginia. The State Council of Higher Education shall administer the Program. The Brown v. Board of Education Scholarship Awards Committee, established in the legislative branch of state government, is composed of legislators and nonlegislative citizen members appointed by the Joint Rules Committee and the Governor and is authorized to award the scholarships and govern the Program. The Brown v. Board of Education Scholarship Program Fund, a special nonreverting fund, is established on the books of the Comptroller to receive appropriations, gifts, grants, donations, and bequests for the Program. The bill also establishes student eligibility for such scholarships and stipulates that scholarships may be used only for payment of tuition charges. In addition, the bill provides that (i) the Program does not establish any legally enforceable right or entitlement on the part of any person or any right or entitlement to participation in the program; and (ii) scholarships must be awarded to the extent funds are made available or as directed by the appropriation act. This bill also allows individuals entitled to an income tax refund to contribute a portion, at least \$1, or all of the refund to the Brown v. Board of Education Scholarship Fund for taxable years beginning on and after January 1, 2004. The Fund provides support by means of grants to persons who were enrolled in the public schools of Virginia between 1954 and 1964, in jurisdictions in which such public schools were closed to avoid desegregation, in obtaining a high school diploma, the General Education Development certificate, career or technical education or training, or an undergraduate degree from a public institution of higher education in Virginia. The State Council of Higher Education shall administer the Program. The second enactment clause provides that educational terms used in the act shall be construed as defined in Titles 22.1, 23, and 40.1. The third enactment clause requires the Tax Commissioner to include a description of the Brown v. Board of Education Scholarship Program in the instructions for the annual Virginia income tax return package. The fourth enactment clause expresses the General Assembly's acknowledgement of the irreparable harm suffered by African-American and Caucasian students due to the school closings. This bill is supported by the Dr. Martin Luther King, Jr. Memorial Commission. The provisions of the bill expire July 1, 2008.

*Patron - Lambert*

**D SB244 Faculty representatives to boards of visitors, the State Board for Community Colleges, and local community college boards.** Faculty representatives to boards of visitors, the State Board for Community Colleges, and local community college boards. Authorizes the boards of visitors of four-year public institutions of higher education, the State Board for Community Colleges, and local community college boards to appoint one or more nonvoting, advisory faculty representatives to their boards. In the case of the State Board for

Community Colleges, any representatives must be appointed from persons elected by the Chancellor's Faculty Advisory Committee. Faculty representatives to boards of visitors and local community college boards must be appointed from individuals elected by the faculty, faculty senate, or other equivalent group of the institution. Any representatives will serve terms of not less than one 12-month period, which is coterminous with the institution's fiscal year, or for terms mutually agreed to by the State Board for Community Colleges and the Chancellor's Faculty Advisory Committee, or the local community college board or the board of visitors, as the case may be, and the institution's faculty senate or other equivalent group. The State Board for Community Colleges, local community college boards, and boards of visitors may exclude faculty representatives from discussions of faculty grievances, faculty or staff disciplinary matters, or salaries.

*Patron - Edwards*

**D SB283 University of Virginia's College at Wise; reduced tuition.** Allows the University of Virginia's College at Wise to charge reduced tuition to any person enrolled at the College who lives within a 50-mile radius of the College, is domiciled in, and is entitled to in-state tuition charges in Tennessee institutions if Tennessee has similar reciprocity provisions for Virginians. In addition, the College and its partners or associates offering programs jointly at a regional off-campus center may also charge reduced tuition to any Tennessee resident enrolled in such joint programs who lives within a 50-mile radius of the College and is entitled to in-state tuition charges in Tennessee institutions of higher learning if Tennessee has similar reciprocity provisions for Virginians. Any such respective partners or associates shall establish and charge separately tuition rates for their independent classes or programs at such regional centers. This provision grants authority similar to that already granted to College at Wise students residing in Kentucky. This bill is identical to HB 82.

*Patron - Wampler*

**D SB338 State Council of Higher Education.** Directs the State Council of Higher Education to facilitate the development of dual admissions and articulation agreements between two- and four-year public and private institutions of higher education in Virginia and requires the Council to develop estimates of the number of degrees to be awarded by each institution and include those estimates in its reports of enrollment projections. The dual admissions and articulation agreements would be subject to the admissions requirements of the four-year institutions. Articulation agreements are agreements between two-year and four-year institutions of higher education or between K-12 schools and two-year institutions of higher education that detail the transferability of courses and credits between two-year and four-year institutions of higher education or between high schools and two-year institutions of higher education.

*Patron - Edwards*

**D SB397 College of William and Mary; board of visitors.** Increases to four the three-person limit on the number of non-Virginia residents who may be appointed to the board of visitors of the College of William and Mary.

*Patron - Norment*

**D SB464 University of Mary Washington.** Changes the name of Mary Washington College to the University of Mary Washington. The State Council of Higher Education for Virginia (SCHEV) is not charged with responsibility for review and approval of a name change for a public institution of higher education; however, SCHEV is required, pursuant to § 23-9.6:1, to "study any proposed escalation of any public institution to a degree-granting level higher than that level to which

it is presently restricted" and to review and approve any proposed modifications in institutional missions. The Board of Visitors of Mary Washington College (MWC) approved the name change unanimously on November 22, 2003. This past year, the Carnegie Foundation, which certifies on a national basis the classification of all institutions of higher learning, reclassified MWC as a university, rather than a baccalaureate liberal arts college, based upon the number of graduate degrees awarded. This bill is identical to HB 1029.

*Patron - Chichester*

**D SB570 Institute for Advanced Learning and Research.** Increases the membership of the governing board of the Institute for Advanced Learning and Research from nine to 15 by adding six citizen members. The initial citizen appointments will be for various terms of one and two years in order to stagger the members' terms. This bill is identical to HB 932.

*Patron - Reynolds*

**D SB583 Virginia College Building Authority.** Clarifies that boards of visitors of public institutions of higher education must designate as Virginia College Building Authority (VCBA) projects those projects to be financed by VCBA bonds secured by a pledge of any one or more of the revenue sources cited in subdivisions (1) through (4) of subsection (d) of § 23-19 (such as project rentals and fees or increased rentals and fees for existing facilities; new rentals and fees for existing facilities; student building fees and other student fees; and other general and nongeneral fund appropriations to the institution). The bill is designed to eliminate the need for institutional designation of projects financed under the VCBA 21st Century Program. A second enactment clause "validates, ratifies, approves, and confirms" all VCBA bonds issued previously to purchase educational institution bonds pursuant to § 23-30.27, to acquire equipment pursuant to § 23-30.27.1, or to pay for all or any portion of the cost of one or more projects or portion or portions thereof.

*Patron - Saslaw*

**D SB653 College of William and Mary; easements.** Provides for certain drainage and temporary construction easements related to the proposed right-of-way and easement dedication by The College of William and Mary for widening of the intersection of Monticello Avenue and Ironbound Road.

*Patron - Norment*

## Failed

**: HB36 Approval of certain institutions of higher education.** Provides that nonpublic institutions of higher education that have been approved by the State Council of Higher Education (SCHEV) to operate in Virginia and confer degrees at a specific level before July 1, 2004, are not required to obtain subsequent SCHEV approval unless the approval was revoked or the institution desires to confer degrees at a level other than that previously approved. Technical amendments track the language in current subdivision A 4 to clarify that subsequent approval is necessary for new degree levels as well as new degree programs. The current "grandfather clause" extends this benefit to private institutions for which SCHEV had approved specific degree levels before July 1, 1980. Since that date, several nonpublic institutions, such as Shenandoah University, Hampton University, Sweet Briar College, and Hollins University, have been granted SCHEV approval to confer advanced degrees. These institutions, and others, have been required by law and SCHEV regulations to seek annual certification and approval. Emergency regulations issued by SCHEV in July 2003 impose fees for this annual certification; the annual fees are \$2,500 and \$6,000 for accredited and non-

accredited private institutions, respectively (Schedule A, 8 VAC 40-31-30 et seq.). The emergency regulations state that, in considering an institution's application for certification, SCHEV cannot "take into account either duplication of effort by public and private institutions in Virginia or need within the Commonwealth for the course for degree credit, program of study, or degree program for which certification is sought" (8 VAC 40-31-190).

*Patron - Sherwood*

**: HB156 Higher education; admission of illegal aliens prohibited.** Provides that public institutions of higher education may not knowingly accept for enrollment any illegal alien, and directs each institution, upon discovering an enrollment of an illegal alien, to provide for the prompt dismissal of any such person from the institution. In 1982, the U.S. Supreme Court ruled that undocumented alien children are ensured access to public education in grades K through 12; the Court found that the denial of public school enrollment violated the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. This case was limited to public school enrollment and did not address postsecondary education. (*Plyler v. Doe*, 457 U.S. 202 (1982)). In September, 2003, a lawsuit was filed in U.S. District Court in Alexandria, Virginia, on behalf of anonymous high school students and recent high school graduates, challenging the denial of college admission to undocumented alien students by the College of William and Mary, George Mason University, James Madison University, Northern Virginia Community College, the University of Virginia, Virginia Commonwealth University, and Virginia Tech. (*Chronicle of Higher Education*, September 12, 2003).

*Patron - Reid*

**: HB517 Admissions policies of public institutions of higher education.** Requires the board of visitors of each public institution of higher education to establish admissions policies that prohibit preferential consideration regarding the admission of an applicant on the basis of his relationship by birth or marriage to an alumnus. Beginning on July 1, 2004, each institution of higher education must report annually the number and percentage of first-time entering freshmen, disaggregated by gender, race, ethnicity, age, and familial relationship to alumni of the institution, to the State Council of Higher Education, which must transmit the findings to the Governor and the General Assembly annually, beginning on December 1, 2004.

*Patron - Jones, D.C.*

**: HB574 In-state tuition for spouses and dependents of certain military personnel.** Eliminates various residency, income tax, and employment requirements governing eligibility for in-state tuition for spouses and dependents of military personnel residing in Virginia pursuant to military orders and claiming residency in another state, and extends in-state tuition eligibility only to the child or spouse of active duty, enlisted, nonofficer military personnel in certain instances. Children and spouses of other military personnel would no longer be able to establish in-state tuition eligibility by meeting the various residency, income tax, and other requirements. If the nonresident student is the child of an active, enlisted, nonofficer member of the armed forces, the nonmilitary parent must be a registered voter in Virginia, and the child must have been claimed as a dependent by the member of the armed forces for income tax purposes. If the student is the spouse of an active, enlisted, nonofficer member of the armed forces, then the student must be a registered Virginia voter. The period of eligibility for in-state tuition shall not exceed the period of residency required by military orders. These students would be counted as in-state students for

admissions, enrollment, and tuition and fee revenue policy purposes. Children and spouses of all military personnel--regardless of status--may also establish domicile in the same manner as any other student. Under current law, spouses and dependents of military personnel--regardless of active duty or officer status--must meet various residency, income tax, and employment requirements to be eligible for in-state tuition; military personnel are not currently granted in-state tuition.

*Patron - Hamilton*

**: HB806 Ratios of in-state and out-of-state students; tuition adjustments.** Requires the governing body of a four-year public institution of higher education to maintain a ratio of the in-state and out-of-state student population in each incoming freshman class that is not more than 25 percent out-of-state undergraduate students, or the percentage determined for the incoming freshman class in 2000, whichever is greater, beginning with the incoming freshman class in 2005. Out-of-state students on athletic scholarships are not included in calculations of out-of-state enrollments. Institutions that adhere to these ratio requirements can then increase tuition and fee charges as they deem necessary and appropriate; any increases may be reviewed by the State Council of Higher Education (SCHEV). The General Assembly will determine annually any increases of tuition and fees for institutions that do not adhere to the ratio requirements. The increase cannot exceed five percent annually. Pursuant to various provisions in Title 23, individual boards of visitors are typically empowered to "fix, in their discretion, the rates charged...for tuition and fees and other necessary charges." The 2003 Appropriation Act (Item 136 E (3)) directs boards of visitors to "(a) make every effort to achieve potential cost savings as opposed to tuition increases and (b) not increase the current proportion of nonresident undergraduate students if the institution's nonresident undergraduate enrollment exceeds 25 percent." Two-year institutions and VMI, Norfolk State, and Virginia State are exempt from this second requirement. In addition, the 2003 budget authorized institutions to increase tuition by no more than five percent (Item 136 E (1)(b)). In setting increases, institutions are to consider, among other things, the consumer price index; in-state tuition charges of peer institutions; the "maximization of other revenues by setting tuition rates for out-of-state students, graduate students and first professional students at market rate or higher without adversely affecting the access of in-state students"; and "the impact of a tuition increase on the composition of the institution's applicant pool" (Item 136 E (2)). According to SCHEV, the percentage of out-of-state students in fall 2001 headcount enrollment (not just the incoming freshman class) at all four-year public institutions was 21.9 percent. Out-of-state students comprised 4.2 percent of fall 2001 headcount enrollment at Christopher Newport University; 37.7 percent at the College of William and Mary; 13.8 percent at George Mason University; 29.1 percent at JMU; 4.4 percent at Longwood University; 25.9 percent at Mary Washington College; 28.6 percent at Norfolk State University; 17 percent at ODU; 12.1 percent at Radford University; 33.6 percent at UVa; 5.9 percent at the UVa's College at Wise; 6.7 percent at VCU; 49.4 percent at VMI; 31.7 percent at Virginia State University; and 30.7 percent at Virginia Tech.

*Patron - Petersen*

**: HB838 In-state tuition for certain alien students.** Provides eligibility for in-state tuition, but not classification as a Virginia resident, upon a showing of clear and convincing evidence that such individual (i) resided in the Commonwealth for five or more years; (ii) received a high school diploma or a general educational development certificate from a public or private high school in the Commonwealth; (iii) registers as an entering student in a public institution of higher education in the Commonwealth not earlier than the 2004-2005 academic

year; (iv) submits evidence that he, or in the case of a dependent student at least one parent or person standing in loco parentis, has paid Virginia income taxes for at least one year prior to the date of enrollment; and (v) files an affidavit with the enrolling public institution of higher education in the Commonwealth stating that the individual will file an application to become a permanent resident within 90 days of the date such individual becomes eligible to do so. The bill addresses "individuals" rather than a specific class of immigrant or alien students, as the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. § 1623 (a)) provides that an alien "who is not lawfully present in the United States shall not be eligible for ... any post-secondary benefit unless a citizen or national of the United States is eligible for such a benefit...without regard to whether the citizen or national is such a resident." This bill is similar to legislation enacted in Texas, New York, California, and Utah. Section 23-7.4 is cross-referenced throughout the Code of Virginia for purposes of defining "domicile," "domiciliary status," "bona fide resident," and other similar terms. The grant of eligibility for in-state tuition provided by this bill does not confer domicile on the alien student; the only other provision referencing students who are granted in-state tuition under this section is § 23-7.4:2, which permits a community college to charge in-state tuition to "[a]ny student from a foreign country who is enrolled in a foreign exchange program approved by the state institution during the same period that an exchange student from the same state institution, who is entitled to in-state tuition pursuant to § 23-7.4, is attending the foreign institution." A special subcommittee of the House Committee on Education and a special subcommittee of the Senate Committee on Education and Health met three times in 2003 to examine the issues raised by bill addressing in-state tuition for undocumented alien students.

*Patron - Ebbin*

**: HB846 Brown v. Board of Education Scholarship Program and Fund.** Creates the Brown v. Board of Education Scholarship Program and Fund for the purpose of assisting students who were enrolled in the public schools of Virginia between 1954 and 1964, in jurisdictions in which the public schools were closed to avoid desegregation, in obtaining a high school diploma, the General Education Development certificate, career or technical education or training, or an undergraduate degree from a public institution of higher education in Virginia. The bill also establishes student eligibility for the scholarships and stipulates that scholarships may be used only for payment of tuition charges. In addition, the bill provides that (i) the Program does not establish any legally enforceable right or entitlement on the part of any person or any right or entitlement to participation in the program; and (ii) requires that scholarships be awarded to the extent funds are made available to the Program. The Program is funded solely with nonstate funds, i.e. gifts, grants, donations, bequests, and other nonstate funds. The Brown v. Board of Education Scholarship Program Fund, a special nonreverting fund, is established on the books of the Comptroller as the repository for such funds. The Brown v. Board of Education Scholarship Awards Committee, established in the legislative branch of state government and composed of legislators and nonlegislative citizen members appointed by the Joint Rules Committee and the Governor, will govern the Program and make awards to eligible students. The State Council of Higher Education is requested to provide assistance to the Committee. The second enactment clause provides that educational terms used in the act shall be construed as defined in Titles 22.1, 23, and 40.1. The third enactment clause provides that the act will expire on July 1, 2008. This bill is supported by the Dr. Martin Luther King, Jr. Memorial Commission as a part of its responsibilities

for leading and coordinating the Commonwealth's commemoration of the 50th anniversary of *Brown v. Board of Education*.

Patron - Baskerville

: **HB1000 Mason Enterprise Center of George Mason University; duties.** Transfers all duties and responsibilities of the Innovative Technology Authority and its non-stock corporation, the Center for Innovative Technology, to the Mason Enterprise Center of George Mason University, including responsibility for the Advanced Communications Access Fund and the Commonwealth Technology Research Fund. The bill also repeals Article 3 (§ 2.2-2218 et seq.) of Chapter 22 of Title 2.2, thereby dissolving the Authority.

Patron - Hugo

: **HB1082 Eligibility for in-state or reduced tuition.** Allows students who have lived outside the Commonwealth for not more than five years due to the out-of-state relocation of a parent, who was a resident of the Commonwealth before leaving, to comply with a temporary job transfer or to care for an elderly, disabled, or infirm parent to become eligible for in-state tuition charges upon the nonresident parents (i) claiming them as dependents, (ii) returning as residents of the Commonwealth, (iii) accepting employment full time inside Virginia immediately prior to the date of the alleged entitlement, and (iv) paying Virginia income taxes on all taxable income earned in this Commonwealth while a former resident. The parents must also pay Virginia income taxes on all taxable income for the tax year prior to the date of college enrollment. Such students will continue to be eligible for in-state tuition charges as long as they or their qualifying parent is employed full time in Virginia, paying Virginia income taxes on all taxable income earned in Virginia, and the student is claimed as a dependent for Virginia and federal income tax purposes.

Patron - Parrish

: **HB1218 Consideration of domicile when awarding certain benefits.** Provides that the public policy of the Commonwealth shall be that the public institutions of higher education shall not treat any student or applicant differently, on the basis of his status as a Virginia resident or domicile, in determining whether he receives any grant, scholarship, employment, housing or other benefit offered to students generally. This provision also prohibits the public institutions of higher education in Virginia from utilizing any criteria or methods of administration that have the effect of awarding such benefits solely to out-of-state students or applicants when determining the recipients of any grant, scholarship, employment, housing or other benefit. This section is not to be construed as prohibiting any special privileges that may be extended to, or otherwise favorable treatment of, a student or applicant by virtue of his status as a Virginia resident or domicile.

Patron - Landes

: **HB1228 Frontier Culture Museum of Virginia.** Clarifies that the Frontier Culture Museum of Virginia is deemed an educational institution and reduces the membership of the Board of Trustees from 25 to 13 members. The bill also simplifies the language pertaining to the compensation of legislative and nonlegislative members, removes provisions allowing discretionary membership, and provides several technical amendments to conform the current statute to the Joint Rules Committee's legislative guidelines for collegial bodies. This bill is a recommendation of the Joint Rules Committee.

Patron - Wardrup

: **HB1242 Higher education; competitive sealed bidding.** Requires the boards of visitors of any public institution of higher education providing cafeteria services or sales of

food, beverages, sundries, and related services as an auxiliary enterprise within state-owned facilities or properties used as cafeteria, classroom, dormitory, student union, or student lounge areas to procure and provide such services through the competitive sealed bidding requirements set forth in the Virginia Public Procurement Act.

Patron - Griffith

: **HB1374 Admissions policies.** Requires the board of visitors or other governing body of each public institution of higher education in Virginia to establish admissions policies that prohibit discrimination on the basis of the geographical region of the Commonwealth where the applicant resides.

Patron - Hugo

: **HB1414 Morning-after pill; public institutions of higher education prohibited from making such available.** Prohibits any public institution of higher education in the Commonwealth from making available the morning-after pill in its delivery of health care services to students.

Patron - Marshall, R.G.

: **HJ158 Affirming the Supreme Court decision in *Grutter v. Bollinger*.** Affirms the Supreme Court's decision in the recent landmark case, *Grutter v. Bollinger*, in which the Court upheld the constitutionality of the University of Michigan Law School's admissions policy designed to promote diversity in higher education by ensuring the inclusion of racial and ethnic minority students historically underrepresented in the law school. The law school's admissions policy considers race as one of many factors in the context of an individualized consideration of all applicants. This resolution calls upon Virginia's policy makers and educators to affirm the Supreme Court's decision by encouraging public institutions of higher education to shape or revise their college admissions policies to comply with the Court's decision. This resolution is a recommendation of the Dr. Martin Luther King, Jr. Commission's Steering Committee on the 50th Anniversary of *Brown v. Board of Education*.

Patron - Baskerville

: **SB219 Admissions policies of public institutions of higher education.** Requires the board of visitors of each public institution of higher education to establish admissions policies that prohibit preferential consideration regarding the admission of an applicant on the basis of his relationship by birth or marriage to an alumnus. Beginning on July 1, 2004, each institution of higher education must report annually the number and percentage of first-time entering freshmen, disaggregated by gender, race, ethnicity, age, and familial relationship to alumni of the institution, to the State Council of Higher Education, which must transmit the findings to the Governor and the General Assembly annually, beginning on December 1, 2004.

Patron - Marsh

: **SB229 Admissions policies.** Requires the board of visitors or other governing body of each public institution of higher education in Virginia to establish admissions policies that prohibit discrimination on the basis of the geographical region of the Commonwealth where the applicant resides.

Patron - Cuccinelli

: **SB430 Ratio of in-state and out-of-state students.** Requires the governing bodies of public four-year institutions of higher education, beginning with the incoming freshman class of fall 2005, to maintain a ratio of the in-state and out-of-state student population in each incoming freshman class that is not less than 75 percent in-state students. Out-of-state students receiving full or partial athletic scholarships are

not included in the calculation of out-of-state enrollments. Institutions whose out-of-state enrollments within the incoming freshman class of fall 2004 exceeded 25 percent shall reduce such out-of-state enrollments by at least two percentage points annually to reach such required ratio. The bill does not apply to Virginia Military Institute, Norfolk State University, and Virginia State University. According to the State Council of Higher Education (SCHEV) the percentage of out-of-state students in fall 2001 headcount enrollment (not just the incoming freshman class) at all four-year public institutions was 21.9 percent. Out-of-state students comprised 4.2 percent of fall 2001 headcount enrollment at Christopher Newport University; 37.7 percent at the College of William and Mary; 13.8 percent at George Mason University; 29.1 percent at James Madison University; 4.4 percent at Longwood University; 25.9 percent at Mary Washington College; 28.6 percent at Norfolk State University; 17 percent at Old Dominion University; 12.1 percent at Radford University; 33.6 percent at the University of Virginia; 5.9 percent at the University of Virginia's College at Wise; 49.4 percent at Virginia Military Institute; 31.7 percent at Virginia State University; and 30.7 percent at Virginia Tech.

*Patron - Wagner*

## Carried Over

**7 HB65 Guidelines for increased tuition.** Directs the State Council of Higher Education to establish guidelines, in consultation with the institutions of higher education, for the implementation of increased tuition rates for in-state, full-time undergraduate students who exceed by more than two semesters, or equivalent terms or quarters, of full-time enrollment the number of semesters, terms, or quarters of full-time enrollment necessary to complete a four- or five-year degree program.

*Patron - Shuler*

**7 HB726 Designation of student fees.** Directs the State Council of Higher Education to develop guidelines for procedures for the designation by students of that portion of mandatory student fees not applied to educational or auxiliary programs, athletic teams and programs, student health services, or student activities, for donation to approved, tax-exempt charitable and civic organizations. Such procedures shall provide for the automatic application of such fee portion to men's and women's athletic programs, including intercollegiate and intramural activities, in the event the student fails to designate an approved recipient. The State Council shall develop and maintain a list of charitable or civic organizations approved for such designated fees. The relevant boards of visitors shall implement procedures consistent with such guidelines for students to designate that portion of any student fees not applied to educational or auxiliary programs, athletic teams and programs, student health services, or student activities, for donation to approved, tax-exempt charitable and civic organizations. Pursuant to the 2003 Appropriation Act, the "determination of proper tuition, fees and charges shall be made by the Board of Visitors ..." (§ 4-2.01 (b)(2)(b)). Institutions were permitted to increase mandatory undergraduate fees for "purposes other than Educational and General Programs" by no more than five percent; however, this restriction did not apply to fee increases related directly to capital projects and student health services. (§ 4-2.01 (b)(5)). In addition, each institution is to "communicate its tuition and fee charges, as approved by its board of visitors, to the Secretary of Education, the State Council of Higher Education, and the Chairmen of the House Appropriations and Senate Finance Committees by May 15 of each fiscal year (Item 136 E 6).

*Patron - Marshall, R.G.*

**7 HB1009 Virginia Educational Ventures Consortium.** Creates the Virginia Educational Ventures Consortium to facilitate the development of innovative and cost-effective distance learning instructional initiatives that address underserved constituencies. Comprised of participating public and private institutions of higher education in the Commonwealth, the Consortium is to (i) establish and administer agreements with public and private institutions of higher education in the Commonwealth and other entities to conduct studies examining the need for distance learning initiatives and to develop and execute, on a continuing basis, strategies to address such distance learning needs of underserved constituencies in the Commonwealth and (ii) enter into contracts for distance learning program development. The gubernatorial-appointed 13-member Board of Trustees is comprised of eight members to be nominated by the participating institutions, five of whom shall represent participating members of the Consortium and three citizen members, all of whom shall have expertise in information technology systems or instructional systems design and delivery; the Director of the State Council of Higher Education, the Chancellor of the Virginia Community College System, the Secretary of Technology, and the Secretary of Education, as ex officio members with full voting privileges; and one non-voting representative of the Office of the Attorney General. This bill expires on July 1, 2009.

*Patron - Rust*

**7 HB1359 Commonwealth Chartered Universities and Colleges.** Authorizes the creation of Commonwealth Chartered Universities and Colleges, comprised of public institutions of higher education that will, among other things, (i) exist as political subdivisions of the Commonwealth and not as state agencies; (ii) be able to participate in the Commonwealth's risk management system, and continue participation in the Virginia Retirement System; (iii) continue to have bond-issuing authority as do other public institutions of higher education or state agency, but shall not be required to obtain legislative or other approval for bond issuance; (iv) have authority to own and operate "projects," such as research programs and research, training, teaching, dormitory and classroom facilities; (v) employ campus police; (vi) continue its preexisting licenses and permits after any conversion to chartered institution status; (vii) have the power of eminent domain; (viii) remain subject to the Freedom of Information Act and the Conflicts of Interest Act; (ix) no longer be subject to the Virginia Procurement, Virginia Personnel Act, or state grievance procedures, but will adopt its own procurement, personnel, and grievance procedures; (x) continue to participate in the Virginia College Building Authority, the Educational Facilities Authority, various college and university scholarship provisions, student loan funds, and college savings plans; (xi) not be subject to local law or regulation unless specified by the General Assembly; (xii) maintain its funds, including general fund appropriations, with its treasurer for deposit in banks or trust companies; (xiii) be exempt from any state legislative or executive branch rules, regulations, and guidelines pertaining to submission, review, approval or implementation of capital projects, with the exception capital projects funded in whole or in part by a general fund appropriation, which remain subject to certain preappropriation approvals; (xiv) determine tuition and fees and its budget, and control the expenditures of all moneys generated or received by the institution, including tuition, fees and other nongeneral fund revenue sources; however, all state general funds remain fully subject to the appropriations process; and (xv) be exempt from the assessment and payment of all state and local taxes. As a political subdivision, rather than a state agency, a chartered institution is not subject to (a) Department of General Services review of property acquisitions (§ 2.2-1149); (b) state surplus property requirements; (c) state agency

budget estimates (§ 2.2-1504); (d) requirements for environmental impact statements for the Department of Environmental Quality (§10.1-1188); (e) Virginia Information Technologies Agency provisions (§ 2.2-2005 et seq.); (f) approval provisions of the Information Technology Investment Board (§ 2.2-2457 et seq.); (g) Division of Purchases and Supply procurement requirements (§ 2.2-1110); and (h) Division of Engineering and Buildings review of leases (§ 2.2-1136) and property acquisitions (§ 2.2-1149). Although the bill provides that chartered institutions continue to be "public institutions of higher education" and "educational institutions," it also provides that these institutions are not "subject to local law or regulation except as the General Assembly may explicitly authorize." Therefore, sections referencing public institutions of higher education have been amended to designate the inclusion of these institutions as appropriate. The institutions are not subject to higher education requirements regarding (1) student visa reporting (§ 23-2.2); (2) state property registry (§ 23-4); and (3) the provision of copies of certain reports regarding campus crime (§ 23-9.1:1). This bill is identical to SB 638.

*Patron - Callahan*

**7 HJ109 Boards of Visitors of Virginia's public institutions of higher education; construction projects.** Encourages the Boards of Visitors at Virginia's public institutions of higher education, in cooperation with the Department of General Services, to recognize and incorporate those portions of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System into state and local practices for the design and procurement of construction projects which have a reasonable pay back.

*Patron - Van Yahres*

**7 SB638 Commonwealth Chartered Universities and Colleges.** Authorizes the creation of Commonwealth Chartered Universities and Colleges, comprised of public institutions of higher education that will, among other things, (i) exist as political subdivisions of the Commonwealth and not as state agencies; (ii) be able to participate in the Commonwealth's risk management system, and continue participation in the Virginia Retirement System; (iii) continue to have bond-issuing authority as do other public institutions of higher education or state agency, but shall not be required to obtain legislative or other approval for bond issuance; (iv) have authority to own and operate "projects," such as research programs and research, training, teaching, dormitory and classroom facilities; (v) employ campus police; (vi) continue its preexisting licenses and permits after any conversion to chartered institution status; (vii) have the power of eminent domain; (viii) remain subject to the Freedom of Information Act and the Conflicts of Interest Act; (ix) no longer be subject to the Virginia Procurement, Virginia Personnel Act, or state grievance procedures, but will adopt its own procurement, personnel, and grievance procedures; (x) continue to participate in the Virginia College Building Authority, the Educational Facilities Authority, various college and university scholarship provisions, student loan funds, and college savings plans; (xi) not be subject to local law or regulation unless specified by the General Assembly; (xii) maintain its funds, including general fund appropriations, with its treasurer for deposit in banks or trust companies; (xiii) be exempt from any state legislative or executive branch rules, regulations, and guidelines pertaining to submission, review, approval or implementation of capital projects, with the exception capital projects funded in whole or in part by a general fund appropriation, which remain subject to certain preappropriation approvals; (xiv) determine tuition and fees and its budget, and control the expenditures of all moneys generated or received by the institution, including tuition, fees and other nongeneral fund revenue sources; however, all state general funds remain fully subject to the appropriations process; and

(xv) be exempt from the assessment and payment of all state and local taxes. As a political subdivision, rather than a state agency, a chartered institution is not subject to (a) Department of General Services review of property acquisitions (§ 2.2-1149); (b) state surplus property requirements; (c) state agency budget estimates (§ 2.2-1504); (d) requirements for environmental impact statements for the Department of Environmental Quality (§10.1-1188); (e) Virginia Information Technologies Agency provisions (§ 2.2-2005 et seq.); (f) approval provisions of the Information Technology Investment Board (§ 2.2-2457 et seq.); (g) Division of Purchases and Supply procurement requirements (§ 2.2-1110); and (h) Division of Engineering and Buildings review of leases (§ 2.2-1136) and property acquisitions (§ 2.2-1149). Although the bill provides that chartered institutions continue to be "public institutions of higher education" and "educational institutions," it also provides that these institutions are not "subject to local law or regulation except as the General Assembly may explicitly authorize." Therefore, sections referencing public institutions of higher education have been amended to designate the inclusion of these institutions as appropriate. The institutions are not subject to higher education requirements regarding (1) student visa reporting (§ 23-2.2); (2) state property registry (§ 23-4); and (3) the provision of copies of certain reports regarding campus crime (§ 23-9.1:1). This bill is identical to HB 1359.

*Patron - Norment*

## Elections

### Passed

**D HB316 Senatorial districts.** Makes a technical change in the boundary between the Fifth and Fourteenth Districts within the City of Chesapeake to eliminate a confusing situation where the Senate line follows a nonvisible precinct line. The adjustment moves the Senate line to visible roads and follows a new precinct line that the City is establishing. The two districts remain within the two percent population deviation followed in the 2001 redistricting. This bill is identical to SB 184.

*Patron - Cosgrove*

**D HB317 House of Delegates districts.** Makes a technical change in the boundary between the Forty-seventh and Forty-ninth Districts within Arlington County to place all of the Barcroft Precinct in the Forty-seventh district. The precinct was divided between the two districts in the 2001 redistricting plan. The population deviation for both districts remains within the two percent guideline applied in the 2001 redistricting. This bill incorporates HB 816.

*Patron - Ebbin*

**D HB373 Distribution of information on local referenda.** Authorizes local governing bodies of counties and cities to disseminate neutral explanations of pending local referenda at polling places and by publication one or more times before the election. The explanation is limited to 500 or fewer words. In addition, the bill provides that this authorization shall not be construed as a limitation on the dissemination of other neutral materials or advertisements on issues of public concern that are the subject of a referendum and that do not advocate passage or defeat of the referendum. This bill is identical to SB 359.

*Patron - Lingamfelter*

**D HB410 Post-election procedures and securing of election equipment and materials.** Applies to localities that



have opted to have election materials delivered after the election to the office of the general registrar rather than to the clerk of the circuit court. The bill provides that voting equipment keys, including electronic locking devices, and other election materials shall be secured and retained by the general registrar and then delivered to the clerk of the circuit court by noon of the day following the day that the electoral board ascertains the results of the election rather than by noon of the day following the election.

*Patron - Welch*

**D HB411 Duties of State Board of Elections; electronic pollbooks.** Authorizes the State Board to provide a regional or statewide list of registered voters to those localities using electronic pollbooks or using electronic devices at polling place to check voter registration information.

*Patron - Welch*

**D HB604 Voter registration applications and records.** Permits a person, who signs a statement that he is in fear for his personal safety from another party who has threatened or stalked him, to provide a post office box address, either for his residence or another location in the Commonwealth. The statement must be accompanied by evidence that the person has filed a complaint with a law-enforcement official in connection with the threat or stalking. The bill also excludes the residence address for these voters from publicly available lists of registered voters and persons voting and from the scope of the public inspection provisions on voter registration records.

*Patron - Gear*

**D HB682 Campaign Finance Disclosure Act; information required of candidates, campaign committees, and other persons and committees.** Deletes the requirement, or possibility of an administratively mandated requirement, that campaign committees and other persons and committees provide the account number for the depository account for campaign or committee funds. The law would continue to require the name of the financial institution where the account is held.

*Patron - Rapp*

**D HB767 Elections; requirements for polling places.** Authorizes the distribution on election day of campaign materials on the property where a polling place is located, except to the extent prohibited by law. For example, § 24.2-604 prohibits the distribution of campaign materials within 40 feet of the entrance to a polling place.

*Patron - Hurt*

**D HB837 Voting equipment and technology and related election law offenses; penalties.** Incorporates a number of changes in current law provisions on voting equipment and related offenses to cover new developments in voting technology, software, programming and related security and operations issues. As passed, this bill is similar to SB 313 except that this bill contains a provision prohibiting the removal of inoperative voting equipment from a polling place on election day unless the removal is explicitly authorized by statute.

*Patron - Brink*

**D HB850 Campaign Finance Disclosure Act; filing schedules.** Provides that candidates for public office who have not filed a final report closing their past campaign are required to file reports on an election year schedule in succeeding election years for the same office. The bill also provides for semi-annual nonelection-year reports in municipal elections and clarifies reporting requirements pertaining to certain last-

minute pre-election expenditures by persons and committees other than candidates.

*Patron - Jones, S.C.*

**D HB908 Senatorial and House of Delegates districts.** Makes adjustments to the Tenth and Fifteenth Senatorial district boundaries in Cumberland County and to the Twenty-fifth and Fifty-ninth House of Delegates district boundaries in Albemarle County and the Fifty-ninth and Sixtieth House of Delegates district boundaries in Prince Edward County in order to eliminate split precincts. The adjustments place the population deviations of the Tenth Senatorial district and the Twenty-fifth House of Delegates district slightly in excess of the two percent deviation followed in the 2001 redistricting plans.

*Patron - Abbitt*

**D HB986 Voting equipment at the polling place.** Provides that voting and counting equipment, including inoperative equipment, must remain in plain view of the officers of election and in the polling place during the election and through the determination of the vote after the polls close. The bill provides for use of easily portable electronic voting devices for curbside voting under certain conditions. This bill is identical to SB 94.

*Patron - Hugo*

**D HB1026 Campaign Finance Disclosure Act; disclosure requirements for political campaign advertisements.** Includes various revisions, including revisions to definitions, filing requirements, and enforcement provisions. This bill incorporates HB 1253.

*Patron - Albo*

**D HB1191 Campaign finance disclosure; reporting requirements; certain exempt political party committees.** Raises from \$10,000 to \$15,000 the annual amount of contributions or expenditures that triggers the requirement for certain local political party committees to file periodic campaign finance disclosure reports. The bill also deletes the requirement that the State Board of Elections adjust the trigger amount annually for inflation.

*Patron - Scott, J.M.*

**D HB1266 Voter registrars; appointment, term, and removal.** Provides for an annual performance review by each local electoral board beginning with the year ending June 30, 2006, of the work of the general registrar using the format and forms developed by the State Board of Elections in consultation with representatives of the Virginia Electoral Board Association and Voter Registrars Association of Virginia and available by July 1, 2005. The bill provides for terms of general registrars to begin July 1 rather than April 1. It also clarifies provisions pertaining to the removal of a general registrar by the local electoral board and on petition of the State Board of Elections to the circuit court in certain situations. This bill is identical to SB 215.

*Patron - Jones, S.C.*

**D HB1320 House of Delegates districts.** Makes a technical adjustment in the boundary between the Eighty-seventh and Ninetieth House of Delegates districts within the City of Norfolk by moving one census block in order to eliminate a split precinct. Both districts remain within the two percent population deviation established for the 2001 redistricting plan.

*Patron - Drake*

**D HB1321 Campaign Finance Disclosure Act; required filings and penalties.** Provides for a civil penalty of up to \$500 for the failure to file, or the late filing, of candidate or committee statements of organization. The bill also gives the

State Board of Elections or local election official 14 days, rather than seven days, to notify the filer of a campaign disclosure report that the report is incomplete and requires additional information.

*Patron - Brink*

**D HB1340 Voting by persons under age 18.** Clarifies that persons who will be 18 by the November presidential election may vote in the presidential primary (and other primaries held on the date of the presidential primary) held in advance of the presidential election. The bill restates the current law that is set out in the provisions on presidential primaries and adds this provision to the laws on voter registration.

*Patron - Alexander*

**D HB1363 Campaign advertisement requirements; requirements for radio and television advertisements.** Provides that the additional disclosure statement required for candidate-sponsored radio and television advertisements that "I am (or "This is .....") [name of candidate], candidate for [name of] office, and I (or 'my campaign') sponsored this ad." will not apply to advertisements that support the sponsoring candidate and that do not identify or make reference to any other clearly identified candidate. The bill also permits candidates and candidate campaign committees to use the phrase "Authorized by" as an alternative to the phrase "Paid for by" in the legend that is part of the basic requirements for all campaign advertisements.

*Patron - Jones, S.C.*

**D HB1427 Senate and House of Delegates districts.** Makes adjustments in the boundaries between the Thirty-eighth and Fortieth Senatorial districts and the First and Second Delegate districts in Wise County in order to eliminate a split precinct and between the Sixth and Seventh Delegate districts in Pulaski County to follow local election district lines. The First District population deviation after the adjustment will be -2.3 percent, greater than the two percent deviation followed in the 2001 redistricting plan.

*Patron - Phillips*

**D SB94 Voting equipment at the polling place.** Provides that voting and counting equipment, including inoperative equipment, must remain in plain view of the officers of election and in the polling place during the election and through the determination of the vote after the polls close. The bill provides for use of easily portable electronic voting devices for curbside voting under certain conditions. This bill is identical to HB 986 and incorporates SB 142.

*Patron - Devolites*

**D SB184 Senatorial districts.** Makes a technical change in the boundary between the Fifth and Fourteenth Districts within the City of Chesapeake to eliminate a confusing situation where the Senate line follows a nonvisible precinct line. The adjustment moves the Senate line to visible roads and follows a new precinct line that the City is establishing. The two districts remain within the two percent population deviation followed in the 2001 redistricting. This bill is identical to HB 316.

*Patron - Blevins*

**D SB215 Voter registrars; appointment, term, and removal.** Provides for an annual performance review by each local electoral board beginning with the year ending June 30, 2006, of the work of the general registrar using the format and forms developed by the State Board of Elections in consultation with representatives of the Virginia Electoral Board Association and Voter Registrars Association of Virginia and available by July 1, 2005. The bill provides for terms of gen-

eral registrars to begin July 1 rather than April 1. It also clarifies provisions pertaining to the removal of a general registrar by the local electoral board and on petition of the State Board of Elections to the circuit court in certain situations. This bill is identical to HB 1266.

*Patron - Martin*

**D SB286 Persons entitled to have name printed on ballot.** Provides that a person may have his name on the ballot for only one office at any one election. However, the bill allows a candidate for federal or statewide office, or a candidate for an office being filled in a special election, to have his name printed on the ballot for two offices at an election. Present law allows a person to run for two offices simultaneously in all situations.

*Patron - O'Brien*

**D SB313 Voting equipment and technology and related election law offenses; penalties.** Incorporates a number of changes in current law provisions on voting equipment and related offenses to cover new developments in voting technology, software, programming and related security and operations issues. As passed, this bill is similar to HB 837 except that HB 837 contains a provision prohibiting the removal of inoperative voting equipment from a polling place on election day unless the removal is explicitly authorized by statute.

*Patron - Howell*

**D SB359 Distribution of information on local referenda.** Authorizes local governing bodies of counties and cities to disseminate neutral explanations of pending local referenda at polling places and by publication one or more times before the election. The explanation is limited to 500 or fewer words. In addition, the bill provides that this authorization shall not be construed as a limitation on the dissemination of other neutral materials or advertisements on issues of public concern that are the subject of a referendum and that do not advocate passage or defeat of the referendum. This bill is identical to HB 373.

*Patron - Colgan*

**D SB457 Electronic voting systems.** Requires that electronic voting devices be equipped to provide an opportunity for the voter to correct any error in his vote before a permanent record is preserved.

*Patron - Whipple*

**D SB462 Election laws; implementation of Help America Vote Act.** Provides for implementation of the Act with respect to voter registration, identification and provisional voting; absentee voting for military and overseas voters; and recounts.

*Patron - Whipple*

**D SB470 Campaign finance disclosure; special reports of large contributions received by members of boards of supervisors and city and town councils.** Requires an incumbent member to report any single contribution, or aggregate contributions from a single donor, of more than \$500 within five business days of receipt to the local electoral board where the incumbent resides. The bill applies only to contributions received in nonelection years.

*Patron - Ticer*

**D SB528 Postponement of certain elections; emergency situations.** Revises and provides more detail on procedures to be followed when an election is postponed pursuant to an order of the Governor due to a state of emergency.

*Patron - Hanger*

## Failed

: **HB21 Electoral College.** Provides that the Commonwealth's votes in the Electoral College shall be allocated by the popular vote statewide and in each congressional district. The candidates for President and Vice President who win the popular statewide vote will receive the votes of the two statewide electors and the candidate who wins the popular vote in each congressional district will receive the vote of that district's elector. Maine and Nebraska allocate electoral college votes in this manner. This bill is identical to HB 398.

*Patron - Scott, J.M.*

: **HB102 Virginia voter registration cards.** Provides that the cards are issued for the information of the voter and are not to be used as evidence of identity or residence for firearms transfers, in-state tuition privileges, insurance agents' licenses, or driver's licenses. The bill preserves the use of the cards for certain election law purposes such as evidence of registration and identity at the polls on election day.

*Patron - Cole*

: **HB398 Electoral College.** Provides that the Commonwealth's votes in the Electoral College shall be allocated by the popular vote statewide and in each congressional district. The candidates for President and Vice President who win the popular statewide vote will receive the votes of the two statewide electors and the candidate who wins the popular vote in each congressional district will receive the vote of that district's elector. Maine and Nebraska allocate electoral college votes in this manner. This bill is identical to HB 21.

*Patron - Amundson*

: **HB400 Elections; activities at polling places.** Authorizes the electoral board and the person in charge of the facility where a polling place is located to approve a sale of refreshments by a nonprofit, nonpartisan group within the 40-foot prohibited area at the polling place. This bill is identical to SB 55.

*Patron - Amundson*

: **HB418 Primary elections; voter registration by political party; penalty.** Adds party affiliation to the information that an applicant is asked to provide when registering to vote. The applicant may indicate that he is an independent. Voters registered prior to January 1, 2005, will be designated as independent unless they provide a political party designation in writing to the general registrar. Voters may change their party affiliation or independent status by written notice at any time except the 28 days before an election when the registration records are closed. The state party chairman of each political party must notify the State Board by January 31 of each year of the party rules governing who may participate in the party primary. This bill is identical to SBs 265 and 567.

*Patron - Lingamfelter*

: **HB680 Instructions for compliance with the disclosure requirements for political campaign advertisements.** Requires the State Board of Elections to provide instructions for compliance with disclosure requirements to be available in printed form on request and to be posted on its official website. The instructions shall be reviewed by the Office of the Attorney General for accuracy and completeness.

*Patron - Rapp*

: **HB799 Expert review of voting devices and systems.** Requires the State Board of Elections to have a panel of experts review, and report on, the accuracy and security of vot-

ing devices and systems in use in Virginia and proposed for use in Virginia.

*Patron - Petersen*

: **HB816 House of Delegates districts.** Makes a technical change in the boundary between the Forty-seventh and Forty-ninth districts within Arlington County to place all of the Barcroft Precinct in the Forty-seventh district. The precinct was divided between the two districts in the 2001 redistricting plan. The population deviation for both districts remains within the two percent guideline applied in the 2001 redistricting. This bill is incorporated into HB 317.

*Patron - Eisenberg*

: **HB915 Elections; absentee voting procedures.** Provides that the general registrar or electoral board shall not reject an absentee ballot solely because of an error or omission made by the voter in his residence address stated on the absentee ballot return envelope so long as the address can be verified through the records of the Virginia voter registration system.

*Patron - Phillips*

: **HB956 Instant runoff voting to elect candidates to local governing bodies and school boards.** Authorizes the governing body of any county or city to provide by ordinance for the instant runoff voting method of determining winners in elections for the governing body or school board. The method produces a majority winner in a single election by simulating a series of runoff elections. All first choices are counted, and if any candidate receives a majority of first choices, that candidate is elected. If no candidate receives a majority, the candidate with the fewest votes is eliminated, and all ballots are recounted as one vote for each voter's highest-ranked candidate who has not been eliminated. The process of eliminating candidates and recounting ballots continues until one candidate receives a majority.

*Patron - Barlow*

: **HB992 Party designations on the ballot.** Extends to local constitutional officers (the clerk of the circuit court, attorney for the Commonwealth, sheriff, commissioner of the revenue, and treasurer) the provision that candidates nominated by a political party will be identified by party name on the ballot. Current law provides for party identification of candidates on ballots only for federal, statewide, and General Assembly elections. The bill explicitly provides that an endorsement by a political party of a candidate who qualifies for the ballot through the petition process is not grounds for identifying that candidate by the party's name. The provision for party identification on the ballot does not apply to members of local governing bodies, school boards, and soil and water conservation districts.

*Patron - Hugo*

: **HB999 Voter registration; indication of political party affiliation.** Adds party affiliation to the information that an applicant is asked to provide when registering to vote on and after July 1, 2006. The applicant may indicate that he is an independent. Voters registered prior to July 1, 2006, will be designated as independent unless they provide a political party designation in writing to the general registrar. Voters may change their party affiliation or independent status by written notice at any time except during the 28 days before an election when the registration records are closed. The bill does not change Virginia's present primary laws, and all registered voters remain eligible to participate in the primaries of any political party.

*Patron - Hugo*

: **HB1017 Absentee ballot applications.** Provides for the submission of applications for absentee ballots to local registrars through the official website of the State Board of Elections. The online application will contain all the information of the standard application, except for the signature requirement, plus a field for the applicant's e-mail address. The information provided by the applicant is subject to felony penalties for false statements. The State Board website will e-mail the application automatically to the appropriate local registrar and generate an e-mail confirmation of receipt of the application to the applicant.

*Patron - Dillard*

: **HB1097 Redistricting commission and process.** Establishes a redistricting commission to prepare state legislative and congressional redistricting plans; spells out standards for developing plans; and provides for General Assembly action on plans submitted by the commission.

*Patron - Moran*

: **HB1167 Taking of office following certain vacancies.** Applies to situations in which a person is elected to a full term in an office at the regular general election for the office, there is a vacancy in that office not subject to being filled by a special election or by appointment, and there are 90 or fewer days remaining in the term of that vacancy. The bill provides that the person elected for the full term may take office early and fill the vacancy for the remainder of that term.

*Patron - Frederick*

: **HB1253 Campaign finance disclosure; record retention requirements.** Requires State Board of Elections and local boards to retain records for a candidate, who has not filed a final report and seeks election to the same office in a successive election, through the next general election for the office to which they pertain. This bill is incorporated into HB 1026.

*Patron - O'Bannon*

: **HB1282 Virginia voter registration cards.** Provides that the cards are issued for the information of the voter and are not to be used as evidence of identity or residence for in-state tuition privileges, insurance agents' licenses, or driver's licenses. The bill preserves the use of the cards for certain election law purposes such as evidence of registration and identity at the polls on election day and other purposes specifically authorized by law.

*Patron - Cole*

: **SB33 Primaries for statewide offices.** Requires political party candidates for the offices of Governor, Lieutenant Governor, and Attorney General to be nominated by a statewide primary.

*Patron - Potts*

: **SB55 Elections; activities at polling places.** Authorizes the electoral board and the person in charge of the facility where a polling place is located to approve a sale of refreshments by a nonprofit, nonpartisan group within the 40-foot prohibited area at the polling place. This bill is identical to HB 400.

*Patron - Puller*

: **SB142 Voting equipment at the polling place.** Provides that voting and counting equipment, including inoperative equipment, must remain in plain view of the officers of election and in the polling place during the election and through the determination of the vote after the polls close. This

bill is identical to SB 94 and HB 986 and is incorporated into SB 94.

*Patron - Cuccinelli*

: **SB243 Party designations on the ballot.** Extends to local elections, other than school board and soil and water conservation district elections, the identification of candidates by party name on the ballot. Current law provides for party identification of candidates on ballots only for federal, statewide, and General Assembly elections. The bill also allows any locality to provide by charter or by ordinance for nonpartisan elections for the governing body without any party identification on the ballot for governing body candidates. The bill explicitly provides that an endorsement by a political party of a candidate who qualifies for the ballot through the petition process is not grounds for identifying that candidate by the party's name.

*Patron - Cuccinelli*

: **SB265 Primary elections; voter registration by political party; penalty.** Adds party affiliation to the information that an applicant is asked to provide when registering to vote. The applicant may indicate that he is an independent. Voters registered prior to January 1, 2005, will be designated as independent unless they provide a political party designation in writing to the general registrar. Voters may change their party affiliation or independent status by written notice at any time except the 28 days before an election when the registration records are closed. The state party chairman of each political party must notify the State Board by January 31 of each year of the party rules governing who may participate in the party primary. This bill is identical to SB 567 and HB 418.

*Patron - Cuccinelli*

: **SB567 Primary elections; voter registration by political party; penalty.** Adds party affiliation to the information that an applicant is asked to provide when registering to vote. The applicant may indicate that he is an independent. Voters registered prior to January 1, 2005, will be designated as independent unless they provide a political party designation in writing to the general registrar. Voters may change their party affiliation or independent status by written notice at any time except the 28 days before an election when the registration records are closed. The state party chairman of each political party must notify the State Board by January 31 of each year of the party rules governing who may participate in the party primary. This bill is identical to SB 265 and HB 418.

*Patron - Martin*

## Carried Over

**7 HB131 Prohibited activities at the polls.** Expands from 40 feet to 60 feet the area at a polling place where campaign activities are prohibited.

*Patron - Pollard*

**7 HB348 Conditional ballots; voters whose names do not appear on pollbooks.** Modifies the identification requirements for voters who cast conditional ballots to take into account provisions in the Help America Vote Act and to require identification before counting a conditional ballot. The bill specifies the only valid reasons for counting conditional ballots: the failure of the officer of election to notice the voter's name on the pollbook or the failure of the general registrar to enter the voter's information properly into the Virginia voter registration system.

*Patron - Albo*

**7 HB351 Elections; assistance to voters.** Provides, with certain exceptions, that no person shall assist more than two voters at the polls or voting absentee.

*Patron - Albo*

**7 HB678 Removal of certain elected and appointed officers by the courts.** Adds certain misdemeanor convictions to the list of grounds for removal of an officer. The bill adds convictions for assault and battery, sexual battery, attempted sexual battery, and indecent exposure to the list of grounds for removal in cases where the victim or complaining witness is an employee of the officer or under the officer's supervision.

*Patron - Rapp*

**7 HB681 Campaign Finance Disclosure Act; information required on reports of contributions and expenditures.** Provides that for purposes of aggregating contributions and reporting aggregate contributions and expenditures by candidates who seek election to successive terms in the same office, aggregations shall cover an election cycle that begins on January 1 of the election year to January 1 of the next regular election year for the office.

*Patron - Rapp*

**7 HB844 Virginia Clean Election Act and Fund; penalties.** Establishes an alternative, publicly financed, campaign financing option for candidates for Governor, Lieutenant Governor, and Attorney General. A candidate may volunteer to participate and be certified for public funds after a qualifying process. A participating candidate may not accept or spend private contributions and must abide by the campaign contribution and spending restrictions set out in the Act. The bill establishes the Virginia Clean Election Commission to administer the Act and Fund. The bill is based on the Maine Clean Election Act.

*Patron - Baskerville*

**7 HB951 Campaign finance disclosure; special reports of large contributions received by candidates for and incumbents in local offices.** Requires any candidate for or incumbent in a constitutional or local office to report any contribution of more than \$500 within five business days of its receipt to the local electoral board where the candidate or incumbent resides. The bill applies only to contributions received in nonelection years. This bill is identical to SB 470 as introduced.

*Patron - Ebbin*

**7 HB987 Electronic voting systems.** Requires that direct electronic voting devices be equipped to provide voter-verified paper ballots by January 1, 2007, and that the State Board of Elections begin a testing program for direct electronic voting devices and accompanying voter-verified paper ballots at the November 2004 general election. The Board shall conduct a random audit of direct electronic voting devices for comparison with the results obtained under the testing program.

*Patron - Hugo*

**7 HB1023 Absentee ballot applications.** Provides for the submission of applications for absentee ballots to local registrars through the official website of the State Board of Elections. The online application will contain all the information of the standard application, except for the signature requirement, plus a field for the applicant's e-mail address. The information provided by the applicant is subject to felony penalties for false statements. The State Board website will e-mail the application automatically to the appropriate local registrar

and generate an e-mail confirmation of receipt of the application to the applicant.

*Patron - Dillard*

**7 HB1200 Electronic voting systems.** Provides that on and after January 1, 2006, direct electronic voting devices such as touch screen devices must be equipped to provide a paper copy record of the votes cast on a contemporaneous and continuing basis as votes are cast and accumulated on the device.

*Patron - Cline*

**7 HB1351 Elections; solicitation of absentee ballot applications or ballots.** Makes it unlawful for anyone to solicit, in person, absentee ballot applications or ballots in any hospital, nursing home, or assisted living facility. The prohibition does not apply to family members or to general or assistant registrars, electoral board members or their staffs. A violation of the section is a Class 1 misdemeanor under § 24.2-1017.

*Patron - Purkey*

**7 HB1465 Campaign Finance Disclosure Act; record retention requirements and reviews of campaign finance disclosure reports.** Provides that (i) the State Board of Elections shall review the campaign finance reports of candidates for Governor, Lieutenant Governor, Attorney General and 10 percent of the candidates for the General Assembly selected at random; (ii) the review shall be for the purposes of (a) reconciling the balance in the campaign depository with the amounts reported in the candidate's reports of receipts and expenditures and (b) reviewing the reports for mathematical accuracy and facial completeness including the reporting of specific information required by law; (iii) the Board shall meet publicly to select by a random drawing the General Assembly candidate campaigns to review; (iv) a campaign committee shall be exempt from review if it has received less than \$25,000 in contributions; and (v) the campaign treasurer shall retain, and provide on request by the Board, the bank statements and copies of checks issued on campaign depositories and receipts for campaign fund expenditures greater than \$500. The bill will take effect January 1, 2005.

*Patron - Scott, J.M.*

**7 SB102 Electronic voting systems.** Provides that direct electronic voting devices such as touch screen devices must be equipped to provide a paper copy record of the votes cast on a contemporaneous and continuing basis as votes are cast and accumulated on the device. This bill is identical to SB 137.

*Patron - Devolites*

**7 SB137 Electronic voting systems.** Provides that direct electronic voting devices such as touch screen devices must be equipped to provide a paper copy record of the votes cast on a contemporaneous and continuing basis as votes are cast and accumulated on the device. This bill is identical to SB 102.

*Patron - Cuccinelli*

**7 SB268 Campaign Finance Disclosure Act; reports of large pre-election in-kind contributions and independent expenditures; penalties.** Applies to in-kind contributions and independent expenditures greater than \$5,000 in a statewide election or \$2,500 in other elections made in the 30 days before a primary or special election or 60 days before a general election to pay for advertisements referring to a clearly identified candidate. The bill requires the maker of the in-kind contribution or independent expenditure and recipient of the in-kind contribution to file a campaign disclosure report on the next business day. The bill provides for a civil penalty of

\$2,500 for the first failure to report and \$5,000 for each subsequent failure in an election cycle.

*Patron - Potts*

**7 SB391 Absentee ballot applications.** Provides for the submission of applications for absentee ballots to local registrars through the official website of the State Board of Elections. The online application will contain all the information of the standard application, except for the signature requirement, plus a field for the applicant's e-mail address. The information provided by the applicant is subject to felony penalties for false statements. The State Board website will e-mail the application automatically to the appropriate local registrar and generate an e-mail confirmation of receipt of the application to the applicant.

*Patron - Norment*

## Eminent Domain

### Carried Over

**7 HB826 Acquisition of property by Commonwealth; strengthening "Landowner's Bill of Rights."** Provides, with respect to acquisition of property by the Commonwealth, that (i) the fair rental property to a short-term occupier is less than that for a long-term occupier; (ii) the state agency seeking to obtain the property shall not introduce a lower appraisal at trial than it initially offers the owner; (iii) any owner whose property is taken pursuant to eminent domain and who recovers at trial more than 15 percent above the value of the condemning authority's initial offer shall receive all reasonable costs and experts' fees, excluding attorneys' fees; (iv) condemnation cases are given priority on the civil docket and (v) after depositing funds into court pursuant to § 33.1-120 or § 25.1-305 and after depositing funds into court after the award of just compensation in a condemnation trial, the condemnor shall prepare an order permitting the owner to withdraw such funds and shall perform all work necessary to prepare and provide such order. This last provision is binding on all condemnors regardless of the statutory authority under which a condemnor proceeds. The bill also strikes the references to "real" preceding the term "property" and eliminates the statement that the statute creates no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

*Patron - Drake*

**7 SB301 Eminent domain.** Requires that property be put to the public use for which it was condemned within 10 years and that if it is not, it will be offered for sale to the person who owned it at the time of condemnation before being publicly auctioned. There are exceptions for property acquired by the Commonwealth Transportation Commissioner and for situations where the failure to put the property to public use is for reasons beyond the reasonable control of the condemnor.

*Patron - O'Brien*

## Fiduciaries Generally

### Passed

**D HB983 Mailing of notice, etc., by clerk.** Allows the clerk to serve a notice, process or rule by certified or overnight mail as well as by registered mail as currently allowed.

*Patron - Reese*

### Carried Over

**7 HB138 Creditors; retirement benefits.** Eliminates the limitations on the amount of an individual retirement account, to which an employer does not contribute, that are exempt from the claims of an individual's creditors.

*Patron - Kilgore*

**7 HB140 Fiduciaries; investment in securities.** Restricts the investment protections of the "legal list" of securities afforded fiduciaries to accounts of less than \$1 million.

*Patron - Kilgore*

## Fire Protection

### Passed

**D HB451 Statewide Fire Prevention Code; enforcement.** Clarifies that the State Fire Marshal may establish procedures for the enforcement and administration of the Statewide Fire Prevention Code (Code) in jurisdictions that do not enforce the Code at the local level. In addition, the bill authorizes the State Fire Marshal, subject to the approval of the Board of Housing and Community Development, to recover the actual enforcement and administration costs in those jurisdictions for which he serves as the enforcement authority.

*Patron - McQuigg*

**D HB622 Use of natural cut Christmas trees in certain places of worship.** Provides that the Board of Housing and Community Development adopt regulations permitting the use of natural cut Christmas trees in the common areas of places of worship that do not have automatic sprinkler systems. In October, the International Code Council building and fire codes were adopted for Virginia, which included the international fire code regulation of the use of natural cut Christmas trees. This bill would overrule this regulation to allow for the use of natural cut Christmas trees in places of worship that do not have automatic sprinkler systems. This bill contains an emergency clause and incorporates HB 1180 and HB 1203.

*Patron - Orrock*

### Failed

**: HB1203 Statewide Fire Prevention Code; buildings or structures intended for worship; natural cut trees.** Removes the authority of the Board of Housing and Community Development, in cooperation with the Fire Services Board, to adopt regulations prohibiting the use of natural cut trees in a building or structure intended for worship. This bill is incorporated into HB 622.

*Patron - Cline*

: **HB1482** **Definition of explosive.** Amends the definition of explosive to exclude small arms ammunition or components thereof that are packaged in the manufacturer's original packaging, except for black powder, or permissible fireworks. The bill also provides that the Fire Prevention Code does not apply to the handling, storage or sale by a licensed firearms dealer of small arms ammunition or components thereof packaged in the manufacturer's original packaging, except for black powder.

*Patron - McDonnell*

## Fisheries and Habitat of the Tidal Waters

### Passed

**D HB182** **Royalties for use of state-owned bottomland.** Exempts riparian owners of commercial facilities (i) engaged in ship construction or repair, (ii) providing services to the ship cargo industry, and (iii) engaged in the business of selling or servicing watercraft from having to pay any rents or royalties to the Virginia Marine Resources Commission. The owners of such facilities will still have to pay a fee between \$25 to \$100 for the use of state bottomlands. The Commission is required to charge a royalty for any easement or lease it grants for the right to prospect for oil, gas and other minerals. In addition, \$100 will be charged to public service companies, which are placing pipelines or cables on or in state-owned bottomland. Uncollected rents and royalties assessed by the Commission prior to July 1, 2004, are declared void and the agency is prohibited from assessing any rents or royalties, except those collected in the removal of bottom material, until July 1, 2005. This bill is identical to SB 606.

*Patron - Oder*

**D HB489** **Wetlands boards.** Directs localities that have enacted wetlands zoning ordinances and created wetlands boards to appoint one to three alternate members to the wetlands board. Alternate members may serve at board meetings in place of absent members.

*Patron - Tata*

**D HB1024** **Saltwater licenses and permits.** Authorizes the Virginia Marine Resources Commission to adjust fees for saltwater fishing licenses and permits. This bill caps the fee increases at \$5 or a percentage equal to the increase in the CPI calculated from the time the fee was last set or adjusted, whichever is greater. Any such adjustment in a permit or license fee cannot occur more often than once every three years. The amount generated from increases in the commercial fishing licenses and permits is to be paid into the Marine Fishing Improvement Fund and the increased amounts generated from increases in the recreational fishing licenses are to be paid into the Virginia Saltwater Recreational Fishing Development Fund. The bill also authorizes the Commission to establish permit fees for the delayed or limited entry fisheries, as well as for shellfish relaying and scientific collections.

*Patron - Dillard*

**D HB1278** **Theft of oysters and clams.** Provides that any person who takes naturally occurring oysters or clams from leased planting grounds without the permission of the owner is guilty of larceny.

*Patron - Suit*

**D HB1436** **Property conveyance.** Authorizes the Virginia Marine Resources Commission to grant an easement and 50-foot right-of-way to Virginia Electric and Power Company in the Elizabeth River for the construction of an additional electrical transmission line cable to provide service to Norfolk and the surrounding area. The easement will cross several Baylor Survey Grounds.

*Patron - Suit*

**D HB1452** **Combined fresh water and saltwater fishing licenses.** Establishes a special combined fishing license for persons who want to fish in freshwater and saltwater. If a person purchases this license, he will not have to buy a basic state fishing license issued by the Department of Game and Inland Fisheries or the saltwater recreational fishing license issued by the Virginia Marine Resources Commission. The cost of this license is \$19.50 for residents and \$37.50 for non-residents. Of the \$19.50 fee for the resident combined license, \$7 will be paid into the Virginia Saltwater Recreational Fishing Development Fund, \$12 will be paid into the Game Protection Fund and 50 cents will be paid to a Virginia Marine Commission sales agent. Of the \$37.50 fee for the nonresident combined license, \$7 will be deposited in the Virginia Saltwater Recreational Fishing Development Fund, \$30 will be deposited into the Game Protection Fund and 50 cents will go to the sales agent. The bill also establishes a trip license that allows persons to fish in all inland and tidal waters for five successive days. [HKB31] This license can be obtained in lieu of having to purchase a basic trip fishing license and a saltwater recreational license at a cost of \$10.50 for residents and \$15.50 for nonresidents. Five dollars per license sold will be paid into the Virginia Saltwater Recreational Fishing Development Fund, and \$5 per resident license sold and \$10 per nonresident license sold shall be paid into the Game Protection Fund. The sales agent will receive 50 cents for each license sold.

*Patron - Oder*

**D SB432** **Bottomlands permit.** Prohibits any person from reapplying for a Virginia Marine Resources' bottomlands permit within a year of the denial of the original permit if it is for the same or substantially similar use of the bottomlands.

*Patron - Wagner*

**D SB605** **Leasing of water column.** Authorizes the Virginia Marine Resources Commission to lease the water column above certain state-owned bottomlands for aquacultural purposes. In applying for a lease, a person has to identify the size, location and characteristics of the proposed leased area, describe the types aquaculture structures to be deployed, and provide a five-year development plan detailing the activities to take place in the leased area. There is a \$100 application fee for a lease of less than one acre and a \$250 fee for a lease of between one to 10 acres. The Commission is empowered to determine the amount of the annual rent taking into account the actual time that the water column will be used each year. The rent cannot exceed \$50 per acre for the first four years of the lease and \$250 for the fifth and subsequent years. Each five-year lease may be renewed for an additional five-year period, if the leased area has been aquaculturally productive. The bill has a delayed effective date of July 1, 2005, and is only effective if state funding is included for this specific purpose in the general appropriation act for the period July 1, 2005, through June 30, 2006.

*Patron - Bolling*

**D SB606** **Royalties for use of state-owned bottomland.** Exempts riparian owners of commercial facilities (i) engaged in ship construction or repair, (ii) providing services to the ship cargo industry, and (iii) engaged in the business of

selling or servicing watercraft from having to pay any rents or royalties to the Virginia Marine Resources Commission. The owners of such facilities will still have to pay a fee between \$25 to \$100 for the use of state bottomlands. The Commission is required to charge a royalty for any easement or lease it grants for the right to prospect for oil, gas and other minerals. In addition, \$100 will be charged to public service companies, which are placing pipelines or cables on or in state-owned bottomland. Uncollected rents and royalties assessed by the Commission prior to July 1, 2004, are declared void and the agency is prohibited from assessing any rents or royalties, except those collected in the removal of bottom material, until July 1, 2005. This bill is identical to HB 182.

*Patron - Bolling*

## Failed

: **HB446 Fishing of menhaden.** Directs the Virginia Marine Resources Commission to prepare and implement a menhaden fishery management plan.

*Patron - Suit*

: **HB797 Property conveyance.** Authorizes the Virginia Marine Resources Commission to convey a permanent easement of approximately 0.9 acres in the Mattaponi River, in King William County, to the City of Newport News for the purpose of constructing a raw water intake structure to provide water supply for the Newport News reservoir project.

*Patron - Oder*

: **SB109 Submerged land permit exemption.** Exempts a water supply project that has received a Virginia Water Protection Permit from the State Water Control Board from having to receive a separate permit from Virginia Marine Resources Commission for use of state-owned bottomland. However, the Virginia Water Protection Permit would not be issued until the State Water Control Board has consulted with the Commission and considered any of its written recommendations. The Commission's written recommendations are to include an analysis of all applicable statutory and regulatory responsibilities of the Commission as they relate to the activity for which the Water Protection Permit is being sought. The issuance of the permit by the State Water Control Board would constitute the final state action on the project.

*Patron - Williams*

: **SB420 Property conveyance.** Authorizes the Virginia Marine Resources Commission to convey a permanent easement of approximately 0.9 acres in the Mattaponi River, in King William County, to the City of Newport News for the purpose of constructing a raw water intake structure to provide water supply for the Newport News reservoir project.

*Patron - Wagner*

## Game, Inland Fisheries and Boating

## Passed

**D HB25 Spotlighting of deer or elk.** Repeals the 1958 Act of Assembly that makes it unlawful to take or attempt to take deer or elk between sunset and sunrise by the use of a spotlight or flashlight. This act is obsolete since § 29.1-523

currently prohibits such activity. This bill is a recommendation of the Code Commission.

*Patron - Landes*

**D HB26 Hunting antlerless deer.** Repeals a 1956 Act of Assembly that permits the killing of antlerless deer if a person has purchased a special permit. The cost of the permit is \$2.20. This act is obsolete as a result of the enactment of § 29.1-305, which establishes a bear, deer, and turkey license. Tags are attached to this license that allow a hunter to take antlerless deer. The conditions under which these deer can be taken are prescribed by a specific Game Department regulation. This bill is a recommendation of the Code Commission.

*Patron - Landes*

**D HB27 Hunting of wild turkeys.** Repeals the 1954 Act of Assembly that establishes a season for hunting wild male turkeys in Pittsylvania County. The 1954 act also prohibited the hunting, capturing or killing of wild turkey hens. This Act of Assembly is obsolete since the Code of Virginia empowers the Board of Game and Inland Fisheries to promulgate regulations pertaining to the hunting of any wild animals or freshwater fish. The turkey season and bag limits are currently set by regulation. This bill is a recommendation of the Code Commission.

*Patron - Landes*

**D HB28 Squirrel-hunting season.** Repeals a 1952 Act of Assembly mandating that squirrel-hunting season in Floyd County could not begin before September 15 of each year. This act is obsolete because §§ 29.1-501 and 29.1-502 empower the Board of Game and Inland Fisheries to adopt regulations pertaining to the hunting and taking of wild animals and freshwater fish. The Board has adopted a specific regulation that makes it unlawful to hunt squirrel from the first Saturday in September through January 31 of each year.

*Patron - Landes*

**D HB54 Killing of beaver.** Allows landowners whose crops or property has been damaged by beavers to kill, or employ someone to kill, beavers out of season without having to obtain a permit from the Department of Game and Inland Fisheries.

*Patron - Morgan*

**D HB75 Damage stamp program.** Repeals the 1948 Act of Assembly that required a person to obtain a \$1 damage stamp to hunt bear or deer in Craig County. This bill is a recommendation of the Virginia Code Commission.

*Patron - Landes*

**D HB76 Bird sanctuary.** Repeals a 1954 Act of Assembly that allows Roanoke County to designate an area, upon the request of all landowners in that area, as a bird sanctuary. This bill is a recommendation of the Virginia Code Commission.

*Patron - Landes*

**D HB77 Hunting in Halifax and Cumberland Counties.** Repeals the 1958 Act of Assembly that made it illegal in Halifax and Cumberland Counties to hunt deer with a rifle and to hunt any wild bird or other wild animal with a rifle larger than .22-caliber rifle. This bill is a recommendation of the Virginia Code Commission.

*Patron - Landes*

**D HB132 Stationary duck blinds.** Clarifies the definition of a stationary duck blind. Such a blind has to be erected at a fixed location for the purpose of hunting or shooting waterfowl. This will eliminate the practice of erecting what are



known as "dummy blinds," which are placed on the shore or in the water in order to prevent the construction of an actual blind in the immediate vicinity.

*Patron - Cox*

**D HB133 Nonresident youth hunting licenses.** Establishes license fees for nonresident youth who wish to hunt in Virginia. Currently, there is no distinction by age for the various nonresident-hunting licenses. Under this bill the basic nonresident hunting license would be \$12 for nonresident youth under 12, \$15 for nonresidents between the ages of 12 to 15, and would remain at \$80 for nonresidents 16 or older. The cost of the youth resident combination license, which allows residents under the age of 16 to hunt (i) bear, deer and turkey, (ii) with a bow and arrow during special archery season, and (iii) with a muzzleloader during muzzleloading season, is \$15. For a nonresident under 16, the cost of this license would be \$30. Finally, the fee for the big game license for a nonresident, which is \$12 for a resident older than 16 and \$7.50 for a resident under 16, would be \$60 for a nonresident 16 or older, \$15 for a nonresident 12 to 15, and \$12 for a nonresident under 12.

*Patron - Cox*

**D HB301 License fees revised.** Authorizes the Board of Game and Inland Fisheries, through the adoption of regulations, to revise the fees for hunting, trapping, fishing, and motorboat registration. The fees cannot be changed more than once every three years. Any increase or decrease in the fee cannot be for more than \$5.

*Patron - Cox*

**D HB536 Annual hunting stamp.** Authorizes the Board of Game and Inland Fisheries to establish an annual hunting stamp. The stamp would be required of anyone who hunts on lands leased by the Department. The cost of the stamp would be the same as the cost of an annual resident hunting license, which is currently \$12.

*Patron - Stump*

**D HB758 Hunting, trapping and fishing license exemption.** Exempts the children and grandchildren of a landowner and the spouses of the landowner's children and grandchildren from having to obtain a license to hunt, trap or fish on landowner's property. Currently, the exemption extends to the landowner, his or her spouse, their children and only minor grandchildren, and the landowner's parents.

*Patron - Hurt*

**D HB809 Baiting of deer.** Allows the baiting of deer if it is done pursuant to a permit issued by the Department of Game and Inland Fisheries under its urban deer management program.

*Patron - Ware, O.*

**D HB1044 Baiting of wild animals.** Provides a rebuttable presumption for any person charged with hunting over baited areas that he knew he was occupying a baited blind or other baited place for the purpose of taking wild birds or wild animals.

*Patron - Saxman*

**D HB1069 Damage stamp program.** Extends coverage under the damage stamp program to beekeepers to collect for damages to their bee colonies and beekeeping equipment caused by bear, deer, elk or big game hunters. This bill is identical to SB 199.

*Patron - Armstrong*

**D SB54 Feeding of waterfowl.** Allows localities to prohibit the feeding of migratory and nonmigratory waterfowl

in a heavily populated area where the feeding of waterfowl, in the opinion of the governing body, would be a threat to public health or the environment. The locality is required to give notice to the Department of Game and Inland Fisheries of its intent to adopt such an ordinance and the Department is to make available to the locality a suggested model ordinance. The penalty for violation of such an ordinance is a civil fine not to exceed \$50.

*Patron - Puller*

**D SB199 Damage stamp program.** Extends coverage under the damage stamp program to beekeepers to collect for damages to their bee colonies and beekeeping equipment caused by bear, deer, elk or big game hunters. This bill is identical to HB 1069.

*Patron - Reynolds*

**D SB261 Use of drugs on wildlife.** Prohibits persons from administering drugs to any vertebrate wildlife except as allowed under a Department of Game and Inland Fisheries permit or regulation. The penalty for violation of this prohibition is a Class 2 misdemeanor.

*Patron - Hawkins*

## Failed

: **HB78 Bird sanctuary.** Repeals a 1962 Act of Assembly that authorized the Town Council of Culpeper to establish a bird sanctuary with the town's corporate limits. This bill is a recommendation of the Virginia Code Commission.

*Patron - Landes*

: **HB169 Waterfowl blinds.** Repeals a 1928 and a 1942 Act of Assembly that prohibited hunting from floating blinds in the Counties of Caroline, King George, Essex, Westmoreland and Richmond, and in several segments of the Rappahannock and Potomac Rivers.

*Patron - Shuler*

: **HB338 Youth waterfowl hunting.** Exempts youth who hunt waterfowl on the Saturday and Sunday designated by the Board of Game and Inland Fisheries as Youth Waterfowl Hunting Days from the prohibition on hunting on Sunday.

*Patron - Pollard*

: **HB401 Feeding of waterfowl.** Allows localities to prohibit the feeding of migratory and nonmigratory waterfowl. The penalty for violation of such an ordinance is a Class 4 misdemeanor.

*Patron - Amundson*

: **HB442 Hunting on Sunday.** Allows a person to hunt or kill any wild bird or wild animal on Sundays.

*Patron - Suit*

: **SB554 Personal flotation devices required for children; civil penalty.** Requires all children 12 years of age or younger to wear a Type I, II, III, or Type V U.S. Coast Guard-approved personal flotation device on recreational vehicles under 21 feet in length. The Director of Game and Inland Fisheries shall assess any recreational vessel operator who violates or permits the violation of this provision a civil penalty of up to \$250. However, this penalty may be waived if the person subsequently completes an approved boating safety education course. All penalties collected are to be paid to the Motorboat and Water Safety Fund of the Game Protection Fund. The bill does not apply to a recreational vessel that is moored or anchored, or to children below deck or in an enclosed cabin. The bill defines "recreational vessel" as a vessel manufactured

or operated for leisure or recreational purposes, or a vessel leased, rented or chartered for noncommercial use. "Recreational vessel" includes motorboats, sailboats, canoes, kayaks, rowboats, and any other vessel capable of being used for transportation on water, when the vessel is being used for other than commercial purposes. This bill contains a delayed enactment clause until January 1, 2005.

*Patron - Lucas*

: **SB586 Powers of the Board of Game and Inland Fisheries.** Allows the Board of Game and Inland Fisheries to grant easements and rights of way over lands and waters acquired for game and fish refuges and preserves. To become effective, the provisions of this bill must be reenacted by the 2005 Session of the General Assembly.

*Patron - Puckett*

: **SB657 Firearms.** Amends the definitions of "muzzleloading rifle" and "shotgun," and deletes the definition of "muzzleloading shotgun" to resolve an inconsistency. This bill adds a definition of "shooting," and requires localities that prohibit hunting with a shotgun loaded with slugs, or with a rifle of a caliber larger than .22 rimfire, to permit the use of muzzleloading rifles during the prescribed open seasons for the hunting of game species. The bill also deletes the enabling language that allows localities to specify what type of ammunition is permissible for hunting. This bill is incorporated into SJR 38.

*Patron - Quayle*

## Carried Over

**7 HB331 Floating blinds in certain waters.** Amends an Act of Assembly to allow floating blinds in the waters of Caroline, Essex, King George, Richmond and Westmoreland Counties and in portions of the Rappahannock and Potomac Rivers, so long as they are staked and meet certain siting requirements. The hunter may purchase four stake licenses at a cost of \$17.50 for the first and \$5 each for the other three licenses.

*Patron - Pollard*

**7 HB695 Personal watercraft.** Allows any locality, by ordinance, to regulate the operation of personal watercraft on any body of water within its territorial limits and requires the locality to set penalties and have the principal responsibility for providing enforcement of the ordinance.

*Patron - Morgan*

**7 SB175 Sunday hunting.** Allows persons to hunt on Sunday between noon and one-half hour after sunset.

*Patron - Stolle*

**7 SB198 Bear damage stamp.** Requires any person licensed to hunt bear to also obtain a \$4 bear damage stamp. The moneys collected from the stamp will be deposited into the newly created Bear Damage Stamp Fund. The Fund will be used to compensate landowners for damages to their property caused by bears. Under a newly established Bear Damage Stamp program, a property owner will file a claim for damages with the Department of Game and Inland Fisheries. The report will include three estimates of the damages. The Department's game wardens or wildlife biologists will investigate the claim and the Board of Game and Inland Fisheries will make the decision regarding whether the claim is valid and the amount of compensation that will be awarded to the property owner.

*Patron - Reynolds*

**7 SB249 Waterfowl blinds.** Repeals a 1928 and a 1942 Act of Assembly that prohibited hunting from floating blinds in the Counties of Caroline, King George, Essex, Westmoreland and Richmond, and in several segments of the Rappahannock and Potomac Rivers.

*Patron - Deeds*

## General Assembly

### Passed

**D HB3 General Assembly; prefilng.** Establishes a set day of the month for prefilng to begin. Currently, prefilng begins 60 days prior to even-numbered-year sessions and 180 days prior to the odd-numbered-year sessions. Pinpointing the date that prefilng begins has been challenging because the convening date for the session varies and the statute is unclear whether the first day of the session is included within the time allowed. The bill establishes the third Monday in November prior to even-numbered year sessions and the third Monday in July prior to odd-numbered year sessions for prefilng to begin. The bill provides that the deadline for prefilng legislation will be established by the procedural resolution of the General Assembly, or the Joint Rules Committee, if the General Assembly has not acted. This schedule is closest to the current prefilng period.

*Patron - Griffith*

**D HB692 Joint Commission on Health Care; cooperation of other agencies.** Provides that upon request, every department, division, board, bureau, commission, authority or other agency created by the Commonwealth, and any political subdivision of the Commonwealth, shall cooperate with and assist the Commission in performance of its duties. Such provisions already exist in statute for other state commissions, such as the Virginia Crime Commission and the Virginia Commission on Youth.

*Patron - Morgan*

**D HB817 The Virginia Disability Commission.** Establishes the Virginia Disability Commission ("Commission") as a legislative commission, with the purpose of identifying and recommending legislative priorities and policies that should be adopted or examined by the General Assembly in order to provide ongoing support in developing and reviewing services and funding related to Virginians with disabilities. The Commission shall consist of 12 members that include six legislative members, five nonlegislative citizen members, and the Lieutenant Governor. Of the five nonlegislative members, two shall be consumers with disabilities, two shall be members of the medical, insurance, or rehabilitation professions, and one shall be a citizen at large. The Lieutenant Governor shall continue to serve as chairman until January 14, 2006, at which time the chairmanship of the Commission shall be assumed by a legislative member. The bill provides that the Commission must seek approval from the Joint Rules Committee if it is not funded in the first year of its existence. If the Commission is not funded in the second year, the provisions of the statute creating the Commission will expire. There is a three-year sunset provision on this bill. This bill is identical to SB 381.

*Patron - Van Landingham*

**D HB1231 Clarifications for certain collegial bodies.** Conforms certain collegial body requirements to meet the legislative guidelines adopted by the Joint Rules Committees and codifies certain existing collegial bodies. These bodies

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

*Patron - Griffith*

**D SB381 The Virginia Disability Commission.** Establishes the Virginia Disability Commission ("Commission") as a legislative commission, with the purpose of identifying and recommending legislative priorities and policies that should be adopted or examined by the General Assembly in order to provide ongoing support in developing and reviewing services and funding related to Virginians with disabilities. The Commission shall consist of 12 members that include six legislative members, five nonlegislative citizen members, and the Lieutenant Governor. Of the five nonlegislative members, two shall be consumers with disabilities, two shall be members of the medical, insurance, or rehabilitation professions, and one shall be a citizen at large. The Lieutenant Governor shall continue to serve as chairman until January 14, 2006, at which time the chairmanship of the Commission shall be assumed by a legislative member. The bill provides that the Commission must seek approval from the Joint Rules Committee if it is not funded in the first year of its existence. If the Commission is not funded in the second year, the provisions of the statute creating the Commission will expire. There is a three-year sunset provision on this bill. This bill is identical to HB 817.

*Patron - Puller*

**D SB434 Joint Commission on Administrative Rules.** This bill repeals the sunset clause that provided for the expiration of the Commission on June 30, 2004; deletes provisions prohibiting establishment of any full-time equivalent position to staff the Commission and permitting use of existing staff and transferred funds to assist the Commission; and retains the provision requiring the Division of Legislative Services to provide staff support.

*Patron - Wagner*

**D SB664 Unemployment compensation; bills affecting revenue of the Commonwealth.** Provides that bills enhancing unemployment compensation benefits payable to a claimant must contain a statement prepared by the Virginia Employment Commission, in consultation with the Department of Planning and Budget, estimating potential revenue losses, in the form of decreased tax revenues, to the Commonwealth. The bill provides that no bill enhancing unemployment compensation benefits can be considered at a regular session of the General Assembly unless the bill contains the revenue loss statement in the second or final enactment clause.

*Patron - Wagner*

## Failed

: **HB277 General Assembly; disclosure of office allowances.** Requires members of the General Assembly who receive an allowance for office expenses and supplies provided by the general appropriation act to file an annual disclosure statement. The disclosure statement must be filed with the member's clerk no later than January 8, which coincides with the date members must file their statements of economic interests. The statement must include an account of all receipts and expenditures recorded during the prior calendar year. Unexpended balances must be carried forward and accounted for in the next reporting period. The bill exempts the disclosure of expense items of \$25 or less that in combination do not exceed \$250 during the reporting year.

*Patron - Purkey*

: **HB279 General Assembly; introduction limits.** Prohibits a member of the General Assembly from introducing more than a combined total of 12 bills and resolutions during any regular session of the General Assembly. Exceptions to this limitation include legislation that (i) commends, congratulates or memorializes and is not referred to a standing committee under the rules of the respective house; (ii) relates to the administration of government and is introduced at the request of the Governor; or (iii) affects the procedures or schedule of the General Assembly. The provisions of the bill will expire on July 1, 2006.

*Patron - Purkey*

: **HB336 House of Delegates; office allowance subject to Freedom of Information Act.** Provides explicitly that any record pertaining to the use of funds from the office allowance provided to members of the House of Delegates be opened to public inspection and copying under the Freedom of Information Act (FOIA). FOIA currently provides that nothing in the Act shall be construed to deny access to "records of allowances or reimbursements for expenses paid to any officer, official or employee of a public body." However, it is not clear whether the office allowance records of members are subject to disclosure under FOIA because current law does not require a separate record accounting for the use of these funds.

*Patron - Pollard*

: **HB387 Bills that increase fees.** Requires that any bill that increases a fee of the Commonwealth be introduced no

later than the first day of the General Assembly session, and requires that certain information about the history of the fee be presented to the committee of the General Assembly to which the bill is referred. This information includes: (i) when the fee was first established; (ii) the dates and amounts by which the fee has increased over the past 10 years; (iii) the purpose for the revenue from the fee, and whether any amounts of such revenue have been spent for other purposes in the past 10 years; (iv) the total annual amount of revenues raised from the fee each year for the past 10 years; and (v) the estimated amount of revenues that will be generated by the proposed increase and the reason for the increase. The same information also must be presented to any committee before the committee considers any amendment to a bill that would increase fees.

*Patron - Lingamfelter*

: **HB560 General Assembly; members' salaries.** Requires that the salaries of members of the General Assembly be adjusted to equal 40 percent of the average salary of classroom teachers in the Commonwealth, including librarians and guidance counselors, as calculated by the Virginia Department of Education. Any adjustment that would decrease members' salaries would become effective beginning in 2005 upon passage of the appropriation act. Pursuant to the Constitution of Virginia, any adjustment that would increase members' salaries would not become effective until January 9, 2008, following the election of all of the members of the General Assembly. In fiscal year 2003, the average teacher salary in the Commonwealth was \$42,778.

*Patron - Albo*

: **HB1098 General Assembly; office expense allowance.** Requires members of the General Assembly who receive an allowance for office expenses and supplies provided by the general appropriation act to substantiate their business expenses on a quarterly basis and return any amount in excess of the substantiated expenses. These requirements are necessary to establish the office expense allowance as an "accountable plan" under the Internal Revenue Code Tax Regulations.

*Patron - Moran*

: **HB1297 General Assembly; office allowances.** Changes the nonvouchered office expense allowance arrangement for members of the General Assembly to an accountable plan within the meaning of the Internal Revenue Code regulations. Beginning January 11, 2006, members will be required to substantiate their business expenditures on a quarterly basis and return any amount in excess of the substantiated expenses. The bill also provides a separate office equipment allowance not to exceed \$2,000 during a two-year period. Members will be required to submit a voucher and accompanying receipts prior to receiving payment for equipment expenses. The Clerk of the House of Delegates and the Clerk of the Senate, under the direction of their respective Rules Committee, are required to establish policies in their houses regarding the transfer of office equipment purchased with the allowance to the Commonwealth when the equipment falls into disuse or the member leaves office. The Clerks must submit by November 1, 2004, the policies and forms needed to implement the bill to their respective Rules Committees for approval.

*Patron - Brink*

: **HR3 House of Delegates; session coverage.** Directs the House Rules Committee to adopt procedures governing live television coverage of the sessions of the House of Delegates beginning with the 2005 Regular Session of the General Assembly.

*Patron - Armstrong*

: **HR11 House of Delegates; portrait of the former Speaker Quillen.** Authorizes the painting of a portrait of Ford C. Quillen, former acting Speaker of the House of Delegates, to be hung in the Chamber of the House of Delegates.

*Patron - Kilgore*

: **SB656 Joint Commission on Health Care.** Removes the Commission's authority to hire a director and staff and provides that staff support for the Commission is to be provided by the Division of Legislative Services.

*Patron - Martin*

: **SB689 Television or other electronic signals generated by the Senate of Virginia.** Prohibits the use of certain video or audio signals generated by the Senate for political or commercial purposes, including campaigns for elective office and bond referenda. Specifically, the bill excludes educational, news, and public affairs programming and authorized unedited video feeds. A person who is convicted for a violation of these restrictions will be guilty of a Class 1 misdemeanor.

*Patron - Wampler*

: **SJ42 Tax bills; prohibiting amendments.** Prohibits amendments to any bill introduced during the 2004 Session that increases a tax, imposes a new tax, or extends a tax, if requested by the patron of the bill.

*Patron - Cuccinelli*

## Carried Over

**7 HB459 Joint Commission on Reduction of Non-essential State Expenditures.** Creates the Joint Commission on Reduction of Nonessential State Expenditures in the legislative branch of state government. The purpose of the Commission is to review the operations of state agencies and state-funded programs with a view toward the reduction of non-essential programs and expenditures. The Commission shall consist of nine members of the House of Delegates appointed by the Speaker thereof, of whom at least five shall be members of the House Appropriations Committee, and five members from the Senate appointed by the Privileges and Elections Committee of the Senate, of whom at least two shall be members of the Finance Committee, and the Auditor of Public Accounts, ex officio, who shall have no vote.

*Patron - Athey*

**7 HB1236 General Assembly Conflicts of Interests Act; disclosure of fees and compensation from certain publicly regulated business.** Requires a separate disclosure statement to be filed by any legislator receiving fees or compensation in excess of \$10,000 in a 12-month period from a publicly regulated business such as a bank, insurance company, or public utility.

*Patron - Griffith*

## General Provisions of Virginia Code

### Passed

**D SB566 General provisions; appointment process.** Shifts the appointing authority from the Senate Committee on Privileges and Elections to the Senate Committee on Rules by redefining references in the Code to the Committee on Privileges and Elections. Under the proposed Rules of the

Senate to be adopted in 2004, the Committee on Rules is designated the appointing authority for study committees and commissions. The bill also defines the term "nonlegislative citizen member," which is often used to describe who may serve as appointees to collegial bodies. There has been confusion that this terminology excludes all elected officials from serving on a collegial body, although the intent is only to exclude members of the General Assembly.

This bill does not affect existing appointments that have not expired. However, new appointments and appointments to fill vacancies made after the effective date of the act must be made in accordance with the act. This act is effective upon its passage. This bill is identical to SB 691

*Patron - Martin*

## Failed

**: SB691 General provisions; appointment process.** Shifts the appointing authority from the Senate Committee on Privileges and Elections to the Senate Committee on Rules by redefining references in the Code to the Committee on Privileges and Elections. Under the proposed Rules of the Senate to be adopted in 2004, the Committee on Rules is designated the appointing authority for study committees and commissions. The bill also defines the term "nonlegislative citizen member," which is often used to describe who may serve as appointees to collegial bodies. There has been confusion that this terminology excludes all elected officials from serving on a collegial body, although the intent is only to exclude members of the General Assembly.

This bill does not affect existing appointments that have not expired. However, new appointments and appointments to fill vacancies made after the effective date of the act must be made in accordance with the act. This act is effective upon its passage. This bill is identical to SB 566

*Patron - Wampler*

## Carried Over

**7 HB996 Associational standing; definition of person aggrieved.** Confers associational standing in Virginia as articulated in *Hunt v. Washington Apple Advertising Comm'n*, 432, U.S. 333 (1977). Currently, Virginia follows the common law rule that the person seeking standing must have an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest. Unlike federal law, the injury to an individual of an association does not vest in the association.

*Patron - Hugo*

## Health

### Passed

**D HB159 Vital records; filing of death certificates.** Specifies that a licensed funeral director, funeral services licensee, office of the state anatomical program, or the next of kin can file the death certificate with the registrar of vital records. The bill addresses the problem encountered by the registrar of vital records under the present law when the surface transportation and removal companies that are registered with the Board of Funeral Directors and Embalmers or persons who are not licensed by the Board of Funeral Directors and Embalmers fail to file the death certificate with the registrar. This bill makes it quite clear that even the next of kin, if first to assume custody

of the body, has an obligation to file the certificate of death with the registrar.

*Patron - Reid*

**D HB224 Medical assistance services; marriage and family therapy.** Mandates Medicaid reimbursement to licensed marriage and family therapists for services covered by the state plan. This bill does not mandate any new services, but merely adds marriage and family therapists to the list of mandated Medicaid providers who may be reimbursed for services that are already covered by the state plan and Medicaid regulations.

*Patron - Shuler*

**D HB391 Certificate of public need for medical care facilities; criteria for determining need.** Modifies the criteria relating to the extent to which the project will be accessible to all residents of the area proposed to be served by a medical care facility to require the Commissioner of Health to consider the effects on accessibility of any proposed relocation of an existing service or facility. The bill also requires the appropriate health planning agency to notify the local governing bodies in the planning district where the project is proposed to be located. Finally, the bill requires the health planning agency to consider comments from the relevant local governing bodies and all other public comments in making its decision, and stipulates that such comments must be part of the record provided to the Department of Health.

*Patron - Amundson*

**D HB501 Certain certificate of public need for nursing facility or extended care services.** Amends Chapter 912 of the 2000 Acts of Assembly to authorize the Commissioner of Health to accept and approve a request to amend the conditions of certain certificates of public need that were issued pursuant to an exception to the statutory moratorium on nursing home beds that was in effect until 1996. This bill revises the previously amended authority for the issuance of certificates of public need for three continuing care providers located in Loudon County, Williamsburg, and Virginia Beach. This provision authorizes the facilities to request that the Commissioner approve changes in their certificates to allow them to continue to admit private-pay patients who are not contract holders if the facility was established for the care of retired military personnel and their spouses or widows or widowers and the facility's nursing home facility has a contract holder occupancy rate less than 85 percent.

*Patron - Callahan*

**D HB627 Ambulance permits to be consistent with certain federal requirements.** Requires the Commissioner of Health to issue permits or licenses for emergency medical services agencies and vehicles as needed to ensure compliance with federal regulations relating to reimbursement of ambulance services pursuant to Medicare and Medicaid.

*Patron - O'Bannon*

**D HB628 Health maintenance organizations; Medicaid; Family Access to Medical Insurance Security Plan (FAMIS).** Removes the requirement that Medicaid HMOs include in the evidence of coverage a statement entitling any Medicaid recipient or FAMIS participants to conversion of their coverage to an individual contract. The bill conforms the requirements for the explanation of benefits for Medicaid recipients and FAMIS participants to the standards prescribed in the state plan for medical assistance services and the FAMIS Plan. Statutory requirements will not apply to the extent such requirements differ from the Department of Medical Assistance Services' standards. A second enactment clause declares

that an emergency exists and this bill will become effective upon passage.

*Patron - O'Bannon*

**D HB633 Nurse Licensure Compact; holder of multistate licensure privilege.** Clarifies and reinforces the regulatory authority of the Board of Nursing and the Department of Health Professions over persons issued a multistate licensure privilege to practice nursing in Virginia. This bill renders provisions relating to discipline, practice protocols, and other scope of practice requirements applicable to any person holding a multistate licensure privilege issued under the Nurse Licensure Compact. The Compact will become effective on January 2005. The Board of Nursing is required to promulgate emergency regulations to implement the provisions of the Compact.

*Patron - O'Bannon*

**D HB836 Children's Health Insurance Program Advisory Committee.** Revises the name, purpose, membership, and responsibilities of the current Outreach Oversight Committee to Family Access to Medical Insurance Security (FAMIS) to create the Children's Health Insurance Program Advisory Committee and declares the purpose of the committee to be to assess policies, operations and outreach for FAMIS and FAMIS Plus (Medicaid for children) and to evaluate various enrollment, utilization, and outcomes of children for these programs. The committee's membership is limited to 20 members and will include the Joint Commission on Health Care, the Department of Social Services, the Department of Health, the Department of Education, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Virginia Health Care Foundation, various provider associations and children's advocacy groups, and other individuals with significant knowledge and interest in children's health insurance. The committee will make recommendations on FAMIS and FAMIS Plus to the Director of the Department of Medical Assistance Services and the Secretary of Health and Human Resources.

*Patron - Brink*

**D HB855 Licensed nurse practitioners; forms and certificates.** Provides that licensed nurse practitioners may sign various forms and certificates, and provide medical information or treatment in certain situations, including situations involving the immunization of children, examination of persons suspected of having tuberculosis, prenatal tests, nursing homes, release of certain privileged medical information, competency for driver licenses, release of certain veterinary records, and assisted living facilities. The bill also provides that whenever any law or regulation requires a signature, certification, stamp, verification, affidavit or endorsement by a physician, it will be deemed to include a signature, certification, stamp, verification, affidavit or endorsement by a nurse practitioner. Three enactment clauses provide that: (i) these provisions will take effect 60 days after the effective date of the regulations of the Boards of Medicine and Nursing; (ii) the Boards of Medicine and Nursing must promulgate emergency regulations, i.e., within 280 days of enactment, with the amendments requiring the nurse practitioners' authority for signatures, certifications, stamps, verifications, affidavits and endorsements to be included in the written protocol between the supervising physician and the nurse practitioner; and (iii) that the tanning facility signs will be updated in compliance with the new law when posted or replaced after the effective day of the act.

*Patron - Jones, S.C.*

**D HB877 Health records privacy; procedure for certain patients to obtain access to their records.** Revises

the various laws setting out an exception to the patient's traditional access to his own health records to provide consistency with a new procedure that must be used to ensure fair appraisal of the judgment of a treating physician or clinical psychologist concerning the potential harm to the patient or others that could result from such access. This provision revises the standard by which a patient can be denied access to his records to require the treating physician or clinical psychologist to find that a review of the individual's health records would be reasonably likely to endanger the life or physical safety of the individual or another person, or that a reference in the health records to another person would be reasonably likely to cause substantial harm to the referenced person. The individual may designate a reviewing physician or clinical psychologist at his own expense, or the relevant health care provider or insurance entity denying access to the health record will designate a reviewing physician or clinical psychologist at the expense of the relevant health care provider or insurance entity. The designated physician or clinical psychologist will make a judgment as to whether the health record should be made available to the individual. The access decision of the designated reviewing physician or clinical psychologist must be followed.

*Patron - O'Bannon*

**D HB879 Health records privacy.** Revises the Virginia patient privacy provision to comply more closely with the regulations promulgated pursuant to the federal Health Insurance Portability and Accountability Act of 1996, as amended, relating to health records. Closer compliance is achieved through various syntax changes in terminology, definitions, and forms, and revisions and additions to the definitions, e.g., "health care entity," as defined in this provision, includes all health care providers, health plans or health care clearing-houses. The bill refers to an "individual" instead of a "patient"; to "health records" instead of "medical records"; and "health care providers" or "health care entities" instead of providers. This provision also revises the standard by which a patient can be denied access to his records to require the treating physician or clinical psychologist to find that a review of the individual's health records would be reasonably likely to endanger the life or physical safety of the individual or another person, or that a reference in the health records to another person would be reasonably likely to cause substantial harm to the referenced person. The individual may designate a reviewing physician or clinical psychologist at his own expense or the health care entity denying access to the health record will designate a reviewing physician or clinical psychologist at the expense of the relevant health care entity. The designated physician or clinical psychologist will make a judgment as to whether the health record should be made available to the individual.

*Patron - O'Bannon*

**D HB891 Location of licensed nursing homes and assisted living facilities; notification to electric utilities.** Requires the State Health Commissioner to notify electric utilities in Virginia on a quarterly basis as to the location of all licensed nursing homes in the State, and requires the Commissioner of the Department of Social Services to do the same for assisted living facilities. The purpose of the bill is to facilitate the restoration of electrical service and prioritization of customers during widespread power outages. The requirement of a quarterly notification can also be met by the maintenance of an accessible electronic database.

*Patron - Sickles*

**D HB930 Validity of septic tank permits.** Grandfathers certain onsite sewage systems into the Board of Health's regulatory scheme. The bill provides that whenever any onsite sewage system is failing and the Board's regulations for repairing it impose (i) a requirement for treatment beyond the level

of treatment provided by the existing onsite sewage system when operating properly or (ii) a new requirement for pressure dosing, the owner may request a waiver from such requirements. The Commissioner is required to grant such request, unless he finds that the failing system was installed illegally without a permit. Such waivers must be recorded in the land records of the clerk of the circuit court. Except between a husband and a wife, such waivers are not transferable and are null and void upon transfer or sale of the property. The owner of the property is required to disclose, in writing, to any and all potential purchasers or mortgage holders that any operating permit for the onsite sewage system that has been granted a waiver shall be null and void at the time of transfer or sale of the property and that the Board's regulatory requirements for additional treatment or pressure dosing are required before an operating permit may be reinstated.

*Patron - Suit*

**D HB952 Adult Protective Services; reporting and investigation procedures; adult fatality review teams; penalties.** Revises and adds new provisions to existing adult protective services law, including reporting and investigation procedures. The bill requires local departments of social services to initiate investigations of suspected adult abuse, neglect or exploitation within 24 hours of receiving a valid report, and requires them to notify the appropriate law-enforcement agency when in receipt of reports involving sexual abuse, serious bodily injury or disease believed to be the result of abuse or neglect, or criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm. When denied access to an adult in need of protective services, local departments are given authority to seek a court order, upon a showing of good cause, permitting such access. The bill adds guardians, conservators and emergency medical services personnel to the list of persons who, acting in their official capacities, are required to report suspected cases of adult abuse, neglect or exploitation, and clarifies other mandated reporter provisions. Mandated reporters are required to report such matters to local departments or to the hotline immediately, and employers of mandated reporters must notify them of this requirement upon hiring. The bill adds employees of accounting firms to the financial personnel listed under the voluntary reporter provisions. Anyone 14 years of age or older who knowingly makes a false report of adult abuse is guilty of a Class 4 misdemeanor, and a Class 2 misdemeanor for subsequent false reports. The bill also increases the initial time period in which involuntary adult protective services may be provided through an appropriate court order from five to 15 days. Enactment clauses require (i) the Department of Social Services to develop a plan to educate newly mandated reporters on adult abuse, neglect and exploitation, and the delay of penalty provisions on newly mandated reporters until the delivery of such training; and (ii) the Secretary, in consultation with the Departments of Social Services and Health and other state and local entities, to establish procedures and cost estimates for the operation of adult fatality review teams to review suspicious deaths of vulnerable adults. This bill is identical to SB 318.

*Patron - Ebbin*

**D HB1133 Screening tests for infants.** Directs that the physician or certified nurse midwife charged with an infant's care after delivery perform the screening test for inborn errors of metabolism rather than the physician, nurse or midwife in charge of the delivery of the baby.

*Patron - McDonnell*

**D HB1178 Vaccines in certified nursing facilities and nursing homes.** Requires, unless the vaccination is medically contraindicated or the resident declines the offer of the

vaccination, that each nursing home and certified nursing facility provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

*Patron - Bryant*

**D HB1198 Emergency plans for the safe handling of community public water supplies during any extended power outage.** Authorizes the Board of Health to promulgate requirements and criteria for the development and maintenance of an emergency management plan for each community public water supply for the provision of pure water during any extended power outage.

*Patron - Jones, D.C.*

**D HB1202 Promotion of pharmaceutical assistance programs and pharmaceutical discount purchasing cards.** Requires the Commissioner of Health and the Commissioner of the Department for the Aging to develop a strategy, in coordination with the Virginia Area Agencies on Aging and other private and nonprofit organizations, for disseminating information to the public concerning the availability of pharmaceutical assistance programs and for training senior citizen volunteers to assist in completing applications for such programs and discount purchasing cards. The bill also requires the Commissioners to disseminate, with such funds as may be made available, information to the public relating to recent congressional actions concerning pharmaceutical benefits to be provided under the Medicare program and how such benefits may help senior citizens with the costs of pharmaceutical benefits. In addition, the two Commissioners will encourage pharmaceutical manufacturers to include application forms for pharmaceutical discount purchasing card programs on their respective websites in a format capable of being downloaded and printed by consumers. The Department for the Aging will include direct links to the forms on its website, when practicable. The bill also requires the Commissioners to report to the Governor and the General Assembly on the feasibility of developing a single application form for Virginians to use to seek eligibility for the nearly 50 pharmaceutical assistance programs and pharmaceutical discount purchasing cards. In determining the feasibility, the Commissioners must obtain copies of the application forms used by such pharmaceutical assistance programs and pharmaceutical discount purchasing cards in Virginia, compile a list of the various information required to complete such application forms, identify common elements, and analyze the forms for readability and simplicity. In order to perform the duties provided in the new subsection, the Commissioners may appoint an advisory task force of stakeholders to assist them.

*Patron - Cline*

**D HB1483 Communicable diseases of public health threat; quarantine and isolation.** Sets out a procedure for the State Health Commissioner to issue orders of quarantine when a person or persons or an affected area in Virginia have been known to be exposed to or infected with or may reasonably be suspected to be exposed to or infected with a communicable disease of public health threat. The bill also sets out a procedure for the State Health Commissioner to prepare orders of isolation when he determines that a person or persons or an affected area have been infected or reasonably may be suspected to be infected with a communicable disease of public health threat and that exceptional circumstances exist rendering the isolation procedures that apply to communicable diseases of public health significance insufficient control measures to contain the communicable disease of public health threat. Amendments are provided to exempt the State Health

Commissioner's records of findings for an order of quarantine or order of isolation from the Freedom of Information Act, to authorize disclosure of patient's health records to the State Health Commissioner or his designee, to coordinate any quarantine or isolation of an affected area with a declaration of a state of emergency by the Governor and to make certain cross-related sections consistent. The Board of Health is required to promulgate emergency regulations to implement this provision. An enactment clause states there is an emergency thus rendering the bill effective upon passing. Technical amendments to list definitions in alphabetical order and correct archaic syntax are also included.

*Patron - O'Bannon*

**D SB86 Certificate of public need for medical care facilities; criteria for determining need.** Modifies the criteria relating to the extent to which the project will be accessible to all residents of the area to be served to add consideration of the effects on accessibility of any proposed relocation of an existing service or facility. The bill also modifies the administrative procedures law to require the health planning agency (i) to notify local governing bodies in the planning district of the required public hearing on relevant applications and (ii) to consider the comments of governing bodies and all other public comments in making its decision. The comments will be part of the record provided to the Department of Health.

*Patron - Puller*

**D SB125 Private well construction; local standards.** Adds Goochland County to those localities that may by ordinance establish their own standards, consistent with State Board of Health regulations, pertaining to location and testing of water from private wells, and more stringent than those adopted by the Board pertaining to construction and abandonment of such wells.

*Patron - Watkins*

**D SB158 Dissemination of Medicare pharmaceutical benefits information; certain training of senior citizen volunteers.** Requires the Commissioners of Health and the Department for the Aging to disseminate, with such funds as may be made available, information to the public relating to recent congressional actions relating to pharmaceutical benefits to be provided under the Medicare program and how such benefits may help senior citizens with the costs of pharmaceutical benefits. This bill also requires the Commissioner of Health and the Commissioner of the Department for the Aging to develop a strategy, in coordination with the Virginia Area Agencies on Aging, for disseminating information to the public concerning the availability of pharmaceutical assistance programs and for training senior citizen volunteers to assist in completing applications for pharmaceutical assistance programs and pharmaceutical discount purchasing cards.

*Patron - Potts*

**D SB197 Certificate of public need for medical care facilities; intermediate care facilities for the mentally retarded.** Removes the requirement to obtain a certificate of public need (COPN) for intermediate care facilities for the mentally retarded that will have no more than 12 beds and are in an area identified as in need of residential services for people with mental retardation in any plan of the Department of Mental Health, Mental Retardation and Substance Abuse Services. Other intermediate care facilities will continue to be covered by COPN.

*Patron - Reynolds*

**D SB223 Health statistics and vital records.** Deletes the requirement that any statement indicating racial designation be omitted from reports of divorces and annul-

ments required to be filed by the clerk of court with the State Registrar regarding a final decree of divorce or annulment, and in marriage and adoption records. Information pertaining to racial designation is essential in establishing health histories, and in conducting anthropological, sociological, and genealogical research, particularly among racial and ethnic minority persons.

*Patron - Marsh*

**D SB278 Reporting of telemedicine initiatives.** Repeals the statute that requires the Commissioner of Health to annually report by October 1 to the Governor and the General Assembly on the status of telemedicine initiatives by agencies of the Commonwealth.

*Patron - Wampler*

**D SB318 Adult Protective Services; reporting and investigation procedures; adult fatality review teams; penalties.** Revises and adds new provisions to existing adult protective services law, including reporting and investigation procedures. The bill requires local departments of social services to initiate investigations of suspected adult abuse, neglect or exploitation within 24 hours of receiving a valid report, and requires them to notify the appropriate law-enforcement agency when in receipt of reports involving sexual abuse, serious bodily injury or disease believed to be the result of abuse or neglect, or criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm. When denied access to an adult in need of protective services, local departments are given authority to seek a court order, upon a showing of good cause, permitting such access. The bill adds guardians, conservators and emergency medical services personnel to the list of persons who, acting in their official capacities, are required to report suspected cases of adult abuse, neglect or exploitation, and clarifies other mandated reporter provisions. Mandated reporters are required to report such matters to local departments or to the hotline immediately, and employers of mandated reporters must notify them of this requirement upon hiring. The bill adds employees of accounting firms to the financial personnel listed under the voluntary reporter provisions. Anyone 14 years of age or older who knowingly makes a false report of adult abuse is guilty of a Class 4 misdemeanor, and a Class 2 misdemeanor for subsequent false reports. The bill also increases the initial time period in which involuntary adult protective services may be provided through an appropriate court order from five to 15 days. Enactment clauses require (i) the Department of Social Services to develop a plan to educate newly mandated reporters on adult abuse, neglect and exploitation, and the delay of penalty provisions on newly mandated reporters until the delivery of such training; and (ii) the Secretary, in consultation with the Departments of Social Services and Health and other state and local entities, to establish procedures and cost estimates for the operation of adult fatality review teams to review suspicious deaths of vulnerable adults. This bill is identical to HB 952.

*Patron - Howell*

**D SB337 Health records privacy; access to health records; compliance with federal Health Insurance Portability and Accountability Act regulations.** Makes statutes relating to the Freedom of Information Act, civil procedure, denial of access to health records, juvenile and domestic court proceedings, health records privacy, involuntary commitment, court-appointed guardians and conservators, release of mental health information, and health insurance information consistent with federal regulations concerning disclosure and electronic transmission of protected health information promulgated pursuant to the Health Insurance Portability and Accountability Act. The bill provides a modified procedure for a patient to



pursue obtaining his own records when a treating physician or clinical psychologist has placed a statement in his record denying such access. The standard for such statements is changed to reasonably likely to endanger the life or physical safety of the individual or another person, or that a reference in the health records to another person, who is not a health care provider, would be reasonably likely to cause substantial harm to the referenced person. The individual may, at his own expense, designate a reviewing physician or clinical psychologist with equivalent credentials to those of the physician or clinical psychologist denying him access to his records to determine whether he can have access to the information. In the alternative, the relevant health care entity is obligated to designate a physician or clinical psychologist, at its expense, to determine whether the individual will obtain access to his information. The decision of the designated physician or clinical psychologist must be followed. The bill also includes technical amendments to laws relating to disclosure of mental health information. The bill addresses access to health records and information for guardians ad litem and attorneys representing minors in juvenile and domestic court proceedings, proceedings to authorize treatment for patients incapable of providing consent to treatment, persons who are subject to petitions for involuntary commitment, and respondents who are the subjects of petitions to appoint guardians or conservators or both.

*Patron - Stolle*

**D SB388** **Certain certificate of public need for nursing facility or extended care services.** Amends Chapter 912 of 2000 Acts of Assembly to authorize the Commissioner of Health to accept and approve a request to amend the conditions of a certificate of public need that was issued during the moratorium on nursing home beds that was in effect until 1996. This bill adjusts the previously amended certificate of public need authorization for three continuing care facilities that are established for the care of retired military personnel and their families to extend the deadline for discontinuing the admission of private-pay patients who are not contract holders from July 1, 2004, to July 1, 2008, if the facility's contract holder occupancy rate is less than 85 percent.

*Patron - Norment*

**D SB685** **Communicable diseases of public health threat; quarantine and isolation.** Sets out a procedure for the State Health Commissioner to issue orders of quarantine when a person or persons or an affected area in Virginia have been known to be exposed to or infected with or may reasonably be suspected to be exposed to or infected with a communicable disease of public health threat. The bill also sets out a procedure for the State Health Commissioner to prepare orders of isolation when he determines that a person or persons or an affected area have been infected or reasonable may be suspected to be infected with a communicable disease of public health threat and that exceptional circumstances exist rendering the isolation procedures that apply to communicable diseases of public health significance insufficient control measures to contain the communicable disease of public health threat. Amendments are provided to exempt the State Health Commissioner's records of findings for an order of quarantine or order of isolation from the Freedom of Information Act, to authorize disclosure of patient's health records to the State Health Commissioner or his designee, to coordinate any quarantine or isolation of an affected area with a declaration of a state of emergency by the Governor and to make certain cross-related sections consistent. The Board of Health is required to promulgate emergency regulations to implement this provision. Technical amendments to list definitions in alphabetical order and correct archaic syntax are also included.

*Patron - Howell*

**D SJ122** **Medicaid reimbursement for translation and interpretation services.** Requests the Department of Medical Assistance Services to seek reimbursement for translation and interpretation services for Medicaid-eligible persons with limited English proficiency. The resolution notes that in August 2000 the Office of Civil Rights of the United States Department of Health and Human Services issued "Policy Guidance on the Title VI Prohibition Against National Origin Discrimination as It Affects Persons with Limited English Proficiency," requiring all health care providers and entities that receive federal Medicaid or State Children's Health Insurance Program funds to provide oral and written translation or interpretation services to persons with limited English proficiency to enable them apply for and obtain services. Under the guidelines, federal matching funds are available to states for expenditures related to "oral and written translation administrative activities and services provided persons with limited English proficiency, whether provided by staff or contract interpreters, or through a telephone service." However, many states, including Virginia, have not applied to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services to receive federal funds to cover translation and interpretation services for eligible Medicaid patients. In 2003, the Joint Legislative Audit and Review Commission recommended in its report, The Acclimation of Virginia's Foreign-Born Population, that the Department of Medical Assistance Services request Medicaid reimbursement for interpretation and translation services. The Department must submit an executive summary indicating its progress in meeting the objectives of this resolution in the 2005 Session of the General Assembly.

*Patron - Lucas*

## Failed

: **HB116** **Licensure of abortion clinics.** Requires all abortion clinics, defined as any facility, other than a hospital or an ambulatory surgery center, in which 25 or more first trimester abortions are performed in any 12-month period, to be licensed and to comply with the requirements currently in place for ambulatory surgery centers.

*Patron - Marshall, R.G.*

: **HB197** **Department of Medical Assistance Services; Virginia Insurance Plan for Seniors (VIPS); prescription drug assistance.** Establishes the VIPS to provide assistance in the purchase of prescription drugs for those persons who are dually eligible for Medicaid and Medicare but who do not qualify for prescription coverage under Medicaid. Payment assistance is limited to \$80 per month per eligible person, but unused amounts may be rolled over and credited to that person for future use. However, no direct cash payment will be made to any eligible person. Participants must pay a \$10 copayment for each prescription. They are also required to use generic drugs unless they are willing to pay the difference between the generic and brand-name drug. Approved drugs in the Plan are those manufactured by pharmaceutical companies that agree to provide manufacturer rebates equal to the rebate required by the Medicaid program and to make the drug product available to the Plan for the best price that the manufacturer makes the drug available in the Medicaid program. Any licensed pharmacist may participate according to the rules adopted for the program and will be paid a reasonable reimbursement to cover the cost of the drug and costs for dispensing; payments to pharmacists will not vary based on the size of the entity dispensing the prescription. Beneficiary cost-sharing amounts will not vary based on the source of dispensing or method of distribution of the prescription. Three enactment clauses require the Board of Medical Assistance Services to

promulgate emergency regulations; the Department of Medical Assistance Services to seek a waiver for VIPS from the Centers for Medicare and Medicaid Services, if necessary; and set the effective date of the act as July 1, 2005, with implementation to occur on the earlier of 90 days following the adoption of emergency regulations or July 1, 2006.

*Patron - Purkey*

: **HB310 Information on nosocomial infections.** Requires the Board of Health to develop a procedure whereby aggregate information on each hospital's incidence of nosocomial infections, without patient identifiers, may be released to the public, upon request; filed in the hospital's licensure records within the Department of Health; and transmitted to the Division of Consumer Counsel and the Administrator of Consumer Affairs for use in determining any necessary actions to protect the interests of Virginia's consumers. Nosocomial infections are acquired in a hospital or other health care setting. The Board of Health is required to promulgate emergency regulations to implement this provision.

*Patron - Purkey*

: **HB312 Board of Health; interest rates for non-profit hospitals' unpaid bills.** Requires the Board of Health to establish, in their licensure regulations, a standard interest rate to be charged for bills of nonprofit hospitals that remain unpaid for 30 or more days that shall not exceed the then current rate for the one-year treasury bill.

*Patron - Purkey*

: **HB327 Health; Virginia Health Security Act.** Provides generally that the Commonwealth must fund state-funded health care services and programs in a manner that minimizes the need for subsidization of providers by those citizens who are privately insured, self-insured or uninsured; to do otherwise burdens all citizens of the Commonwealth and threatens the viability and availability of health care providers. The bill sets out the policy of the Commonwealth in funding such programs.

*Patron - Griffith*

: **HB359 Preventive pharmaceutical services for certain low-income patients.** Requires the Commissioner of Health to establish, by January 1, 2005, a mechanism whereby any public health clinic operated by a local or district health department that maintains pharmacy services shall continue to provide free or low-cost prescription drugs (on a sliding fee scale) to any low-income patients who do not have any prescription drug benefit and whose primary and specialty health care services have been transferred to a community health clinic delivering free or reduced price services to such patients at the recommendation of the public health clinic. However, any such patients shall be required to obtain prescription drugs from pharmaceutical companies' free or reduced price programs in so far as possible.

*Patron - BaCote*

: **HB413 Certificate of Public Need; exemption of certain facilities performing outpatient or ambulatory ophthalmic surgery.** Exempts from the requirements for obtaining a certificate of public need prior to building, obtaining licensure, and opening a covered medical care facility, any specialized centers or clinics or portions of physicians' offices developed for the provision of outpatient or ambulatory ophthalmic surgery upon meeting the following conditions: (i) providing annual charity care to the extent that, if charges had been levied for such charity care, the funds generated would have equaled two percent of the net profit for the relevant year or, in the event the specialized center or clinic or that portion of a physician's office developed for the provision of outpatient

or ambulatory ophthalmic surgery has failed to deliver such charity care in any year, contributing an amount to the Virginia Indigent Health Care Trust Fund that would equal two percent of the net profit for the relevant year after subtracting the charity care that was delivered, if any; and (ii) submitting documentation of accreditation by the Joint Commission on Accreditation of Health Care Organizations, the Accreditation Association of Ambulatory Health Care, Inc., or the American Association for Accreditation of Ambulatory Surgery Facilities, Inc. The Boards of Health and Medical Assistance Services are required to promulgate emergency regulations in a second enactment clause.

*Patron - Purkey*

: **HB479 Systematic reporting of abortion.** Requires physicians performing abortions or treating the complications of induced abortions to report detailed information on forms prepared and distributed by the Board of Health. The information will be collected for the purpose of ensuring compliance with statutory requirements for obtaining an abortion. In addition, the Board must issue a public report annually providing the same detailed information for the most recent year and all previous calendar years, adjusted to reflect any additional information from late or corrected reports. Filing fees to defray the costs of collecting, analyzing, and storage of the data will be charged by the Board. Physicians failing to report in a timely manner will be subject to a late fee of \$500 for each additional 30 days that the forms are overdue and the Board may pursue the penalties or other relief provided in § 32.1-27 in any case in which a physician has failed to file the required forms within one year or has filed incomplete forms.

*Patron - Black*

: **HB521 Reporting of medical errors.** Requires, as a condition of licensure, that each licensed hospital report medical errors committed by physicians, medical and nursing students, nurses, and other health care providers who are granted privileges to practice at the hospital. Each hospital must establish a procedure to identify, classify, and report medical errors. Also, hospitals are required to report this information under the patient level data system reporting requirements.

*Patron - Jones, D.C.*

: **HB542 Emergency medical services vehicles; local agency consolidation; vehicle markings.** Allows any locality that has granted authority or approval for the operation of emergency medical services vehicles to governmental agencies or agencies operating independent volunteer fire and rescue companies to combine such agencies under one consolidated agency for permitting purposes. Unless directed otherwise by the consolidated permitting agency, the bill provides for such independently operated fire and rescue companies to continue operating under their own name, which shall serve as the emergency medical services agency name required by regulation to appear on both sides of the vehicle body in reflective lettering.

*Patron - May*

: **HB684 Certain certificate of public need for nursing facility or extended care services.** Amends Chapter 912 of the 2000 Acts of Assembly to authorize the Commissioner of Health to accept and approve a request to amend the conditions of a certificate of public need that was issued during the moratorium on nursing home beds that was in effect until 1996. This bill adjusts the previously amended certificate of public need authorization for a continuing care facility that is established for the care of retired military personnel and their families and is located in Loudoun County to extend the deadline for discontinuing the admission of private-pay patients

who are not contract holders from July 1, 2004, to July 1, 2008. This bill is incorporated into HB 501.

*Patron - Rapp*

: **HB789 Health; nursing home standards.** Requires the Board of Health to establish staffing standards for nursing homes that will provide an average of three and one-half hours of direct care services per resident per 24-hour period. The Board must also adopt regulations defining direct care services and procedures for quarterly reporting.

*Patron - Watts*

: **HB1290 Licensure of abortion clinics.** Requires all abortion clinics, defined as any facility, other than a hospital or an ambulatory surgery center, in which 25 or more first trimester abortions are performed in any 12-month period, to be licensed and to comply with the requirements currently in place for ambulatory surgery centers effective January 1, 2005. The bill also places proposed and existing abortion clinics under the certificate of public need (COPN) law after January 1, 2005. Existing abortion clinics will be required to apply annually to the Board of Health to obtain an exemption by providing a rationale for being excluded. The Commissioner of Health will determine whether existing abortion clinics have demonstrated sufficient cause to be excluded from the COPN requirements according to certain criteria. The Commissioner is also empowered to deny, suspend or revoke the license upon finding the clinic is in violation of state or federal law or regulations.

*Patron - Reid*

: **HB1477 Support services activities; regional AIDS resource and consultation centers.** Requires, to the greatest extent practicable, that each regional AIDS resource and consultation center include in its support services for persons with human immunodeficiency virus (HIV) infection, activities designed to educate health care practitioners, students, and the community at large about the comorbidity of HIV with hepatitis C and mechanisms to prevent the transmission of infection with hepatitis C.

*Patron - Sickles*

: **HJ156 Adopting the American Academy of Pediatrics recommendations concerning the use of Synagis (palivizumab) for the treatment of respiratory syncytial virus (RSV).** Requests the State Health Department and the Virginia Academy of Pediatrics to adopt the recommendations issued by the American Academy of Pediatrics concerning the use of Synagis (palivizumab) for the treatment of respiratory syncytial virus (RSV). The State Health Department and the Virginia Academy of Pediatrics must submit an executive summary and report of its progress in meeting the request of this resolution by the first day of the 2005 Regular Session of the General Assembly.

*Patron - Baskerville*

: **SB146 Definition of hospitals; certain facilities to be regulated as hospitals.** Defines "hospital," for the purposes of the Board of Health's regulatory requirements, to include "any clinic or other facility performing 25 or more abortions per year."

*Patron - Cuccinelli*

: **SB220 Equal Education Opportunity Plan.** Requires the Secretary of Education to develop and implement a statewide plan to provide for equal education opportunity for all students in the Commonwealth. The Plan must include, but not be limited to, (i) an annual report of the number and percentage of minority students enrolled in the public schools by grade, and in undergraduate, graduate, professional, and post-

doctoral degree programs by discipline; (ii) strategies to increase college admissions, retention, and graduation rates of minority students at the undergraduate and graduate degree levels; (iii) an analysis of the preparation of minority students for college-level work; (iv) an evaluation of the impact of financial assistance and tuition rates as inducements and obstacles to college education; (v) a summary of existing programs in Virginia and nationally that have proven effective in providing equal education opportunity; and (vi) an evaluation of the effectiveness of the Plan. The Secretary shall modify the Plan as necessary and recommend appropriate and feasible strategies and alternatives, including the projected costs of implementing the Plan, to address issues and policies identified by the Secretary as essential to the furtherance of the objectives of the Plan. Effective on December 1, 2005, and biennially thereafter, the Secretary must submit to the Governor and the General Assembly an executive summary of the Equal Education Opportunity Plan no later than the first day of each regular session of the General Assembly. The Equal Education Opportunity Plan, although never implemented, was required initially as a result of *Adams v. Richardson*, 480 F.2d 1159 (DC Cir. 1973) and *Adams v. Califano*, 430 F. Supp. 118 (DC 1977), concerning the desegregation of Virginia colleges and universities, and, in 1973, the Plan was incorporated in the Virginia Plan for Equal Opportunity in State-Supported Institutions of Higher Education, Item 131.10 of the 2001 Budget communicated by the Governor. However, the Virginia plan for Equal Opportunity in State-Supported Institutions of Higher Education was removed from the budget during the 2003 Session. Nevertheless, the agreement entered into by Governor Gilmore on behalf of the Commonwealth with the United States Department of Education Office for Civil Rights on November 7, 2001, requires evidence of Virginia's good faith effort to comply with the Accord. The Plan would demonstrate the Commonwealth's good faith effort during the five-year monitoring and reporting phase of the United States. Office for Civil Rights federal compliance review precipitated by the United States Supreme Court's decision in *Ayers v. Fordice* (505 US 717, 112 S.Ct. 2727, 1992).

*Patron - Marsh*

: **SB292 Emergency electrical systems.** Directs the Virginia Board of Health and State Board of Social Services to promulgate emergency regulations to require emergency electrical systems in hospitals, nursing homes, certified nursing facilities and assisted living facilities. This bill is incorporated into SB 181.

*Patron - O'Brien*

: **SB671 Medical assistance services; consumer-directed care; cash and counseling project waiver.** Revises the provision relating to the Department of Medical Assistance Services and an application for a revision of or a new waiver for consumer-directed personal care services. The bill modifies the mandate for submission of the waiver to allow the Department to prepare the application "when appropriate and practicable" in order to provide time and opportunity for flexibility and consideration of various alternatives. In addition, the bill requires the Department of Medical Assistance Services, contingent on receiving (i) approval by the Robert Wood Johnson Foundation of a Cash and Counseling Demonstration and Evaluation grant or (ii) a state appropriation for the contracting or hiring of a fiscal agent and appropriate staff to implement such project to develop and submit an application for a research and demonstration project pursuant to § 1115 of the Social Security Act, 42 U.S.C. § 1315, for a Cash and Counseling Demonstration and Evaluation project to be implemented in two demonstration areas, i.e., Lynchburg and Winchester.

*Patron - Newman*

: **SB672 Board of Health regulations; guidelines for staffing of nursing homes.** Requires the Board of Health, in its licensure regulations for nursing homes, to establish staffing standards in nursing homes that provide a minimum of three and one-half hours of direct care services per resident per 24-hour period. The Board must adopt regulations defining direct care services and procedures for quarterly reporting.

*Patron - Edwards*

## Carried Over

**7 HB305 Assisted reproductive technology program; disclosure of gamete donors.** Provides that a person conceived by assisted reproductive technology as a result of a donation of gametes may, if 18 years of age or older, request access to the records of the donor in the possession of an assisted reproductive technology program in order to acquire identifying information from the donor file, including any medical, psychological or genetic history and the name of the donor. Should the person receive identifying information on the donor, the assisted reproductive technology program shall, as soon as possible, inform the donor that the identifying information has been provided. The Board of Health must promulgate regulations to implement the provisions of the bill, including, but not limited to, the procedures for retaining donor files, requesting access to donor files, and notifying donors when identifying information has been provided.

*Patron - Marshall, R.G.*

**7 HB740 Certificate of Public Need.** Provides authorization and acceptance of certain certificate of public need applications for pediatric specialized care nursing beds in Planning District 15.

*Patron - O'Bannon*

**7 HB747 Adequacy of local sewage systems and public water supplies.** Directs the State Department of Health to undertake a comprehensive assessment process to determine the adequacy of local sewage systems and public water supplies provided to its citizens by each locality in the Commonwealth. If the Department determines that a locality's sewage systems or public water supplies are not adequate to serve its current population, or will be inadequate within the next five years, and the locality fails to develop a program to cure this situation, then Department shall establish and apply a local sewage system and public water supply residential development impact fee in such locality. The fee, collected from builders of new residential units, shall be based upon the Department's determination of the following (i) the pro-rata impact of each additional residential unit on existing sewage systems and public water supplies, and (ii) the pro-rata impact of each additional residential unit on the costs of improving or developing new sewage systems and public water supplies in order to adequately meet the needs of such new residential development. The Department shall make disbursements to the locality for the acquisition, improvement or development of new or existing sewage systems and public water supplies, until such time as the Department determines that the local sewage systems and public water supplies are adequate.

*Patron - Marshall, R.G.*

**7 HB1215 Medical assistance services; asset transfer limit waiver.** Directs the Department of Medical Assistance Services to seek a waiver pursuant to § 1115 of the Social Security Act (42 U.S.C. § 1315) from the Centers for Medicare and Medicaid Services to establish asset transfer limits that are more restrictive than those currently permitted under federal Medicaid law or regulations. This waiver application may provide, insofar as it is not already included in the

state plan for medical assistance services pursuant to § 32.1-325, that (i) transfer prohibitions would affect the transfer of all assets, including certain excluded assets set forth in § 1613 of the Social Security Act (42 U.S.C. § 1382b), such as vehicles and valuable jewelry; (ii) eligibility for all medical assistance services shall be subject to penalty periods for a calculated period for transfers of assets for less than fair market value; (iii) all transfers of assets for less than fair market value be subject to a 72-month look-back period; (iv) the transfer penalty period for applicants shall commence at the beginning of the month in which a person applies for medical assistance services or is otherwise eligible, or when the Department of Medical Assistance Services becomes aware of the transfer, whichever is later; (v) the transfer penalty period for recipients shall commence at the beginning of the month in which the Department of Medical Assistance Services becomes aware of the transfer and can give proper notice or the month following a period of ineligibility existing when the transfer was made; (vi) the divisor used to calculate a penalty period shall be the statewide average nursing facility payment made by the Department of Medical Assistance Service in effect at the time the penalty is determined and the penalty period begins, a figure that takes into consideration the income that would otherwise be applied to cost of care in the post-eligibility process; (vii) the transfer of the institutionalized person's interest in a homestead even to specified relatives be prohibited, except that the homestead may retain excluded status as long as the specified relatives continue to reside in the household; (viii) transfers to spouses for less than fair market value after eligibility for medical assistance services is established will be permitted only to an amount allowed under spousal impoverishment asset provisions so that assets acquired by or made available to the institutionalized spouse after medical assistance services are obtained would first be spent on the institutionalized spouse's medical costs; (ix) permissible transfers of assets to a disabled child would be limited to transfers into a trust for the child's sole benefit that reverts to the Commonwealth after the death of the disabled child, to recover medical assistance services payments made on behalf of either the grantor or the beneficiary of the trust, or both; (x) transfers to trusts for people with a disability who are under age 65 and who are not the children, adopted children, or legal wards of the transferor would no longer be permitted without penalty; and (xi) the Commonwealth would have discretion to designate some trust purposes as invalid under § 1917 (c) or (d) of the Social Security Act, such as care for a pet. The bill requires the Director of the Department of Medical Assistance Services to develop, in collaboration with the Office of the Attorney General, Department of Social Services, Office of Executive Secretary to the Supreme Court, the Trusts and Estates Section of the Virginia State Bar, local governments and other key stakeholders, an aggressive estate recovery program and a program to thoroughly pursue resources that become available to recipients subsequent to their enrollment in Medicaid. The Director shall report on the status of the programs, including recommendations for any legislation necessary to address the proposed waiver limitations on asset transfers, and an analysis of the amount of resources that would be required to implement such programs, to the Governor and to the Chairmen of the House Appropriations and Senate Finance Committees on or before September 30, 2004.

*Patron - Landes*

**7 HB1333 Hospice licensure.** Provides that a person may establish and operate an inpatient hospice under a hospice license within a facility that has a preexisting license to operate a hospital or nursing home. A certificate of public need will not be required for the person to establish and operate an inpatient hospice within a preexisting licensed hospital or nursing home. Upon closure of that inpatient hospice, a certificate

of public need will not be required for the reinstatement of the preexisting licensed hospital or nursing home's licensed bed capacity.

*Patron - Hogan*

**7 HB1422 Health insurance; mandated coverage for ovarian cancer and screening; mammograms.** Requires the state health plan, Medicaid, health insurers, health maintenance organizations, and corporations providing health care coverage subscription contracts to provide coverage for annual mammograms for persons age 40 and older and screening for ovarian cancer using the CA125 blood test, for individuals who are at risk for such cancer or who exhibit persistent undiagnosed symptoms that may be attributed to ovarian cancer.

*Patron - Stump*

**7 SB195 Income eligibility for medical assistance services of aged and disabled individuals.** Requires the Virginia Medicaid program to increase the income eligibility of aged and disabled individuals to 100 percent of the federal poverty lines as allowed by federal law.

*Patron - Reynolds*

**7 SB196 Virginia Health Access Plan.** Establishes the Virginia Health Access Plan (Plan) to be administered by the Department of Medical Assistance Services (DMAS), modeled on Vermont's Health Access Plan, to provide uninsured and underinsured adults in the Commonwealth with health benefits coverage. Uninsured or underinsured adults (i) with children with income at or below 185 percent of the federal poverty level or (ii) without children with income up to 150 percent of the federal poverty level are eligible under the plan. DMAS may contract with third-party administrators to provide administrative services that include enrollment, outreach, eligibility determination, data collection, financial oversight, and reporting. The Board of Medical Assistance Services shall implement emergency regulations to implement the Plan. No entitlement to health benefits coverage on the part of any eligible person or any right or entitlement to participation is created and such coverage shall only be available to the extent that funds are appropriated therefor. Enactment clauses require DMAS to seek a waiver for the Plan from the Centers for Medicare and Medicaid Services and set the effective date of the act as July 1, 2005, with implementation to occur on the earlier of 90 days following the adoption of emergency regulations or July 1, 2006.

*Patron - Reynolds*

**7 SB377 Health; Virginia Prescription Drug Payment Assistance Plan.** Establishes a program to be administered by the Department of Medical Assistance Services (DMAS), modeled on Delaware's Prescription Drug Payment Assistance Program, to assist eligible elderly and disabled Virginians in paying for prescription drugs. DMAS may contract with third-party administrators to provide administrative services that include enrollment, outreach, eligibility determination, data collection, financial oversight, and reporting. The benefit is limited to prescription drugs manufactured by pharmaceutical companies that agree to provide manufacturer rebates. Eligible persons must have incomes at or below 150 percent of the federal poverty level or have prescription drug expenses that exceed 40 percent of their annual income, as set forth in the appropriation act. They must also be age 65 or older or eligible for federal Old-Age, Survivors and Disability Insurance Benefits, not be receiving a prescription drug benefit through a Medicare supplemental policy or other third-party payor prescription benefit as of July 1, 2004, and be ineligible for Medicaid prescription benefits. However, nothing shall prohibit the enrollment of a person in the program during the period in which his Medicaid eligibility is determined. Eligible

enrollees will receive an identification card to be presented to pharmacists and will start receiving the benefit the month after their eligibility is determined. Benefits will be paid to pharmacies under a point-of-service claims procedure to be established by DMAS. Participants are required to make a copayment for each prescription, which in general will not exceed 25 percent of the cost, but not less than \$5. Money to pay the claims will come from the newly established Prescription Assistance Fund, which is to be financed by 10 percent of the proceeds received by the Commonwealth under the Master Tobacco Settlement Agreement and any federal funds available for this purpose. Administrative costs are to be paid from the pharmaceutical manufacturer rebates to the extent available and the \$20 annual enrollment fees. The Board shall develop a comprehensive statewide community-based outreach plan to enroll eligible persons and DMAS shall report annually on the program's implementation. No entitlement to prescription drug coverage on the part of any eligible person or any right or entitlement to participation is created and such coverage shall only be available to the extent that funds are appropriated therefor.

*Patron - Deeds*

**7 SB611 Medical care facilities certificate of public need; parties to the case.** Revises the designation of the parties to the case to provide that the staff or board members of the relevant health planning agency are parties if the health planning agency's recommendation is to approve the application in whole or in part and such recommendation is not consistent with the Department staff's report on the application. In present law, the health planning agency is only a party to the case if its recommendation was to deny the application.

*Patron - Stolle*

**7 SB625 Hospice licensure.** Provides that a person may establish and operate an inpatient hospice under a hospice license within a facility that has a preexisting license to operate a hospital or nursing home. A certificate of public need will not be required for the person to establish and operate an inpatient hospice within a preexisting licensed hospital or nursing home. Upon closure of that inpatient hospice, a certificate of public need will not be required for the reinstatement of the preexisting licensed hospital or nursing home's licensed bed capacity.

*Patron - Houck*

**7 SB641 Insurance; mandated coverage for hearing aids for minors.** Requires the state health plan, health insurers, health maintenance organizations, corporations providing health care coverage subscription contracts, and Medicaid to provide coverage for hearing aids and related services for children from birth to age five when a licensed audiologist prescribes such hearing aids and related services. Such coverage shall include one hearing aid per hearing-impaired ear, up to a cost of \$1,400, every 36 months. The insured may choose a higher priced hearing aid and pay the difference in cost above \$1,400. No copayment will apply. Hearing aids are not to be considered durable medical equipment.

*Patron - Ticer*

## Highways, Bridges and Ferries

### Passed

**D HB151 HOT lanes.** Provides for the designation of high-occupancy toll (HOT) lanes with electronically collected and photo-enforced tolls.

*Patron - Albo*

**D HB408 Use of steel plates in connection with highway repairs.** Provides that, prior to July 15, 2005, anyone using steel plates in connection with a temporary or permanent repair to the roadway of any highway must apply a reflective substance to the plate in order to improve visibility to oncoming traffic. The provisions of the bill do not apply to any portion of a roadway that is closed to vehicular traffic. The bill also requires that, prior to July 1, 2005, the Virginia Transportation Research Council will undertake an examination of best practices regarding the improved visibility of steel plates and report its findings to the Chairman of the House Committee on Transportation.

*Patron - Welch*

**D HB485 Allocation of funds for secondary system highway construction.** Provides that not more than one-third of the annual secondary system highway funds apportioned to a county under this section may be used to reimburse the county for (i) debt service for bonds or (ii) eligible project costs incurred on approved projects included in the county's Secondary Six-Year Plan and the county's capital improvement program. Such funds may also be used by the county for debt service for bonds issued for, or eligible project costs incurred or to be incurred on, approved projects included, at the time such bonds are issued or such costs are incurred or are to be incurred, in the Six-Year Improvement Program of the Commonwealth Transportation Board and the county's capital improvement program.

*Patron - Cole*

**D HB502 Transportation improvement districts.** Facilitates the establishment of local transportation improvement districts in Fairfax County in connection with the "Rail to Dulles" project.

*Patron - Callahan*

**D HB644 Railway Preservation and Development Fund.** Codifies language hitherto existing only in general appropriation acts, relating to the Railway Preservation and Development Fund.

*Patron - Abbitt*

**D HB834 Condemnations by the Commonwealth Transportation Commissioner.** Provides that the Commonwealth Transportation Commissioner is not permitted to force relocation on improved owner-occupied property until the owner is permitted to withdraw the funds represented by the certificate filed with the Court. However, if the owner refuses to withdraw the funds represented by the certificate filed with the Court or if the Commissioner reasonably believes that the owner does not possess clear title to the property being taken, that ownership of the property is disputed, or that certain owners cannot be located, the Commissioner may petition the Court to establish that the owner does not possess clear title, that the ownership of the property is in dispute, that certain owners can not be located, or that the owner has refused to withdraw the funds represented by the Certificate filed with the Court, and request that the Commissioner be given authority to force relocation.

*Patron - Drake*

**D HB835 Condemnation by CTC.** Reduces from one year to 180 days the time by which, if the Commonwealth Transportation Commissioner (CTC) has taken possession of property without instituting condemnation proceedings, commissioners or a jury shall be appointed to ascertain the amount of compensation to be paid for the property taken and damages done, if any.

*Patron - Drake*

**D HB904 Agreements between CTC and certain cities and towns.** Allows the Commonwealth Transportation Commissioner (CTC) to enter into agreements with cities and towns pursuant to which the cities and towns assume responsibility for the design, right-of-way acquisition, and construction of urban system highways.

*Patron - Wardrup*

**D HB909 Virginia's Heritage Music Trail: The Crooked Road.** Designates certain highways in Southwest Virginia "Virginia's Heritage Music Trail: The Crooked Road."

*Patron - Phillips*

**D HB910 Country Music Highway.** Designates that portion of U.S. 23 lying within Wise, Lee, and Scott Counties the "Country Music Highway."

*Patron - Phillips*

**D HB997 Fairfax Station Road.** Designates the entire length of Fairfax Station Road in Fairfax County a Virginia byway.

*Patron - Hugo*

**D HB998 Pleasant Valley Road.** Designates a portion of Pleasant Valley Road in Fairfax County a Virginia byway.

*Patron - Hugo*

**D HB1005 Credit assistance revenue bonds.** Authorizes the issuance of Commonwealth of Virginia transportation credit assistance revenue bonds for the purpose of funding a portion of the Dulles Corridor mass transit project.

*Patron - Callahan*

**D HB1154 Virginia byway.** Designates U.S. Route 17 from Tappahannock to Spotsylvania County a Virginia byway.

*Patron - Morgan*

**D HB1157 Toll roads; failure to pay toll.** Provides a civil penalty of \$25 for a first offense or \$50 for any subsequent offense plus the operator's administrative fee and the toll due, and applicable court costs if the vehicle is found to have used a toll facility without payment of the required toll. The operator of a toll facility may send an invoice or bill to the driver as part of an electronic or manual toll collection process prior to seeking remedies allowed by the bill. Penalties assessed as the result of action initiated by the Virginia Department of Transportation shall be remanded to the Virginia Department of Transportation's Toll Facilities Revolving Fund. Penalties assessed as the result of action initiated by an operator of a toll facility other than the Virginia Department of Transportation shall be remanded to the toll facility's account for expenses associated with operation of the facility and payments against any bonds or other liens issued as a result of the construction of the facility. The bill provides that imposition of a civil penalty for failure to pay a toll shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such civil penalty is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

*Patron - Rust*

**D HB1182 Monacan Bridge.** Designates the Lynchburg bypass bridge across the James River between Amherst County and the City of Lynchburg the "Monacan Bridge." This bill is identical to SB 560.

*Patron - Bryant*

**D HB1263 Landfill gas pipelines; notice by VDOT to counties.** Requires the Virginia Department of Transportation (VDOT), whenever it grants permission for the location of a landfill gas pipeline within any highway right-of-way, to notify every county through which the pipeline will pass.

*Patron - Ingram*

**D HB1291 Woodlawn Road; property rights of the Commonwealth.** Requires the Department of Transportation, with the assistance of the Office of the Attorney General, to assert the property rights of the Commonwealth with respect to Woodlawn Road in Fairfax County and Fort Belvoir. This bill is identical to SB 590.

*Patron - Amundson*

**D HB1376 Tolls.** Provides that in order to provide an incentive for motorists to travel at off-peak hours, on highways controlled by the Virginia Department of Transportation, the amount of the toll may vary according to the time of day, day of the week, traffic volume, or any or all of these variables. The amount of the toll and the time of day when such toll changes shall be fixed and revised by the Commonwealth Transportation Board; however, the variation must be reasonably calculated to minimize the impact on toll revenue generated by the toll.

*Patron - Fralin*

**D HB1413 Korean War Veterans Memorial Highway, World War II Veterans Memorial Highway, Vietnam War Veterans Memorial Highway.** Designates the entire length of Interstate Route 64 in Virginia as the "Korean War Veterans Memorial Highway," the entire length of Interstate Route 81 in Virginia as the "World War II Veterans Memorial Highway," and the entire length of Interstate Route 95 in Virginia as the "Vietnam Veterans Memorial Highway." The Department of Transportation is required to place and maintain appropriate markers indicating the designations of these highways; however, the cost of initially placing these markers must be paid from private sources.

*Patron - Armstrong*

**D HB1419 Local transportation district for Charlottesville and Albemarle County.** Provides for the creation of a local transportation district within Charlottesville and Albemarle County. Such district could be used to facilitate the construction of a U.S. Route 29 bypass.

*Patron - Marshall, D.W.*

**D HB1444 Humelsine Parkway.** Designates Virginia Route 199 between I-64 west of Williamsburg and I-64 east of Williamsburg the Humelsine Parkway.

*Patron - Barlow*

**D HB1474 "The Stuart Finley Bridge."** Designates the VA Route 2760 bridge over Lake Barcroft in Fairfax County "The Stuart Finley Bridge."

*Patron - Hull*

**D HJ132 Entrepreneurial Education Region of Virginia.** Recognizes the "Entrepreneurial Education Region of Virginia" with appropriate postings of the entrances to the region along Interstate Routes 77 and 81, and U. S. Routes 52, 58, 100, and 221 by the relevant localities comprising the region.

*Patron - Carrico*

**D HJ291 I-81 improvements.** Encourages the Commonwealth Transportation Board and the Virginia Department

of Transportation, upon completion of the 18-month NEPA environmental review, to consider various ways to address congestion and safety problems on Interstate 81. Some of the suggested improvements include the construction of truck climbing lanes and the placement and rotation of empty patrol vehicles in the median on I-81.

*Patron - Cline*

**D SB13 Sam Snead Memorial Highway.** Designates U.S. Route 220 in Bath County the Sam Snead Memorial Highway.

*Patron - Deeds*

**D SB34 Jack and Carter Hardesty Bridge.** Designates the U.S. Route 340 bridge over the Norfolk Southern right-of-way north of the Town of Berryville in Clarke County the Jack and Carter Hardesty Bridge.

*Patron - Potts*

**D SB57 Richmond Metropolitan Authority; free use of toll facilities by quadriplegics.** Allows toll-free use of Richmond Metropolitan Authority toll facilities by quadriplegic drivers.

*Patron - Martin*

**D SB58 Nonconforming advertising signs.** Provides that a maintenance of and repairs to nonconforming signs will be governed by Chapter 7 (Outdoor Advertising) of Title 33.1 (Highways) and regulations promulgated by the Commonwealth Transportation Commissioner.

*Patron - Martin*

**D SB139 I-66 study; HOT lanes.** Requires that any study by the Virginia Department of Transportation of possible improvements to Interstate Route 66 (I-66) outside the Capital Beltway (I-495) include consideration of High-Occupancy Toll (HOT) lanes.

*Patron - Cuccinelli*

**D SB155 George Fortune, Jr., Memorial Bridges.** Designates the Interstate Route 66 bridges over U.S. Route 29 in Fairfax County the "George Fortune, Jr., Memorial Bridges."

*Patron - Cuccinelli*

**D SB246 Yard sales.** Allows local governing bodies to require any person hosting any yard sale, auction, or other special event that is open to the public, held out-of-doors, and is within 100 feet of any public highway on which the posted speed limit is 35 miles per hour or more to notify the local governing body of the event. The local governing body may then provide for placement of temporary signs, 50 feet from the location of the event in both directions, stating: Caution--Congested Area Ahead. This bill will not become effective unless reenacted by the 2005 Session.

*Patron - Deeds*

**D SB257 Subdivision streets.** Revises the requirements and procedures by which subdivision streets opened to the public prior to July 1, 1992, may be brought up to state standards for acceptance into the state secondary highway system.

*Patron - Hawkins*

**D SB260 Comprehensive roadside management program.** Requires the Virginia Department of Transportation to promulgate regulations for a comprehensive roadside management program that includes opportunities for participation by individuals, communities, and local governments.

*Patron - Hawkins*

**D SB277 Virginia Department of Transportation to maintain certain property.** Requires the Virginia Department of Transportation to mow the grass and remove weeds and debris on property acquired for the construction of a transportation project. These activities must be performed in accordance with the same schedules used for these activities on other rights-of-way maintained by the Department in the same locality. At the written request of the governing body or a locality, the Department must provide additional services on the property acquired for the construction of a transportation project including removal of abandoned vehicles. These additional services are to be funded from the construction allocations to the project.

*Patron - Wampler*

**D SB364 Design-build contracts.** Grants the Director of the Department of Rail and Public Transportation the same capacity as the Commonwealth Transportation Commissioner to enter into design-build contracts.

*Patron - Watkins*

**D SB508 HOV lanes.** Doubles the fines for second, third, fourth, and subsequent high-occupancy vehicle (HOV) lane violations committed in the 8th Planning District, and provides for assessment of three driver demerit points for these second, third, fourth, and subsequent violations as well.

*Patron - Mims*

**D SB560 Monacan Bridge.** Designates the Lynchburg bypass bridge across the James River between Amherst County and the City of Lynchburg the "Monacan Bridge." This bill is identical to HB 1182.

*Patron - Newman*

**D SB563 City street maintenance payments; payments to Arlington and Henrico Counties.** Strengthens the accountability of Arlington and Henrico Counties and localities receiving city (or town) street maintenance payments by revising existing expenditure reporting requirements.

*Patron - Stosch*

**D SB590 Woodlawn Road; property rights of the Commonwealth.** Requires the Department of Transportation, with the assistance of the Office of the Attorney General, to assert the property rights of the Commonwealth with respect to Woodlawn Road in Fairfax County and Fort Belvoir. This bill is identical to HB 1291.

*Patron - Puller*

**D SB670 U.S. Route 29 bypass around Charlottesville.** Provides that, if the construction of a U.S. Route 29 bypass around Charlottesville is not constructed because of opposition from the local metropolitan planning organization, and the Federal Highway Administration requires the Commonwealth to reimburse the federal government for federal funds expended in connection with that project, an amount equal to the amount of the required reimbursement will be deducted by the Commonwealth Transportation Board from primary system highway construction funds allocated or allocable to the Culpeper Highway Construction District and an amount equal to the total of all state funds expended on the project will be deducted by the Commonwealth Transportation Board from state primary system highway construction funds allocated or allocable to the same highway construction district.

*Patron - Newman*

## Failed

**: HB81 Virginia Department of Transportation (VDOT) acquired real estate.** Requires VDOT to maintain real property it acquires so that it doesn't become an eyesore or a danger to community residents.

*Patron - Kilgore*

**: HB115 Toll of for use of I-81 by trucks.** Requires VDOT to collect tolls for use of Interstate Route 81 (I-81) by trucks, tractor trucks, and combination vehicles. The amount of the toll is to be set by the Commonwealth Transportation Board. Proceeds from the toll collections are to be paid to the Department of Rail and Public Transportation to finance improvements to Virginia's rail infrastructure so that cargo shipments can be shifted from trucks to trains.

*Patron - Marshall, R.G.*

**: HB181 Eminent domain.** Provides that, in condemnations by the Commonwealth Transportation Commissioner, so long as any suit is being conducted in connection with acquisition of the property, the owner of the condemned property must be allowed to continue to occupy any structure located on the condemned property without payment of rent for a period of 180 days or until the conclusion of the court proceedings, whichever is later.

*Patron - Oder*

**: HB188 Primary system highway construction allocation.** Provides that funds for construction projects in the primary highway system will be distributed among the nine highway construction districts on the basis of vehicle miles traveled per lane-mile.

*Patron - Black*

**: HB202 VDOT resident engineers.** Provides that persons who have served successfully as assistant engineers with the Virginia Department of Transportation (VDOT) may be promoted by the Department to the position of resident engineer, provided they agree to complete requirements to be a Certified Professional Engineer within five years of promotion.

*Patron - Athey*

**: HB287 "Smart Road" fund.** Establishes a special fund "off the top" of funds available for highway construction to cover the costs of construction, reconstruction, and improvements to the "Smart Road" at the Virginia Tech Transportation Institute.

*Patron - Griffith*

**: HB368 Urban and secondary highway system construction allocations.** Allocates urban system and secondary system highway construction funds among affected jurisdictions on the basis of (i) area, (ii) vehicle miles traveled, and (iii) population, with area being weighted 15 percent, vehicle miles traveled weighted 25 percent, and population weighted 60 percent.

*Patron - Rust*

**: HB369 Primary system highway construction allocation.** Provides that funds for construction projects in the primary highway system will be distributed among the nine highway construction districts on the basis of vehicle miles traveled per lane-mile.

*Patron - Rust*

**: HB486 Highway maintenance and construction funds.** Redistributes 10 percent of highway maintenance and construction funds allocated to the Bristol, Salem, and Lynch-



burg highway construction districts to the Northern Virginia and Hampton Roads construction districts.

*Patron - Cole*

: **HB795 Highway construction funds; primary system allocations.** Allocates primary system construction funds among the nine highway construction districts on the basis of the ratio of vehicle-miles traveled on the primary system in each district divided by the number of primary system lane miles in each district, weighted 90 percent, and a primary road need factor, as determined by the Commonwealth Transportation Board, weighted 10 percent.

*Patron - Watts*

: **HB881 Statewide Transportation Plan.** Requires the Commonwealth Transportation Board to include representatives of homeowners associations that have 50,000 or more members in its processes and activities associated with new transportation construction projects.

*Patron - Plum*

: **HB906 VDOT highway logo sign program.** Requires the Virginia Department of Transportation (VDOT) to administer a highway logo sign program consistent with the requirements of the Manual on Uniform Traffic Control Devices. VDOT regulations implementing the program must "grandfather" certain program participants.

*Patron - Wardrup*

: **HB941 Signs.** Allows local governing bodies to put up "welcome" signs within highway rights-of-way or within sight of highway rights-of-way to welcome travelers. These signs may include statements or phrases such as "birthplace of \_\_\_\_\_", "site of the \_\_\_\_\_," or "home of the \_\_\_\_\_".

*Patron - Pollard*

: **HB1011 Transportation construction and maintenance.** Revises Virginia's transportation construction and maintenance allocation system in accordance with recommendations made by the Joint Legislative Audit and Review Commission to the 2002 Session of the General Assembly.

*Patron - Rust*

: **HB1165 Motor fuel sales reports; allocation of primary, urban, and secondary system highway construction funds.** Provides for quarterly reports to the Commonwealth Transportation Board (CTB) by retail sellers of motor fuels. Such reports shall include the quantities of motor fuels sold at retail and the locality in which they were sold. This data can be transmitted to the CTB either by mail (on a form no larger than a standard post card) or via Internet. This data will be used, beginning July 1, 2005, to allocate primary, urban, and secondary system highway construction funds.

*Patron - Frederick*

: **HB1345 Public-Private Transportation Act.** Disallows approval of a transportation facility on which the operator intends to impose tolls or user fees if the facility separates trucks from other motor vehicles utilizing the facility. The bill also disallows approval of a transportation facility involving Interstate 81 that separates trucks from other motor vehicles if the agreement provides for the improvement of more than 85 miles of roadway.

*Patron - Saxman*

: **HB1347 Public-Private Transportation Act of 1995.** Prohibits imposition of tolls or user fees for use of any demonstration or pilot project undertaken under the Public-Private

Transportation Act of 1995 if that project uses federal funds.

*Patron - Saxman*

: **HJ41 Transportation Trust Fund and Highway Maintenance and Operating Fund.** Admonishes the General Assembly to enact laws to maintain the Transportation Trust Fund and Highway Maintenance and Operating Fund and borrow from them only in the event of dire financial circumstances.

*Patron - Shuler*

: **HJ90 Virginia Route 5 Bikeway Project in Charles City County.** Memorializes the Commonwealth Transportation Board to move forward with the construction of Alternative 3 of the Virginia Route 5 Bikeway Project in Charles City County.

*Patron - Miles*

: **HJ91 Barrett's Ferry Bridge.** Memorializes the Commonwealth Transportation Board to include replacement of the Barrett's Ferry Bridge in Charles City County as a priority project in the Commonwealth's Transportation Improvement Plan.

*Patron - Miles*

: **SB70 H. Edward Steele Memorial Tunnel.** Redesignates the East River Mountain Tunnel on I-77 the "H. Edward Steele Memorial Tunnel."

*Patron - Puckett*

: **SB106 Virginia Department of Transportation engineering functions.** Prohibits, with a few exceptions, performance of engineering functions by employees of the Virginia Department of Transportation in connection with the planning, designing, construction, reconstruction, or maintenance of highways in the interstate, primary, or national highway system.

*Patron - Williams*

: **SB113 Urban system highway construction projects.** Allows the City of Newport News to include up to \$10 million in costs for underground utilities for state highway construction projects as part of total project costs.

*Patron - Williams*

: **SB307 Allocation of proceeds of Transportation Trust Fund.** Provides that, except as otherwise provided in the Virginia Constitution or federal law, after allocations to the Commonwealth Port Fund, Commonwealth Airport Fund and Commonwealth Mass Transit Fund, all remaining proceeds of the Transportation Trust Fund be distributed for highway construction. The Toll Facilities Revolving Account, the Unpaved Secondary Road Fund, the Industrial and Airport Access Fund, the Industrial Rail Access Fund, the Recreational Access Roads and Bikeways Fund, the Northern Virginia Transportation District Program and the Interstate 66 Economic Development Program Fund are repealed.

*Patron - O'Brien*

: **SB373 Industrial access road fund.** Deems capital investment made by the Central Virginia Electric Cooperative in its facilities and property in the Colleen Industrial Park in Nelson County sufficient to allow the use of state industrial access road funds for construction of Cooperative Way.

*Patron - Deeds*

: **SB413 Rail Transportation Development Authority.** Amends the second enactment of Chapter 1041 of the Acts of Assembly of 2003 to provide that that act (creating

the Rail Transportation Authority) will become effective on July 1, 2004.

*Patron - Edwards*

: **SB544 George F. Barnes Bridge.** Designates the bridge after Exit 3 on the US Route 19/460 bypass around the Town of Tazewell the "George F. Barnes Bridge."

*Patron - Puckett*

: **SB545 C. Don Dunford Bridge.** Designates the bridge located between Exit 4 and Exit 5 on the U.S. Route 19/460 bypass around the Town of Tazewell the "C. Don Dunford Bridge."

*Patron - Puckett*

## Carried Over

**7 HB89 High-occupancy vehicle (HOV) lanes; tolls.** Provides that any and all HOV lanes or other HOV facilities designated, constructed, contracted for, or opened to traffic on or after July 1, 2004, will be subject to an electronically collected toll. These facilities become toll-free upon the retirement of any and all bonds, notes, certificates, or other evidences of debt issued in order to cover any portion of the cost of the facility.

*Patron - Purkey*

**7 HB99 High-occupancy vehicle (HOV) lanes.** Repeals the July 1, 2006, "sunset" on use of HOV lanes by vehicles bearing clean fuel vehicle license plates, regardless of the number of their occupants. The provisions of the bill "sunset" if found to contravene federal law.

*Patron - Cole*

**7 HB185 Virginia Department of Transportation; independent audit required.** Requires, as soon as practicable, the conduct of an independent audit of the Virginia Department of Transportation. Follow-up audits would be required during the first year of every Governor's term.

*Patron - Oder*

**7 HB306 Statewide Transportation Plan; inadequacy of local or regional system.** Requires the Commonwealth Transportation Board to establish and apply an impact fee in any locality or region where pursuant to a comprehensive review, it determines that transportation needs are not being adequately met. The bill requires the Board to collect a fee from the builder of each new residential or commercial unit constructed in the locality or region until it determines that the transportation needs in the locality or region are being adequately met and are likely to remain so for at least the next five years. The fee shall be based on standards and criteria established by the Board, including but not limited to (i) average levels of traffic congestion and vehicle miles traveled by residents in such locality or region, (ii) the pro-rata impact of each residential or commercial unit on the existing transportation network, and (iii) the pro-rata impact of each additional residential or commercial unit on the costs of improving, expanding or developing new transportation systems in order to adequately meet the needs of such new development. The Board shall allocate all fees collected under these provisions to a special account within the Transportation Trust Fund on behalf of the locality or localities subject to the fee requirement. The Board shall make disbursements from such account for the improvement, maintenance or expansion of the transportation system in such locality or region. Upon a determination by the Board that the local or regional transportation system is adequate and is likely to remain adequate for at least the next five years, the Board shall release to the locality or

localities all funds that may remain in the Transportation Trust Fund on their behalf.

*Patron - Marshall, R.G.*

**7 HB804 Definitions and certain laws on outdoor advertising in sight of public highways.** Adds an explicit reference to advertisements concerning political candidacies and referenda issues. Current law regulates the placement of advertisements in sight of public highways, provides for their removal, and imposes penalties for violations of state regulations. The bill also amends the provision on agreements between the Commonwealth Transportation Commissioner and Fairfax County for joint enforcement to allow joint enforcement agreements with respect to signs in place more than three days before an election or special event as well as more than three days after the election or event.

*Patron - Petersen*

**7 HB905 Tolls on I-81.** Repeals the third enactment of Chapter 593 of the Acts of Assembly of 2002 to provide that, if tolls are imposed for the use of Interstate Route 81 (I-81), all vehicles will be subject to the toll. The repealed enactment exempts passenger cars, pickup or panel trucks, and motorcycles from the toll.

*Patron - Wardrup*

**7 HB945 Audits of VDOT.** Requires that, beginning on July 1, 2004, and at least once every two years thereafter, the Commonwealth Transportation Commissioner must accept contract proposals from private companies to conduct a thorough, comprehensive, and independent audit of the Virginia Department of Transportation (VDOT). All costs of these audits are to be borne by the companies performing them.

*Patron - Oder*

**7 HB1032 Unit cost analysis by VDOT.** Requires the Virginia Department of Transportation (VDOT) to conduct unit cost analysis of full-cost accounting, and then use data generated thereby to identify activities that are ripe for competition.

*Patron - Lingamfelter*

**7 HB1106 High-occupancy vehicle (HOV) lanes.** Repeals the July 1, 2006, "sunset" on use of HOV lanes by vehicles bearing clean fuel vehicle license plates, regardless of the number of their occupants. The provisions of the bill "sunset" if found to contravene federal law.

*Patron - Moran*

**7 HB1166 Town of Dumfries; construction of debris barrier.** Authorizes the Town of Dumfries to use I-95 right-of-way to construct a barrier to prevent the deposition of highway debris on property abutting the right of way. Costs of construction are to be paid out of funds allocated for primary system highway construction in the Northern Virginia District.

*Patron - Frederick*

**7 HB1344 I-81 safety improvement; pilot project.** Provides for a one-year pilot project, modeled on Augusta County's Project Alliance, directed by a designee of the Superintendent of State Police, to improve highway safety along Interstate Route 81 (I-81). At the end of the year, the results of the project are to be reported to the Governor and the General Assembly.

*Patron - Saxman*

**7 SB178 Maintenance and operation of drawbridges in Chesapeake.** Requires the Department of Transportation to reimburse the City of Chesapeake for its actual costs

incurred in the maintenance and operation of drawbridges within its boundaries.

*Patron - Blevins*

**7 SB637 Jail inmates; use on certain highway maintenance and construction projects.** Allows use of inmates of local and regional jails in local highway maintenance and construction projects without permission from the Department of Transportation, the Commonwealth Transportation Commissioner, or the Commonwealth Transportation Board.

*Patron - Norment*

## Hotels, Restaurants, Summer Camps and Campgrounds

### Passed

**D HB158 Nudist camps for juveniles.** Provides that the Board of Health shall not issue a license to the owner or lessee of any hotel, summer camp, or campground in the Commonwealth that maintains or conducts as any part of its activities a nudist camp for juveniles. A "nudist camp for juveniles" is defined to be a hotel, summer camp or campground that is attended by nude juveniles whose parent, grandparent or legal guardian is not also registered or otherwise accompanying the juvenile in the same camp.

*Patron - Reid*

**D HB918 Regulation of restaurants; definition.** Exempts convenience stores and gas stations having 15 or fewer seats at which food is served to the public on the premises and that are not part of a national or regional restaurant chain from regulation under the Department of Health.

*Patron - Phillips*

### Failed

**: HB691 Prevention of noise-induced hearing loss.** Requires any entity subject to licensure as a hotel or restaurant or other facility under Title 35.1 that contracts for events including live or recorded musical entertainment that may or will exceed the maximum noise level of 80 decibels, or such other lower noise level as the Board of Health shall determine, at which noise-induced hearing loss occurs, shall, as a condition of obtaining or renewing such licensure, offer and make available with or without charge individual hearing protection devices, such as earplugs, to patrons upon admission to events including such musical entertainment.

*Patron - Morgan*

## Housing

### Passed

**D HB123 Board of Housing and Community Development; membership.** Increases the membership of the Board of Housing and Community Development from 13 to 14 by adding the Director of Regulatory Compliance of the Virginia Building Officials Association and specifies his term.

*Patron - Albo*

**D HB423 Uniform Statewide Building Code; regulation of HVAC facilities.** Provides that the Board of Housing and Community Development to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) establishing standards for heating, ventilation, and air-conditioning (HVAC) facilities in new, privately owned residential dwellings.

*Patron - Watts*

**D HB825 Virginia Housing Development Authority; financing of certain mixed-income and mixed-use housing developments.** Authorizes the Virginia Housing Development Authority (Authority) to finance mixed-income and mixed-use housing developments in revitalization areas designated by local governments if (i) the surrounding area is predominantly of lower income or (ii) the Authority's ability to provide the low and moderate income housing will be enhanced by having a portion of the units occupied by persons and families who are not of low or moderate income. The bill limits the percentage of persons or families who are not of low and moderate income in any economically mixed project to 80 percent and provides that nonhousing buildings may not be financed by the Authority unless a certification is provided by the housing sponsor that a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions.

*Patron - Drake*

**D HB828 Uniform Statewide Building Code; enforcement; rental inspections.** Clarifies the inspection authority of local building officials for existing commercial and residential buildings or structures, including the authority of a local governing body to adopt and enforce an inspection program for residential dwelling units that are rented to tenants pursuant to the Landlord and Tenant Act (§ 55-217 et seq.) or the Virginia Residential Landlord Tenant Act (§ 55-248.2 et seq.). The bill sets out the procedures for localities to conduct rental inspections and the fees therefore. The bill contains technical amendments.

*Patron - Drake*

**D SB4 Housing Funds.** Eliminates the requirement for the Department of Housing and Community Development to provide reports to the legislative committees on the Urban Public-Private Partnership Redevelopment Fund, the Virginia Removal or Rehabilitation of Derelict Structures Fund, and the Housing Revitalization Zone Fund. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). The bill also removes the requirement that fifty percent of all monies received by localities from the Virginia Removal or Rehabilitation of Derelict Structures Fund be utilized in housing revitalization zones.

*Patron - Martin*

**D SB183 Uniform Statewide Building Code; certain housing facilities.** Requires the Board of Housing and Community Development to promulgate regulations in accordance with the Administrative Process Act establishing standards for such additional fire detection and suppression systems as it deems necessary to increase the safety of persons in assisted living facilities, residential dwelling units designed or developed and marketed to senior citizens, nursing homes and nursing facilities. This requirement would be in addition to the current regulations requiring smoke detectors and sprinkling systems in nursing homes and nursing facilities.

*Patron - Blevins*

**D SB233 Conveyance of streets; no trespass policy.** Requires each housing authority to adopt a "no trespass" policy designed to protect the premises controlled by such authority and residents from nonresidents who enter the premises for unlawful purposes or without any lawful purpose. In adopting such policies, the authority shall determine whether to petition a locality or the Commonwealth to close to the public and convey to the authority any streets serving authority property. Neither a locality nor the Commonwealth shall be required to grant the conveyance. The Attorney General shall develop and distribute a model policy that takes into account any relevant constitutional limitations on such action by housing authorities, the locality or the Commonwealth; however, no housing authority is required to adopt the model policy. The bill has a delayed effective date of January 1, 2005.

*Patron - Lambert*

## Failed

**: HB187 Virginia Housing Development Authority; regulations.** Requires the Housing Development Authority to develop regulations providing that single-family mortgage loans may be made to more than one person only if the persons to whom the loan is to be made are related by blood, marriage or adoption.

*Patron - Black*

**: HB821 Housing authority law; redevelopment districts.** Authorizes any housing authority or local governing body to carry out work in blighted or deteriorated areas designated as redevelopment districts upon the adoption of an ordinance by the local governing body, which ordinance includes a redevelopment plan. Currently, only housing authorities are authorized to undertake a redevelopment project. The bill also defines redevelopment areas as areas (including slum areas) with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals or welfare of the community. Currently, these areas are called blighted or deteriorated areas. The bill also authorizes housing authorities and local governing bodies to identify residential dwelling units that are rented to assist local building officials in enforcing any rental property inspection program adopted by the local governing body. The bill also contains technical amendments.

*Patron - Drake*

**: HB830 Housing authority law; conservation districts.** Authorizes any local governing body or its designated agency to carry out work in deteriorated areas designated as conservation districts upon the adoption of an ordinance by the local governing body, which ordinance includes a conservation plan. The bill also authorizes local governing bodies to identify residential dwelling units that are rented to assist local building officials in enforcing any rental property inspection program adopted by the local governing body. The bill contains technical amendments.

*Patron - Drake*

**: HB1180 Statewide Fire Prevention Code; buildings or structures intended for worship; natural cut trees.** Removes the authority of the Board of Housing and Community Development, in cooperation with the Fire Services Board, to adopt regulations prohibiting the use of natural cut trees in a building or structure intended for worship. This bill is incorporated into HB 622.

*Patron - Bryant*

**: HB1245 Virginia Fair Housing Law; evidence of unlawful discriminatory practices.** Provides that the use of words or symbols associated with a particular religion, national origin, sex, or race may be evidence of an illegal preference under the Virginia Fair Housing Law. Current law mandates that the use of such words or symbols shall be prima facie evidence of an illegal preference. The bill also eliminates the prohibition against use of a general disclaimer to overcome the prima facie evidence.

*Patron - Griffith*

## Carried Over

**7 HB822 Housing authority law; definition of public use.** Defines, for the purposes of housing authority law, "public use" to mean the possession, occupation, and enjoyment of land by the public at large, or by public agencies. The bill provides that to ensure the protection of the rights of private property owners, the government shall not seize land from a property owner and turn it over to another on vague grounds of public benefit to spring from the more profitable use to which the latter may devote it. The benefiting of a private entity, whether by acquisition, purchase, or leaseback shall not constitute a public use.

*Patron - Drake*

## Institutions for the Mentally Ill; Mental Health Generally

### Passed

**D HB494 Adult guardianship and conservatorship.** Extends the authority to petition the circuit court to name a standby guardian or conservator or both for an incapacitated person to the child or children of an incapacitated person. Under present law, the statute only provides for the appointment of a standby guardian or conservator upon the petition of a parent or legal guardian for an incapacitated child.

*Patron - Kilgore*

**D HB589 Emergency custody and temporary detention orders; transportation.** Provides parameters for specifying the law-enforcement agency and jurisdiction to execute emergency custody orders or temporary detention orders and provide transportation of the subjects of such orders. In the case of emergency custody orders, the magistrate must specify the primary law-enforcement agency from the jurisdiction served by the community services board that designated the person to perform the evaluation to execute the order and provide transportation; however, if the community services board serves more than one jurisdiction, the primary law-enforcement agency from the particular jurisdiction within the community services board's service area where the person who is the subject of the emergency custody order was taken into custody or, if the person is not yet in custody, the primary law-enforcement agency from the jurisdiction where the person is presently located. In the case of temporary detention orders, the magistrate must specify in the order the law-enforcement agency of the jurisdiction in which the person resides to execute the order and provide transportation; however, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute the order and provide transportation. The bill autho-

rizes law-enforcement agencies to enter into agreements to facilitate the execution of temporary detention orders and provide transportation. For both the emergency custody orders and the temporary detention orders, the evaluation or treatment must be conducted immediately in accordance with state and federal law.

*Patron - Janis*

**D HB745 Licensure conditions for certain methadone clinics; emergency.** Prohibits the granting of an initial license to a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements, if such provider is to be located within a one-half mile of a public or private day care center or public or private K-12 school, except when such service is provided by a hospital licensed by the Board of Health or the Commissioner of the Department of Mental Health, Mental Retardation or Substance Abuse Services or owned or operated by an agency of the Commonwealth. Upon receiving a notice of a proposal for or an application to obtain initial licensure from a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements, the Commissioner must, within 15 days of such receipt, notify the local governing body of and the community services board serving the jurisdiction in which the facility is to be located of such proposal or application and its proposed location. The local governing body and the community services board must submit comments to the Commissioner on the proposal or application within 30 days of the date of the notice. The local governing body must notify the Commissioner of compliance with the location restrictions and any relevant local ordinances. No applicant for a license to provide treatment for persons with opiate addiction through the use of methadone or other opioid replacements that has obtained a certificate of occupancy in accordance with the law and regulations in effect on January 1, 2004, will be required to comply with this law. No existing licensed provider will be required to comply with these provisions in any city or county in which it is currently providing treatment. Further, the location restriction will not apply to the jurisdictions located in Planning District 8, i.e., Northern Virginia. A second enactment clause provides that: the Commissioner must not grant or issue any initial license for a methadone clinic after the date of the enactment of this provision, unless the provider is in compliance with this act.

*Patron - Ware, O.*

**D HB876 Disclosure of mental health information.** Adds to the law in Title 37.1 relating to disclosure of mental health information various technical amendments to clarify (i) who may submit a bill to a third party payor; (ii) that the information on the patient must include his address and date of birth; (iii) that patient consent or authorization is required for disclosure of mental health information; and (iv) that patient consent or authorization must be in writing and must be dated and signed and must also comply with the requirements for authorization of disclosure set out in subsection G of § 32.1-127.1:03. Subsection G of § 31.2-127.1:03 requires the name of the patient, the provider and the identity of the person to whom disclosure may be made, and the nature of the information to be disclosed. This bill also sets out a procedure by which a patient may receive a review by an objective physician or clinical psychologist of whether the patient may receive a copy of a third party payors' information in those instances where the treating physician or clinical psychologist has advised the third party payor that the information would be reasonably likely to endanger the life or physical safety of the patient or another person or contains a reference to another person that would be reasonably likely to cause substantial harm to the referenced person. The standard for limiting disclosure

to the patient who is the subject of the record is changed from "might adversely affect the patient's health" to "would be reasonably likely to endanger the life or physical safety of the patient or another person, or that such record makes reference to a person other than a health care provider, and the access requested would be reasonably likely to cause substantial harm to such referenced person."

*Patron - O'Bannon*

**D HB878 Access to health records for guardians ad litem and attorneys representing minors and certain adults in court proceedings.** Ensures compliance with federal regulations concerning protected health information promulgated pursuant to the Health Insurance Portability and Accountability Act while providing access to health records and information for guardians ad litem and attorneys representing minors in juvenile and domestic court proceedings, proceedings to authorize treatment for patients incapable of providing consent to treatment, persons who are subject to petitions for involuntary commitment, and respondents who are the subjects of petitions to appoint guardians and/or conservators.

*Patron - O'Bannon*

**D HB984 Conservators and guardians.** Modifies definitions of "conservator" and "guardian" to include any local or regional tax-exempt charitable organization that is established to provide conservatorial or guardian services to incapacitated persons. The tax-exempt charitable organization cannot be a provider of direct services to the incapacitated person. Currently, in addition to persons appointed by the court, local or regional programs designated by the Department for the Aging may serve as "public" conservators and guardians.

*Patron - Reese*

**D HB1103 Conservatorship.** Eliminates the authority of a conservator for an incapacitated person to seek a divorce without prior court authorization. Guardians of incapacitated persons are prohibited from seeking a change in a person's marital status without prior court approval. This bill is identical to SB 19.

*Patron - Moran*

**D HB1237 Sexually violent predators; civil commitment.** The bill requires state and local courts, clerks and agencies to provide the Commitment Review Committee with information that it requests. The prisoner must remain in secure custody pending the circuit court hearing and the date for the circuit court hearing is extended to 60 days after filing the petition from the current 30 days. The bill also provides for a minimum 30-day continuance if less than full commitment is ordered, during which time alternatives to full commitment shall be developed. The bill allows presentence and postsentence reports and victim impact statements to be used in the civil commitment process.

*Patron - Griffith*

**D SB19 Conservatorship.** Eliminates the authority of a conservator for an incapacitated person to seek a divorce without prior court authorization. Guardians of incapacitated persons are prohibited from seeking a change in a person's marital status without prior court approval. This bill is identical to HB 1103.

*Patron - Puller*

**D SB24 Interpreters in mental commitment proceedings.** Requires a judge or magistrate to appoint an interpreter for a non-English-speaking person who is the subject of or a witness in a mental commitment proceeding. Failure to appoint an interpreter when one is not reasonably available or when the person's level of English fluency cannot be deter-

mined is not a basis for dismissing the petition or voiding the order. The interpreter's compensation is paid out of the state treasury.

*Patron - Marsh*

**D SB25 Temporary detention orders.** Corrects an incorrect cross reference to appeals of temporary detention orders.

*Patron - Marsh*

**D SB212 Inspector General for Mental Health, Mental Retardation and Substance Abuse Services.** Moves the powers and duties that are currently attributed to the Office of Inspector General to the powers and duties of the Inspector General and clarifies that the Inspector General can access information related to the delivery of services to consumers operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services or served by providers outside of the state facility system, including the licensed mental health treatment units in state correctional facilities. However, the Inspector General is not given access to privileged peer review information of the providers, except privileged information relating to consumers from state facilities and the mental health treatment units in state correctional facilities. The Code Commission reviewed the legislation in the course of its revision of Title 37.1. While it recognizes the need for clarifying amendments to be made, the Code Commission takes no position on the substantive changes made. The bill also contains technical amendments.

*Patron - Edwards*

**D SB556 Placement of committed persons and notice to community.** Requires the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services, prior to the siting of a new facility or the designation of an existing facility to be operated for the control, care and treatment of persons convicted of a sexually violent offense who have been referred for civil commitment, to notify the state elected officials for and the local governing body of the jurisdiction of the proposed location, designation or expansion of the facility. Upon receiving the notice, the local governing body of the jurisdiction of the proposed site or where the existing facility is located may publish a descriptive notice concerning the proposed site in a newspaper of general circulation in the jurisdiction. The Commissioner must also establish an advisory committee relating to any such facility that must consist of state and local elected officials and community organizations serving the jurisdiction in which the facility is proposed to be or is located. Upon request, the members of the advisory committee will be notified whenever the Department increases the number of beds in the relevant facility.

*Patron - Marsh*

**D SB607 Licensure conditions for certain methadone clinics; emergency.** Prohibits the granting of an initial license to a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements, if such provider is to be located within a one-half mile of a public or private day care center or public or private K-12 school, except when such service is provided by a hospital licensed by the Board of Health or the Commissioner of the Department of Mental Health, Mental Retardation or Substance Abuse Services or owned or operated by an agency of the Commonwealth. Upon receiving a notice of a proposal for or an application to obtain initial licensure from a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements, the Commissioner must, within 15 days of such receipt, notify the local governing body of and the

community services board serving the jurisdiction in which the facility is to be located of such proposal or application and its proposed location. The local governing body and the community services board must submit comments to the Commissioner on the proposal or application within 30 days of the date of the notice. The local governing body must notify the Commissioner of compliance with the location restrictions and any relevant local ordinances. No applicant for a license to provide treatment for persons with opiate addiction through the use of methadone or other opioid replacements that has obtained a certificate of occupancy in accordance with the law and regulations in effect on January 1, 2004, will be required to comply with this law. No existing licensed provider will be required to comply with these provisions in any city or county in which it is currently providing treatment. Further, the location restriction will not apply to the jurisdictions located in Planning District 8, i.e., Northern Virginia. A second enactment clause provides that: the Commissioner must not grant or issue any initial license for a methadone clinic after the date of the enactment of this provision, unless the provider is in compliance with this act.

*Patron - Wampler*

**D SJ81 Offenders with mental illness or substance abuse disorders.** Encourages the Department of Mental Health, Mental Retardation and Substance Abuse Services to provide nonfinancial assistance in developing demonstration projects designed to divert individuals with mental illness, substance abuse, and co-occurring disorders from jail or secure detention. The Department is requested to incorporate information within its web-based Internet site about such programs and continue the activities of its Forensic Work Group.

*Patron - Mims*

**D SJ88 Offenders with mental illness and substance abuse disorders.** Encourages the Department of Corrections and the Department of Juvenile Justice to include an evaluation and reporting component in any new mental health or substance abuse treatment initiative that is established for offenders in their custody.

*Patron - Martin*

## Failed

**: HB304 Licensure conditions for certain methadone clinics; emergency.** Prohibits the granting of an initial license to a facility for the provision of detoxification, treatment or rehabilitation of drug addicts through the use of the controlled substance, methadone, or other such controlled substances, if such facility is to be located within a one-half mile of a public or private K-12 school. In addition, the Commissioner is required to notify the local governing body of the jurisdiction in which such facility is to be located within 15 days of receiving notice of a proposal or an application to obtain initial licensure for methadone clinics. The local governing body may submit comments on the proposal or application that may include its compliance with this provision and applicable local ordinances. Existing clinics, i.e., licensed and operating in accordance with the law and regulations in effect on January 1, 2004, are grandfathered. Three enactment clauses provide that: (i) the Board of Mental Health, Mental Retardation and Substance Abuse Services must promulgate emergency regulations; and (ii) the Commissioner must not grant or issue any initial license for a methadone clinic after the date of the enactment of this provision, unless the facility is in compliance with these provisions, notwithstanding any regulations to the contrary. This bill is incorporated into HB 745.

*Patron - Fralin*

: **HB308 End-of-life-care decisions; guardians and agents of incapacitated persons.** Provides that the court in an appointment hearing shall not deem a person suitable as guardian or conservator if the court determines that such person has a material interest in the death of the respondent. Upon court appointment, the guardian or conservator must certify in writing that he has no material interest in the death of the incapacitated person. The bill provides that no agent, guardian or other person can make the decision to withhold or withdraw artificially administered hydration or nutrition unless expressly granted such authority in an advance medical directive or other written document executed by the patient while the patient was capable of making an informed decision on such matters. The bill requires the delegation of such authority through an advance directive to be specific to the withdrawal or withholding of hydration or nutrition in order to be effective in that regard. Absence of express written delegation of authority shall give rise to the presumption of the incapacitated person's desire not to have artificially administered hydration or nutrition withheld or withdrawn. The bill prohibits health care facilities from conditioning the provision of services on the execution or existence of an advance medical directive authorizing the withholding or withdrawal of artificially administered hydration or nutrition.

*Patron - Marshall, R.G.*

: **HB579 Emergency custody and temporary detention orders; transportation.** Requires magistrates who issue either an emergency custody or temporary detention order for a person with serious mental illness to direct the transportation of that person by a single law-enforcement officer from a specified agency and jurisdiction or multiple law-enforcement officers from specified agencies and jurisdictions. This bill is incorporated into HB 589.

*Patron - Hamilton*

: **HB588 Transportation under emergency custody and temporary detention orders.** Clarifies that the transportation responsibility falls upon the law-enforcement agency in whose jurisdiction the evaluation was performed when a possibly mentally ill person is taken into custody pursuant to an emergency custody order or temporary detention order. This bill is incorporated into HB 589.

*Patron - Janis*

: **HB738 Community services boards.** Repeals language that prohibits a majority of community services board members from being elected or appointed officials, and repeals language that prohibits a locality from being represented by more than two elected or appointed officials on a Community Services Board.

*Patron - Dudley*

: **HB813 Congregate housing services program for frail elderly individuals.** Directs the Department of Social Services to establish a four-year pilot congregate housing services program for frail elderly individuals. The Department is authorized to enter into contracts with qualified service providers to establish such congregate housing facilities. The Department, in consultation with the Virginia Housing Development Authority, shall develop criteria for the selection of pilot areas, which shall include an assessment of the qualified service provider's proposal for the congregate housing facility and the area's plan for community involvement, including, but not limited to, the involvement of the local department of social services and the area agency on aging. The Department shall submit to the House Committee on Health, Welfare and Institutions and the Senate Committee on Rehabilitation and Social Services a report outlining the plan for the congregate housing

services for frail elderly individuals by November 1, 2004, and operationalize the plan by March 1, 2005. The qualified service provider shall specify the type and priorities of the supportive services it will provide during the term of the contract and such services shall be related to the needs and characteristics of the residents. The qualified service provider shall establish a fee schedule for each supportive service and residents shall contribute financially toward the services, according to their ability to pay based on their income. Any fees charged shall not exceed the cost of providing the services. The Department shall determine an individual's eligibility for the congregate housing services program and the services subsidy, i.e., the sum necessary to provide supportive services to an eligible participant in excess of that individual's ability to pay for services, to be paid by the Department. The Department shall evaluate and report on the impact and effectiveness of the congregate housing services program for frail elderly individuals.

*Patron - Eisenberg*

: **HB1458 Employee background checks in mental health, mental retardation and substance abuse services programs.** Permits providers of mental health, mental retardation and substance abuse services to hire for compensated employment a person who has been convicted of a crime not involving a violent felony, who has had his civil rights and voting rights restored by the Governor, provided 30 years have elapsed following the conviction.

*Patron - Cline*

: **SB93 Background checks at adult substance abuse treatment facilities.** Permits the hiring of any applicant to provide adult substance abuse treatment in an adult substance abuse treatment facility, regardless of any conviction, if the hiring provider or employer determines that such criminal behavior was substantially related to the applicant's use of substances and the person has been successfully rehabilitated and is not a risk to consumers based on his criminal history background and substance use, abuse or addiction history. To be eligible, the applicant must have completed all prison or jail terms, must not be under probation or parole supervision, must not have pending charges in any locality, and must have paid all fines, restitution, and court costs for any prior convictions. Applicant means any person who is a (i) licensed substance abuse treatment practitioner; (ii) certified substance abuse counselor; (iii) certified substance abuse counseling assistant; (iv) licensed clinical social worker; (v) licensed professional counselor; (vi) licensed clinical psychologist; (vii) licensed registered nurse; or (viii) licensed physician. "Certified substance abuse counselor" will include any applicant who has been approved to obtain the supervision required for certification, and "certified substance abuse counseling assistant" will include any applicant who is actively pursuing the hours of experience required for certification as a substance abuse counseling assistant. Upon discovering that an applicant who is regulated by a health regulatory board has been convicted of any offenses listed in the criminal records check law, the provider must report the conviction to the appropriate health regulatory board. These provisions expire on July 1, 2007.

*Patron - Devolites*

: **SB134 Notice of proposals or initial applications for methadone clinics required.** Requires the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to notify the local governing body of and the community services board serving the jurisdiction in which a methadone clinic is proposed within 15 days of receiving notice of a proposal or an application to obtain initial licensure to operate such facility. Local governing bodies and community services boards must submit to the Commissioner comments on the pro-

posals or applications within 30 days from the date of the notice, including its compliance with relevant local ordinances.

*Patron - Edwards*

**: SB312 Licensure conditions for certain methadone clinics.** Prohibits the granting of an initial license to a facility for the provision of detoxification, treatment or rehabilitation of drug addicts through the use of the controlled substance, methadone, or other such controlled substances, if such facility is to be located within one-half mile of a public or private K-12 school. In addition, the Commissioner is required to notify the local governing body of the jurisdiction in which such facility is to be located within 15 days of receiving notice of a proposal or an application to obtain initial licensure for methadone clinics. The local governing body may submit comments on the proposal or application that may include its compliance with this provision and applicable local ordinances. Existing clinics, i.e., licensed and operating in accordance with the law and regulations in effect on January 1, 2004, are grandfathered. Three enactment clauses provide that: (i) the Board of Mental Health, Mental Retardation and Substance Abuse Services must promulgate emergency regulations; and (ii) the Commissioner must not grant or issue any initial license for a methadone clinic after the date of the enactment of this provision, unless the facility is in compliance with these provisions, notwithstanding any regulations to the contrary. This bill is incorporated into SB 607.

*Patron - Bell*

**: SB604 Emergency custody and temporary detention orders; transportation.** Requires magistrates who issue emergency custody or temporary detention orders for persons with serious mental illness to specify the law-enforcement agency and jurisdiction that shall execute such orders and provide transportation. The bill gives direction to the magistrate on choosing the responsible law-enforcement agency and jurisdiction. Finally, when a law-enforcement agency is required to transport persons to obtain emergency medical evaluation or treatment, such evaluation or treatment shall be conducted immediately.

*Patron - Bolling*

## Carried Over

**7 HB578 Temporary detention petitions.** Requires the Supreme Court of Virginia to prescribe and publish rules governing the procedure for a sworn petition requesting a magistrate to issue an order of temporary detention. The Supreme Court must consider permitting the magistrate at his discretion to receive oral petitions by teleconference and written petitions filed by electronically transmitted facsimile process, provided there is reasonable proof of the petitioner's identity.

*Patron - Hamilton*

**7 HB961 Guardianship or conservatorship for individuals with mental retardation.** Grants the court the discretion to elect not to appoint a guardian ad litem to represent the interests of the respondent in a guardianship or conservatorship proceeding only when (i) the respondent is 18 years of age or older and has a diagnosis of mental retardation; (ii) the respondent is the child of the petitioner; (iii) the petitioner has been the person primarily responsible for the care of the respondent for at least five years immediately preceding the filing of a petition; (iv) the petitioner provides the court with an independent evaluation report of the respondent performed by a licensed professional skilled in the diagnosis, care and treatment of individuals with mental retardation which shall document, to the best information and belief of its signatory, whether the respondent is an incapacitated person who needs a

guardian, a conservator, or both; and (v) the respondent has not notified the court verbally or in writing that he desires the appointment of a guardian ad litem. If at any time subsequent to the filing of a petition the respondent notifies the court verbally or in writing that he desires the appointment of a guardian ad litem, the court must appoint a guardian ad litem immediately.

*Patron - Barlow*

**7 SB507 Judicial authorization of treatment and detention.** Removes the court's authority to order the withholding or withdrawal of a specific treatment or course of treatment for a mental or physical disorder when an adult patient is either incapable of making an informed decision on his own behalf or is incapable of communicating an informed decision due to a physical or mental disorder. Authority to order a specific treatment or a course of treatment is retained for the allegedly incapable adult person when the proposed action is in the best interest of the person. This provision also strikes the authority for "any person" to file a request for a court to order the withholding or withdrawal of treatment for an adult person who is incapable of making or communicating informed consent. For individuals incapable of making or communicating informed consent who are hospital patients at the time of the petition for treatment, this provision requires "complete accordance with the Health Care Decisions Act . . . and the delineated authorization of consent as set forth in § 54.1-2986, with all prudent effort made to obtain such informed consent from an individual or individuals in order of priority who are legally authorized to give consent."

*Patron - Mims*

## Insurance

### Passed

**D HB221 Miscellaneous casualty insurance.** Defines "miscellaneous casualty insurance" as insurance against liability, and against loss, damage, or expense arising out of injury to the economic interests of any person. It does not include any other statutorily-specified class of insurance, and would not include insurance that is contrary to law or public policy.

*Patron - Hargrove*

**D HB322 Health insurance carriers; fair business practices; retroactive denials.** Prohibits a health insurance carrier from imposing any retroactive denial of payment or seeking recovery or refund of a previously paid claim unless the carrier specifies in writing the specific claim for which the retroactive denial is to be imposed or the recovery or refund is sought. The carrier must also explain why the claim is being retroactively adjusted.

*Patron - Griffith*

**D HB363 Legal services plans.** Transfers responsibility for regulating legal services plan sellers from the State Corporation Commission's Bureau of Insurance to the Department of Agriculture and Consumer Services. The bill establishes requirements for the registration of legal services plan sellers, authorizes the Board of Agriculture and Consumer Services to prescribe regulations relating to legal services plan sellers, and authorizes the Department to investigate violations. Legal services plan sellers must make contract records available to the Department upon request and maintain a true copy of each contract for its term. A seller who knowingly and will-



fully violates the requirement shall be guilty of a Class 3 misdemeanor.

*Patron - Hargrove*

**D HB460 Powers of attorney; fidelity and surety insurers.** Eliminates the requirements that powers of attorney binding fidelity and surety insurers be recorded. The power of attorney must be attached to the bond or other obligation. The bill does not apply to surety bail bondsmen.

*Patron - Drake*

**D HB553 Insurance; rates.** Allows insurers, other than workers' compensation insurers, to limit the amount of a premium increase applicable to the renewal of a policy, and to phase in the increase over a specified period.

*Patron - Hargrove*

**D HB596 Virginia Property and Casualty Insurance Guaranty Association.** Recognizes the existence of Virginia Property and Casualty Insurance Guaranty fund coverage for certain qualifying claims that have been assumed as direct obligations of the insolvent insurer prior to the insurer's being declared insolvent. The bill clarifies that certain transactions, including routine reinsurance transactions and surplus lines transactions, are not novations that would establish a direct obligation of the insurer to the insured. The bill also expands the definition of "insolvent insurer" to include an insurer that is licensed in Virginia when the obligation with respect to the covered claim was assumed.

*Patron - Dudley*

**D HB609 Fire insurance; flood coverage; notices.** Requires insurers issuing a new or renewal contract or policy of fire insurance that excludes coverage for damage due to flood or any other overflow of a body of water to provide written notice to the policyholder that contents coverage may be available with the flood policy for an additional premium. An insurer is required to notify a policyholder when flood coverage is excluded from a policy or contract and that flood insurance is available from the insurer, insurance agent or the National Flood Insurance Program. The requirement applies to policies issued or renewed on or after October 1, 2004. The bill incorporates HB 1371.

*Patron - Gear*

**D HB818 Homeowners insurance; nonrenewal.** Prohibits an insurer from refusing to renew a homeowners insurance policy solely because a claim was made more than 60 months prior to the policy expiration date. This bill incorporates HB 731.

*Patron - Drake*

**D HB898 Homeowners insurance deductibles.** Requires an insurer who unilaterally changes the deductible on a policy insuring an owner-occupied dwelling to provide written notice to the insured stating that the deductible has been changed and explaining how the new deductible will be applied. This section will apply to policies renewed in Virginia on or after October 1, 2004.

*Patron - Wardrup*

**D HB1007 Homeowners insurance; exclusions for dangerous or vicious animals.** Authorizes the issuer of a homeowner's policy, with the insured's written consent, to exclude from coverage any liability resulting from an injury caused by a dangerous or vicious animal owned by or in the care, custody, or control of the insured if such animal has bitten, attacked, or inflicted injury on a person or companion animal. This bill incorporates HB 1332.

*Patron - Rust*

**D HB1155 Interstate Insurance Product Regulation Compact.** Provides that Virginia is a Compacting State under the Interstate Insurance Product Regulation Compact. The Compact is intended to: (i) promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products; (ii) develop uniform standards for those insurance products; (iii) act as a central clearinghouse to review insurance products and advertisements; (iv) approve product filings and advertisements; (v) improve coordination of regulatory resources and expertise among state insurance departments regarding uniform standards and review of relevant insurance products; (vi) create the Interstate Insurance Product Regulation Commission, and (vii) perform other related functions consistent with state regulation of the business of insurance. This bill also appoints the Commissioner of Insurance as the Commonwealth's representative to the Interstate Insurance Product Regulation Commission.

*Patron - Morgan*

**D HB1181 Insurance; annuity nonforfeiture.** Incorporates model provisions adopted by the National Association of Insurance Commissioners' Standard Nonforfeiture Law for Individual Deferred Annuities. The bill also establishes a formula that uses an index-based interest rate to determine the minimum nonforfeiture amounts for individual deferred annuity contracts issued on or after July 1, 2005, and details application of the formula, including that it may be applied to certain contracts issued before July 1, 2005.

*Patron - Bryant*

**D HB1186 Insurance; actuarial opinions.** Requires every insurer to submit annually an actuarial opinion and supporting documents, including a summary of opinion or issues, memoranda, and work papers prepared in conformity with appropriate National Association of Insurance Commissioners annual statement instructions. The documents shall be privileged and confidential and not discoverable or admissible in a civil action. The new requirements apply to fraternal benefit societies, health services plans, health maintenance organizations, and dental or optometric services plans.

*Patron - Bryant*

**D HB1238 Virginia Insurance Continuing Education Board; Virginia Association of Health Underwriters.** Adds one representative from the Virginia Association of Health Underwriters to the Virginia Insurance Continuing Education Board and decreases, from two to one, the number of representatives on the Board from the Virginia Association of Insurance and Financial Advisors.

*Patron - Griffith*

**D HB1327 Insurance; multiple employer welfare arrangements.** Excludes from the State Corporation Commission's regulatory jurisdiction any multiple employer welfare arrangement (MEWA) comprised only of banks and their employees that (i) is duly licensed as a MEWA by the insurance regulatory agency of a state contiguous to the Commonwealth, (ii) files with the Commission a copy of its certificate of authority or other proper license from the contiguous state, and (iii) has no more than 50 Virginia residents who are employees of its member banks enrolled in or receiving accident and sickness benefits as insureds, members, enrollees, or subscribers of the MEWA.

*Patron - Dudley*

**D HB1342 Motor vehicle insurance; unfair settlement practices.** Provides, with respect to a glass claim arising under a motor vehicle insurance policy, that an insurer's failure

to disclose (i) the true nature of a third party representative; (ii) that an insured is not required to use the facility, service or products recommended by the insurer; or (iii) that the insured or its third-party representative has a financial interest in the recommended replacement or repair facility, an unfair settlement practice, constitutes unfair settlement practices. The referring insurer is accountable for any violations by the third party representative.

*Patron - Morgan*

**D HB1404 Insurance; group accident and sickness insurance coverage for dependent children.** Allows insurers, at the policyholder's election, to extend coverage under a group accident and sickness insurance policy to include any child of an insured group member, regardless of the child's age.

*Patron - Byron*

**D HB1407 Virginia Birth-Related Neurological Injury Compensation Act.** Increases assessments for participating physicians and hospitals, and nonparticipating physicians on an incremental basis beginning in 2005, to maximums of \$5,500, \$200,000, and \$300, respectively. The bill also eliminates the authority to pay attorney's fees to applicants who are not admitted into the birth injury fund program.

*Patron - Tata*

**D HB1408 Accident and sickness insurance; claims experience.** Requires health maintenance organizations to provide, upon request, to those health care plan policyholders which employed an average of at least 100 insured, subscribers or enrollees in the preceding 12-month period, as part of the insured's claims experience record, (i) a summary of claims charges incurred and the amount paid for each claim for the most recent available 24-month period; (ii) a listing of the number of insured or subscribers for whom combined medical costs or claims exceeded \$100,000 in the most recently available 12-month period; and (iii) total enrollment in each membership category. The existing disclosure requirements applicable to group accident and sickness insurance policies and subscription contracts are amended to incorporate the new provisions regarding the size of the group policyholder that may request the information and to increase the threshold enrollees for whom information must be disclosed from those with payments or costs in excess of \$50,000 to those in excess of \$100,000. The bill becomes effective on January 1, 2005.

*Patron - Carrico*

**D SB44 Health insurance; mandated coverage for biologically based mental illness.** Repeals the scheduled July 1, 2004, sunset of the mandated health insurance benefit that requires the same coverage for biologically based mental illness as is provided for other illnesses, conditions or disorders. This bill is identical to SB 67.

*Patron - Martin*

**D SB154 Fire Programs Fund.** Requires the Executive Director of the Department of Fire Programs to establish written standards for determining the extent to which clients outside the Commonwealth shall be financially responsible for the cost of fire and emergency services training provided by the Department of Fire Programs. Revenues generated shall be retained in the Fire Programs Fund and used solely for providing additional training to members of Virginia's fire and emergency services.

*Patron - Edwards*

**D SB156 Insurance; dental plan organizations.** Establishes a new regulatory system specifically for dental plan organizations, pursuant to which companies that provide a

dental plan are required to be licensed. The bill also establishes required and optional dental benefit contract provisions, required provisions for plan dentist contracts, and requirements relating to the filing of premium rates and subscription fees.

*Patron - Potts*

**D SB266 Long-term care partnership plan.** Requires the Board of Medical Assistance Services to establish, consistent with federal law, a long-term care partnership program that will encourage the private purchase of long-term care insurance as the primary source of funding the participant's long-term care. The program must provide protection from estate recovery as authorized by federal law.

*Patron - Edwards*

**D SB355 Insurance; domestic reciprocals.** Requires prior written approval of material transactions, and timely disclosure of most other transactions, between a domestic reciprocal and a related party and, when the transaction is material to the reciprocal, between any two or more of the reciprocal's related parties. The bill requires the annual filing of a related parties summary and that a reciprocal's surplus, following any dividends or distribution to any of the reciprocal's related parties, shall be reasonable in relation to the reciprocal's outstanding liabilities and adequate to its financial needs.

*Patron - Colgan*

**D SB372 Health maintenance organizations.** Provides that, for purposes of health maintenance organization regulation, "net worth" and "capital and surplus" have the same meaning. Persons owning or having the right to acquire five percent or more of voting securities or subordinated debt of an entity applying for a license to establish or operate a health maintenance organization are required to disclose such fact when applying for a license.

*Patron - Miller*

**D SB535 Insurance; funding agreements.** Authorizes insurers licensed to write life insurance or annuities in Virginia to issue funding agreements. A funding agreement authorizes the insurer to accept funds and provides for an accumulation of funds for the purpose of making one or more payments in fixed or variable amounts, or both, that are not based on mortality or morbidity contingencies. The issuance of funding agreements constitutes transacting an insurance business in the Commonwealth. In a liquidation of an insurer, the holders of a funding agreement will receive the same priority that is currently accorded to policyholders.

*Patron - Stosch*

**D SB618 Insurance; provider panels.** Allows a health insurance provider to send a provider directory electronically to its insureds. If the directory is provided electronically, it shall be updated monthly.

*Patron - Wagner*

**D SB687 Virginia Birth-Related Neurological Injury Compensation Act.** Increases assessments for participating physicians and hospitals, and nonparticipating physicians on an incremental basis beginning in 2005, to maximums of \$5,500, \$200,000, and \$300, respectively. The bill also eliminates the authority to pay attorney's fees to applicants who are not admitted into the birth injury fund program.

*Patron - Devolites*

## Failed

**: HB439 Property and casualty insurance; wind-storm and hail coverage.** Authorizes the Virginia Property

Insurance Association (VPIA) to issue windstorm or windstorm and hail insurance policies. The bill also authorizes property insurers underwriting in the voluntary market of Virginia's coastal areas to exclude (in new policies only) from coverage on owner-occupied dwellings any losses resulting from windstorm or windstorm and hail, provided the insurer (i) issues premium credits for such exclusions and (ii) furnishes written disclosures to insureds describing the exclusions and informing insureds that coverage for windstorm or windstorm and hail can be obtained through the VPIA. This bill is identical to SB 433.

*Patron - Suit*

: **HB731 Homeowners insurance; grounds for nonrenewal.** Prohibits an insurer from refusing to renew a homeowners insurance policy solely because of claims made on the policy more than 48 months prior to the next anniversary date of the policy. This bill is incorporated into HB 818.

*Patron - Joannou*

: **HB736 Motor vehicle insurance; exclusion for punitive damages.** Allows insurers that issue motor vehicle liability insurance to exclude coverage for punitive damages. The bill also excludes punitive damages from uninsured motorist coverage.

*Patron - Hargrove*

: **HB800 Health insurance; mandated coverage for hearing aids for minors.** Requires health insurers, health maintenance organizations, and corporations providing health care coverage subscription contracts to provide coverage for hearing aids and related services for children from birth to age 18 when a licensed audiologist prescribes such hearing aids and related services. Such coverage shall include one hearing aid per hearing-impaired ear, up to a cost of \$1,400, every 36 months. The insured may choose a higher priced hearing aid and pay the difference in cost above \$1,400, with no penalty to the insured or the hearing aid provider. No co-payment will apply. Hearing aids are not to be considered durable medical equipment.

*Patron - Petersen*

: **HB914 Insurance; workers' compensation rates; cap for coal mining classifications.** Caps the workers' compensation insurance rates and loss costs for the surface and underground coal classifications for the voluntary markets at the levels existing on July 1, 2004. Such rates shall remain in effect until the General Assembly authorizes a rate increase. The bill also caps at the July 1, 2004, level the coal-classifications rates for the assigned risk market. The State Corporation Commission retains its authority to decrease such rates and loss costs.

*Patron - Phillips*

: **HB1328 Homeowners insurance; dangerous or vicious dogs.** Prohibits insurers from refusing to issue or refusing to renew a homeowner's or renter's policy solely on the basis that the insured's or prospective insured's dog is one of a particular breed. Nothing prohibits an insurer from refusing to issue or refusing to renew such a policy if the insured's or prospective insured's dog is declared dangerous or vicious.

*Patron - Dudley*

: **HB1332 Homeowners insurance; exclusions for attractive nuisances and dangerous or vicious animals.** Authorizes the issuer of a homeowner's policy, with the insured's written consent, to exclude from coverage any liability resulting from an injury caused by a dangerous or vicious animal owned by or in the care, custody, or control of the insured if such animal has bitten, attacked, or inflicted injury

on a person or companion animal. This bill is incorporated into HB 1007.

*Patron - Tata*

: **HB1371 Fire insurance; flood coverage; notices.** Requires insurers issuing a new or renewal contract or policy of fire insurance that excludes coverage for damage due to flood, surface water, waves, tidal water, or any other overflow of a body of water, to provide written notice to the policyholder that contents coverage may be available with the flood policy for an additional premium. Current law requires an insurer to notify a policyholder when flood coverage is excluded from a policy or contract and that flood insurance is available from the insurance agent or the National Flood Insurance Program. This bill is incorporated into HB 609.

*Patron - Rapp*

: **HB1438 Self-insured rental vehicles; rental used as substitute for a vehicle being repaired or serviced; secondary coverage.** Makes the bodily injury and property damage liability protection provided the driver of a self-insured rental vehicle, when the self-insured vehicle is rented as a substitute for a motor vehicle being repaired or serviced, secondary to any insurance coverage that insures the driver for the same loss.

*Patron - Athey*

: **SB67 Health insurance; mandated coverage for biologically based mental health illnesses.** Repeals the scheduled July 1, 2004, sunset of the mandated health insurance benefit that requires the same coverage for biologically based mental illness as is provided for other illnesses, conditions or disorders. This bill is identical to SB 44.

*Patron - Martin*

: **SB68 Motor vehicle insurance; assessment for Fire Programs Fund.** Requires insurance companies that write motor vehicle insurance to pay an assessment of one percent of the total direct gross premium income from such insurance. The assessments will be paid into the Fire Programs Fund, which is administered by the Department of Fire Programs under policies established by the Virginia Fire Services Board.

*Patron - Puckett*

: **SB105 Health insurance; refusal to accept assignments prohibited; physicians.** Prohibits health insurers, health maintenance organizations, and the state employees' health care plan from refusing to accept an assignment of benefits made to a physician. A similar provision currently prohibits health insurers from refusing to accept assignments of benefits made to dentists and oral surgeons.

*Patron - Williams*

: **SB255 Health insurance; mandated coverage for infertility treatments.** Requires the state health plan, health insurers, health maintenance organizations and corporations providing accident and sickness subscription contracts to provide coverage for the treatment of infertility. The bill's provisions are applicable to policies, plans, and contracts delivered, issued for delivery, or renewed on and after July 1, 2004. They are not applicable to short-term travel, accident-only, limited, or specified disease policies, or to short-term nonrenewable policies of not more than six months' duration. This bill is identical to HB 619.

*Patron - Puckett*

: **SB291 Health insurance; notice of change in provider reimbursement rates.** Requires insurers issuing individual or group accident and sickness insurance policies

and other carriers using provider panels to provide written notification to health care providers at least 30 days prior to a change in the rates or fees that will be paid to providers for health care services.

*Patron - O'Brien*

: **SB376 Motor vehicle insurance policies; assessment for State Police Training and Retention Fund.** Imposes an assessment on insurers in an amount of one percent of the direct premium income from motor vehicle insurance policies. The bill also establishes the State Police Training and Retention Fund, into which the assessments will be deposited. Moneys in the Fund will be used to create and support programs for the training and retention of state police officers.

*Patron - Deeds*

: **SB433 Property and casualty insurance; windstorm coverage.** Authorizes the Virginia Property Insurance Association (VPIA) to issue windstorm or windstorm and hail insurance policies. The bill also authorizes property insurers underwriting in the voluntary market of Virginia's coastal areas to exclude (in new policies only) from coverage on owner-occupied dwellings any losses resulting from windstorm or windstorm and hail, provided the insurer (i) issues premium credits for such exclusions and (ii) furnishes written disclosures to insureds describing the exclusions and informing insureds that coverage for windstorm or windstorm and hail can be obtained through the VPIA. This bill is identical to HB 439.

*Patron - Wagner*

: **SB594 Health insurance; mandated coverage for prescription contraceptives.** Requires health insurers, corporations providing accident and sickness subscription contracts, and health maintenance organizations, whose policies, contracts, or plans include prescription drugs on an outpatient basis, to include coverage for any prescribed drug or device approved by the United States Food and Drug Administration for use as a contraceptive. This bill is identical to HB 469.

*Patron - Howell*

: **SB662 Mandated health insurance benefits.** Places a five-year moratorium on new health insurance mandates. This bill is identical to HB 1362.

*Patron - Martin*

: **SB679 State-mandated health insurance; Consumer Choice Benefits Plans.** Permits companies offering accident or sickness insurance policies or plans to offer a policy or plan that does not offer or provide all of the existing state-mandated health benefits. Each insurer or health maintenance organization providing such a benefits plan must provide a written disclosure, that must be signed by the prospective or current insured. Any plan must include payment to dentists and certain other health care providers for covered services; coverage of cancer screenings; the prohibition against discrimination; the certificate of quality assurance requirements; coverage of newborn, adopted, and dependent children; coverage of mental health and substance abuse services; coverage for diabetes; and the option relating to conversion coverage. This bill is identical to HB 935.

*Patron - Martin*

## Carried Over

**7 HB195 Insurance; health maintenance organizations; chiropractors.** Requires health maintenance organizations to cover the services provided by a chiropractor if the chiropractor is authorized by law to provide the services in the

Commonwealth and the services are covered under the enrollee's evidence of coverage.

*Patron - Black*

**7 HB222 Insurance; dental service plans; managed care health insurance plans.** Provides that health care services do not include dental services, and that dental service plans do not constitute managed care health insurance plans.

*Patron - Hargrove*

**7 HB266 Health insurance; prescription drug coverage; payments to providers.** Requires each insurer, corporation, or health maintenance organization whose insurance policy, contract, or plan includes outpatient prescription drug coverage to pay a prescription benefit provider by electronic funds transfer or automated clearinghouse transfer within 30 days of receipt of a claims transmission from the prescription benefit provider. The payment by the insurer, corporation, or health maintenance organization shall be made to an account designated by the prescription benefit provider or its authorized representative. Prior to payment, the insurer, corporation, or health maintenance organization shall provide documentation to the prescription benefit provider of the claims payment information identifying the individual claims that are included in the payment. The claims payment information shall be in a format mutually agreed to by the insurer, corporation, or health maintenance organization and the prescription benefit provider, and shall comply with the Health Insurance Portability and Accountability Act of 1996.

*Patron - Morgan*

**7 HB469 Health insurance; mandated coverage for prescription contraceptives.** Requires health insurers, corporations providing accident and sickness subscription contracts, and health maintenance organizations, whose policies, contracts, or plans include prescription drugs on an outpatient basis, to include coverage for any prescribed drug or device approved by the United States Food and Drug Administration for use as a contraceptive. This bill is identical to SB 594.

*Patron - Van Yahres*

**7 HB607 Homeowners insurance; hurricane deductibles.** Authorizes insurers that write policies insuring owner-occupied dwellings to include a separate deductible applicable to damage caused by a hurricane. However, such deductible shall apply only when the measured wind velocity, at the time of the damage, exceeds 74 miles per hour where the damaged property was located, as determined by the National Weather Service's office in Wakefield, Virginia. The bill does not prohibit an insurer from including a deductible applicable to damage caused by wind not otherwise related to a hurricane.

*Patron - Gear*

**7 HB619 Health insurance; mandated coverage for infertility treatment.** Requires the state health plan, health insurers, health maintenance organizations and corporations providing accident and sickness subscription contracts to provide coverage for the treatment of infertility. The bill's provisions are applicable to policies, plans, and contracts delivered, issued for delivery, or renewed on and after July 1, 2004. They are not applicable to short-term travel, accident-only, limited, or specified disease policies, or to short-term nonrenewable policies of not more than six months' duration. This bill is identical to SB 255.

*Patron - Carrico*

**7 HB814 Insurance; homeowners; cancellation or nonrenewal; claims inquiries.** Prohibits an insurer from canceling or refusing to renew homeowners insurance policies

based solely on inquiries from insureds about potential claims for covered damages.

*Patron - Eisenberg*

**7 HB833 Homeowners insurance; cancellations.** Prohibits the cancellation of a policy of insurance on an owner-occupied dwelling when such policy is issued prior to closing and the decision to cancel is based solely on information obtained from the Comprehensive Loss Underwriting Exchange or credit information contained in a consumer report. The bill also requires an insurer to make a decision as soon as practicable regarding insurance on an owner-occupied dwelling that is being purchased and, if approved, issue a binder for such coverage and not delay closing the purchase of the dwelling.

*Patron - Drake*

**7 HB882 Insurance; disclosures; class of business.** Requires all health insurance issuers offering for sale any health benefit to employers to disclose to an employer the class of business, individual or group, for which it has been approved. For consistency with other disclosure provisions, the bill requires health insurance issuers who sell to small employers to provide a description of the plans and the benefits and premiums available under all health benefit plans for which the small employer is qualified.

*Patron - Plum*

**7 HB935 State-mandated health insurance; Consumer Choice Benefits Plans.** Permits companies offering accident or sickness insurance policies or plans to offer a policy or plan that does not offer or provide all of the existing state-mandated health benefits. Each insurer or health maintenance organization providing such a benefits plan must provide a written disclosure, that must be signed by the prospective or current insured. Any plan must include payment to dentists and certain other health care providers for covered services; coverage of cancer screenings; the prohibition against discrimination; the certificate of quality assurance requirements; coverage of newborn, adopted, and dependent children; coverage of mental health and substance abuse services; coverage for diabetes; and the option relating to conversion coverage. This bill is identical to SB 679.

*Patron - Marshall, D.W.*

**7 HB1016 Group accident and sickness insurance coverage.** Allows coverage under a group accident and sickness insurance policy to be extended to insure any person who the insured group member elects, provided such extension of coverage is agreed to by the insurer and the group policyholder. The bill also specifically authorizes coverage under such group policies to be extended to children of the insured group member who are older than 19, or 25 if a full-time student, as may mutually be agreed upon by the insurer and group policyholder. Currently, group policy coverage may be extended only to the insured group member's spouse and children under 19, or dependent children under 25 who are full-time students.

*Patron - Dillard*

**7 HB1019 Homeowners insurance; grounds for nonrenewals.** Prohibits an insurer or agent from refusing to renew a homeowner's insurance policy solely because of a claim resulting primarily from other than natural causes, unless the claim is related to a substantial increase in the risk of loss that the insurer assumed under the policy. Currently, an insurer may not refuse to renew a policy due to claims resulting primarily from natural causes, but may do so for claims resulting primarily from any other cause.

*Patron - Dillard*

**7 HB1196 Insurance; medical expense coverage; intoxicants and narcotics.** Provides that medical expense policies issued, delivered, renewed or extended on or after July 1, 2004, shall not include a provision providing that insurers will not be liable for any loss resulting from the insured's being intoxicated or under the influence of any narcotic unless taken on the advice of a physician. Policy exclusions prohibiting coverage as the result of impairment due to intoxicants or narcotics shall not be included in such policies.

*Patron - Scott, J.M.*

**7 HB1216 Health insurance; mandated coverage for treatment of inborn errors of metabolism.** Requires health insurers, health care subscription plans, and health maintenance organizations to provide coverage for treatment of inborn errors of metabolism that involve amino acid, carbohydrate, and fat metabolism and for which medically standard methods of diagnosis, treatment, and monitoring exist.

*Patron - Landes*

**7 HB1362 Mandated health insurance benefits.** Places a five-year moratorium on new health insurance mandates. This bill is identical to SB 662.

*Patron - Marshall, D.W.*

**7 HB1416 Health insurance; pharmacies; freedom of choice.** Prohibits insurers from imposing upon pharmacies terms or conditions that are not equally required of all pharmacies in the Commonwealth, whether or not such benefits are furnished by pharmacists who are nonpreferred providers. The bill also prohibits insurers from requiring any payment, compensation, or reimbursement structure that results in, or would tend to result in: (i) discrimination in price or services to be rendered; or (ii) direct or indirect discrimination by the insurer, where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly. Insurers are also prohibited from directly or indirectly paying or accepting incentives between or among the insurer, the insurer's pharmacy benefit manager, or a pharmacy in a manner that would be a violation of state or federal law. Requiring or inducing a person receiving pharmacy benefits to use a mail order pharmacy for maintenance medications is also prohibited unless the pharmacy has not agreed to accept reimbursement for such services at the same rates, terms, and conditions that are applicable to mail order pharmacies.

*Patron - Nutter*

**7 HB1417 Insurance; unfair settlement practices.** Requires an insurer to pay the estate of a deceased insured 125 percent of a claim settlement if the insurer fails to pay a claim within a reasonable time when liability has become reasonably clear, and the insured dies. A "reasonable time" is defined as one year or sooner.

*Patron - Pollard*

**7 HB1455 Health insurance; pharmacies; freedom of choice.** Prohibits insurers from imposing upon pharmacies nonprice terms or conditions that are not equally required of all pharmacies in the Commonwealth, whether or not such benefits are furnished by pharmacists who are nonpreferred providers. The bill also prohibits insurers from requiring any payment, compensation, or reimbursement structure that results in, or would tend to result in: (i) discrimination in price or services to be rendered; (ii) the artificial depression of prices to be paid, or proposed to be paid, to a pharmacy providing pharmaceutical benefits; (iii) the establishment or unilateral change of reimbursement rates to a pharmacy that are below such pharmacy's costs or prevailing market rates; or (iv) direct or indirect discrimination by the insurer, where the effect of

such discrimination may be substantially to lessen competition or tend to create a monopoly, or to injure, destroy, or prevent competition in the practice of pharmacy. Insurers are also prohibited from directly or indirectly paying or accepting rebates, discounts, or other forms of disclosed or undisclosed incentives between or among the insurer, the insurer's pharmacy benefit manager, or a pharmacy in a manner that would be a violation of state or federal law. Requiring or inducing a person receiving pharmacy benefits to use a mail order pharmacy for maintenance medications is also prohibited unless the pharmacy selected by such person has not agreed to accept reimbursement for such services at the same rates, terms, and conditions that are applicable to mail order pharmacies that have one or more contracts with the insurer.

*Patron - Athey*

**7 SB309 Medical malpractice joint underwriting association.** Requires, by January 1, 2005, the State Corporation Commission to activate a joint underwriting association for the members of any class, type, or group of providers of health care who, between January 1, 2003, and January 1, 2004, have not been covered for any period of time by reason of insolvency of their previous carrier or cannot purchase or cannot afford to purchase medical malpractice insurance in the voluntary market. The Commission will establish criteria to determine the eligibility of any such class, type, or group of providers of health care to obtain coverage under the joint underwriting association.

*Patron - Hawkins*

**7 SB401 Virginia Medical Malpractice Joint Underwriting Association.** Establishes the Virginia Medical Malpractice Joint Underwriting Association, which will provide a market for medical malpractice insurance for any provider of health care that cannot otherwise obtain insurance in a form and at a premium acceptable to the provider. On or before September 30, 2004, the directors of the association must submit a plan of proposed operation to the State Corporation Commission for its approval. The bill eliminates the requirements for the establishment of a stabilization reserve fund and the reserve fund charge. The bill allows the Association's rates to include a premium surcharge based on past and prospective loss and expense experience.

*Patron - O'Brien*

**7 SB650 Health insurance; exclusion for prophylactic surgical procedures for difficult-to-diagnose pathologies; genetic predisposition.** Prohibits health insurers, corporations providing accident and sickness subscription contracts, and health maintenance organizations from refusing to provide coverage for prophylactic surgical procedures and medical services directly related thereto, in cases where the covered person's treating physician has determined that the person has a genetic factor or family history indicating a predisposition to a difficult-to-diagnose pathology, the risks to the covered person of developing the difficult-to-diagnose pathology as a result of such person's predisposition render such services medically appropriate, and coverage for treatment of the difficult-to-diagnose pathology would be provided under the terms of the policy, contract or plan if the difficult-to-diagnose pathology has been diagnosed. A difficult-to-diagnose pathology is a disease that is asymptomatic or otherwise not susceptible to diagnosis until reaching a stage at which the likelihood of successful treatment is significantly less than it would be had the treatment been performed when the disease was asymptomatic or not susceptible to diagnosis. A prophylactic surgical procedure is a surgical procedure that is performed prior to the diagnosis of or presentation of symptoms of a difficult-to-diagnose pathology, in order to prevent, eliminate or

reduce the likelihood of the development of the difficult-to-diagnose pathology.

*Patron - Deeds*

## Juvenile Justice

### Passed

**D HB234 Department of Juvenile Justice; additional duties of the Director.** Provides for the Director of the Department of Juvenile Justice to coordinate with the Department of Corrections the development and submission of requests for compensation from the United States Department of Justice State Criminal Alien Assistance Program for costs associated with incarcerating undocumented aliens.

*Patron - Cox*

## Labor and Employment

### Passed

**D HB472 Payment of wages and salaries; prepaid debit cards.** Eliminates the requirement that payments of wages by prepaid debit cards be deposited into a trust account. Payments of wages by credit to prepaid debit cards or card accounts are specifically authorized, provided the employee affirmatively consents and the employer discloses any applicable fees.

*Patron - Nixon*

**D HB687 Commissioner of Labor and Industry.** Provides that any reference to the Commissioner of Labor and Industry shall include his authorized representatives, except where the context clearly indicates the contrary. The bill allows the Commissioner to appoint a designated representative to carry out functions assigned to the Commissioner. Under current law, the Commissioner can appoint designated representatives in the occupational safety and health area, but his ability to make such appointments in other areas is not explicit.

*Patron - Morgan*

**D SB136 Department of Labor and Industry; disclosure of information.** Directs licensed emergency medical services agencies to release to the Commissioner of the Department of Labor and Industry, or his designee, certain prehospital patient care reports when such records are requested for a patient who has suffered an injury, disability, or death resulting from an accident or illness while engaged in his employment. The Commissioner shall only disclose such information in compliance with federal regulations and the Health Insurance Portability and Accountability Act of 1996.

*Patron - Lambert*

### Failed

**: SB22 Labor; minimum wage.** Establishes the state minimum wage at \$6.50 per hour. Under current law, employers are required to pay a wage not less than the federal minimum wage and a training wage prescribed by the Fair Labor Standards Act. The federal minimum wage presently is \$5.15 per hour.

*Patron - Miller*

: **SB27 Parental leave for school involvement.** Requires employers to permit employees, who are parents or guardians of, or who stand in loco parentis to, a school-aged child, to take up to four hours of leave annually in order to attend or otherwise be involved in the child's school. The employer and employee must mutually agree to the time for the leave, the leave need not be compensated, and the employer may require both 48-hours advance notice of the leave and written verification from the school of the employee's involvement in the school.

*Patron - Potts*

: **SB428 Minimum wage.** Prohibits any public body from requiring an employer, or his subcontractor, that contracts to provide goods or services to the public body, to pay its employees a minimum wage that exceeds the federal minimum wage.

*Patron - Wagner*

: **SB475 Employment discrimination; prior convictions.** Prohibits discrimination in employment on the grounds that an individual has been convicted of one or more criminal offenses, unless the criminal conviction relates directly to the occupation or profession for which employment is sought.

*Patron - Ticer*

## Carried Over

**7 HB526 Department of Workforce Development.** Creates the Department of Workforce Development, which reports to the Secretary of Commerce and Trade. The Department will serve as the administrator and fiscal agent for the Workforce Development Program, which program includes nearly every federal and state workforce training program and resource available to the Commonwealth and now being administered within several different state agencies. The Department's responsibilities include serving as liaison for workforce training within state government; working with the Virginia Workforce Council to develop uniform policies and procedures for the one-stop centers and evaluate the performance of local workforce investment boards; and monitoring federal legislation and policy in order to maximize the effective use of program funds. The state agencies now administering the various workforce development programs that will be consolidated under the Department are to transfer staff and funding from their respective administrations. The Governor is authorized to transfer appropriations and support other organizational changes as required by the bill. The provisions creating the department and transferring to it both responsibility for administering the Workforce Investment Act programs and for assisting the Virginia Workforce Council become effective December 1, 2004. The balance of the bill's provisions become effective July 1, 2005.

*Patron - Hogan*

## Libraries

### Passed

**D HB1085 State Library Board.** Provides that certain libraries serving a population of greater than 13,000 shall not use funds derived from any state aid to employ a librarian who does not meet the qualification for holding a professional

librarian position. Currently the prohibition applies to all public funds.

*Patron - Scott, E.T.*

### Failed

: **HB189 Children's Internet Protection; public libraries.** Requires the library board or governing body of a library to select a technology for its computers that are accessible to children and have Internet access to filter or block Internet access through such computers to child pornography, obscenity and materials deemed harmful to juveniles as defined in Title 18.2. For adult use, this bill only requires operation of this technology at the request of the patron. This bill also requires the library board or governing body to certify compliance with these provisions to the Librarian of Virginia along with the filing of the acceptable use policy, which is already required. The provisions of this bill become effective upon certification by the Librarian of Virginia that a technology exists that complies with this section without violating the constitutional principles enunciated by the courts. See e.g., *United States v. American Library Assn*, 123 S. Ct. 2297 (2003); *Erznoznik v. City of Jacksonville*, 422 U.S. 205 (1975); *Ginsberg v. New York*, 390 U.S. 629 (1968); *American Library Association v. United States*, 201 F. Supp. 2d 401 (E.D. Pa. 2002); and *Mainstream Loudoun v. Board of Trustees of the Loudoun County Library*, 24 F.Supp.2d 552 (E.D. Va. 1998). This bill is incorporated into HB 475.

*Patron - Black*

: **HB475 Technology protection measures; public libraries.** Requires the library board or governing body of a library that receives state funding for any purpose to include in its acceptable use policy for the Internet provisions on selecting and installing on those computers that have Internet access a technology protection measure to filter or block Internet access through such computers to child pornography as set out in § 18.2-374.1:1, obscenity as defined in § 18.2-372 and, with respect to minors, materials deemed harmful to juveniles as defined in § 18.2-390. The bill also requires the library board or governing body to actually select and install the technology protection measure.

*Patron - Nixon*

: **HB1077 State Library Board; certification of library directors.** Requires the State Library Board to establish criteria for the certification of library directors to head local and regional public libraries. Such criteria shall consist of the following combination of training, education or experience credentials: (i) a masters degree in library science or equivalent degree from an accredited college or university, (ii) a masters degree in History, English, Information Services or any equivalent field relevant to library or archival science combined with a minimum of one year of work experience as an employee or volunteer in a library or archival institution in a position requiring knowledge of books and library sciences, or (iii) a minimum of seven years of work experience as an employee or volunteer in a library or archival institution in a position requiring knowledge of books and library sciences. The bill also provides for the State Library Board to issue provisional certifications under certain circumstance and to establish continuing education requirements for periodic renewal of certification of library directors. The bill contains technical amendments.

*Patron - Parrish*

: **SB205 State Library Board; qualifications for professional librarians.** Replaces the terms "librarian" and "professional librarian" with the term "library director." The

bill also provides that a library director shall be a graduate of (i) any accredited library school, (ii) a school of library science accredited by the American Library Association, or (iii) a master's degree program of an accredited college or university with the total education program and a minimum of five years library work experience in a position requiring a knowledge of books and library technique. Currently, work experience is not included and educational qualifications are limited to either graduation from any accredited library school or a school of library science accredited by the American Library Association.

*Patron - Quayle*

**: SB519 State Library Board; certification of library directors.** Requires the State Library Board to establish criteria for the certification of library directors to head local and regional public libraries. Such criteria shall consist of the following combination of training, education or experience credentials: (i) a masters degree in library science or equivalent degree from an accredited college or university, (ii) a masters degree in History, English, Information Services or any equivalent field relevant to library or archival science combined with a minimum of one year of work experience as an employee or volunteer in a library or archival institution in a position requiring knowledge of books and library sciences, or (iii) a minimum of seven years of work experience as an employee or volunteer in a library or archival institution in a position requiring knowledge of books and library sciences. The bill also provides for the State Library Board to issue provisional certifications under certain circumstance and to establish continuing education requirements for periodic renewal of certification of library directors. The bill contains technical amendments.

*Patron - Hanger*

## Carried Over

**7 HB890 Public libraries; state grants to improve standards.** Provides that state aid to libraries or systems serving a population in excess of 600,000 shall receive 30 cents per capita. Currently, this amount is set at 10 cents.

*Patron - Sickles*

**7 SB483 Technology; required protection measures; public libraries.** Requires the library board or governing body of a library that receives state funding for any purpose to include in its acceptable use policy for the Internet provisions requiring the selection and installation on those computers that have Internet access a technology protection measure to filter or block Internet access through such computers to child pornography as set out in § 18.2-374.1:1, obscenity as defined in § 18.2-372 and, with respect to minors, materials deemed harmful to juveniles as defined in § 18.2-390. The bill also requires the library board or governing body to actually select and install the technology protection measure.

*Patron - Obenshain*

## Mechanics' and Certain Other Liens

### Passed

**D HB220 Mechanic's lien; keeper of garage, hanger or marina.** Increases the maximum lien for repairs or alterations made at the request of the owner of the boat, air-

craft, or vehicle that the keeper of the garage, hanger or marina shall have from \$625 to \$800.

*Patron - Hargrove*

**D HB1119 Salvage and nonrepairable vehicles.** Streamlines the process by which salvage and nonrepairable vehicle can be disposed of.

*Patron - Weatherholtz*

**D HB1410 Mechanic's lien; attachment to easement.** Clarifies that any mechanic's lien associated with work or materials furnished relative to an easement shall attach only to that easement and not to fee simple title to the real estate.

*Patron - Armstrong*

## Carried Over

**7 SB207 Real estate appraisers; lien for performance of appraisal.** Provides that every real estate appraiser who performs an appraisal on any land, building, structure, or improved-upon land, under a written contract with the owner or his agent, shall have a lien upon the land, building, structure or improvement to the extent of the agreed contract price or a reasonable price for those services. Under the bill, a lien does not attach to the land, building, structure, or improvement unless it is recorded in the appropriate clerk's office. The bill also provides that the recorded lien shall be enforced in the same manner as a mechanic's or contractor's lien.

*Patron - Quayle*

**7 SB296 Mechanics' liens; towing.** Ties mechanics' liens for towing and storage to provisions of § 46.2-1231 relating to requirements for posting of certain signs, providing and keeping copies of certain notices in connection with towing of trespassing vehicles. The bill also provides for recovery of damages (treble damages in cases of willful violations) by persons whose vehicles are illegally towed away as "trespassing vehicles" and regulation of "towing operators" by the Department of Motor Vehicles.

*Patron - O'Brien*

## Military and Emergency Laws

### Passed

**D HB11 Board of Military Affairs.** Abolishes the Board of Military Affairs. The Board was created in 1930 to advise the Governor and the Adjutant General on military affairs. The need for the Board to meet has diminished since the creation of the Public Safety Secretariat and, during the past seven years, the Board has been completely inactive. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Cox*

**D HB415 Emergency Services and Disaster Law; annual statewide drill.** Requires the Governor to conduct an annual statewide drill on response to a large-scale natural disaster. The drill shall include the participation of local governments, affected state agencies, public utilities, law-enforcement agencies, and other entities as determined by the Governor. The bill also provides for the Governor to report to the chairs of the Committee on Militia, Police and Public



Safety and the Senate Committee on General Laws on the results of the drill by December 31 of each year.

*Patron - Lewis*

**D HB618 Military and emergency laws; protection of job security of members of military reserves.** Allows the Attorney General to represent an employee denied the employment protections of §§ 44-93, 44-93.2, 44-93.3 and 44-93.4 when on active state military duty. The provision would make the enforcement provisions parallel to the federal employment protections available to employees on active federal duty where the United States Department of Labor may intercede and refer cases to the United States Attorney General. This bill incorporates HB 481.

*Patron - Carrico*

**D HB873 Municipalities; alert and warning system.** Requires all localities with a population greater than 50,000 to establish an alert and warning system for the dissemination of adequate and timely warning to the public in the event of a warning or threatened disaster. The bill also requires the local governing body to amend its local emergency operations plan to include rules for the operation of its alert and warning plan, which may include outdoor warning sirens, Emergency Alert Systems, NOAA Weather Radios, amateur radio operators, or other personal notification systems that are capable of disseminating adequate and timely warning to the public in the event of an emergency or threatened disaster. The plan must be established by July 1, 2005.

*Patron - Van Landingham*

## Failed

**: HB183 Emergency management; local emergency actions.** Provides that local emergency actions shall carry the force and effect of law if determined that such force is in the interest of public safety. Violations would be punishable as a Class 1 misdemeanor.

*Patron - Oder*

**: HB213 Board of Military Affairs.** Abolishes the Board of Military Affairs. The Board was created in 1930 to advise the Governor and the Adjutant General on military affairs. The need for the Board to meet has diminished since the creation of the Public Safety Secretariat and, during the past seven years, the Board has been completely inactive. This bill is identical to HB 11, which was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Athey*

**: HB481 Military and emergency laws; protection of job security of members of military reserves.** Allows the Attorney General to represent an employee denied the employment protections of §§ 44-93, 44-93.2, 44-93.3 and 44-93.4 when on active state military duty. The provision would make the enforcement provisions parallel to the federal employment protections available to employees on active federal duty where the United States Department of Labor may intercede and refer cases to the United States Attorney General. This bill is incorporated into HB 618.

*Patron - Cole*

## Carried Over

**7 HB313 Office of the Assistant to the Governor for Commonwealth Preparedness.** Directs the Virginia

Emergency Response Council to coordinate with the Office of the Assistant to the Governor for Commonwealth Preparedness to promote security and facilitate preparedness in the Commonwealth.

*Patron - Purkey*

**7 HB1195 Local emergency operations plans.** Requires localities and interjurisdictional emergency management agencies to include written agreements with relevant public or private entities in their emergency operations plan in order to facilitate the effective, safe and efficient coordination of efforts during governor-declared states of emergency. Such agreements shall be made with, but are not limited to, the Virginia Department of Transportation, and owners or operators of electricity, gas, sewer and water facilities serving the locality or interjurisdictional area. The agreements shall include, but are not limited to, the designation of a contact person available on a 24-hour basis, specified times when the public or private entity must have an employee or agent at the local or interjurisdictional emergency operations center, mutual arrangements regarding work to be done in close proximity to high voltage power lines, and other duties and responsibilities of all parties to such agreements. The bill also requires all political subdivisions to annually update their emergency operations plan.

*Patron - Scott, J.M.*

**7 SB693 Emergency services; local authority.** Provides that when the Governor has declared a state of emergency, the power of political subdivisions includes the declaration and enforcement of curfews.

*Patron - Rerras*

## Motor Vehicles

### Passed

**D HB2 Special license plates; expired authorizations.** Repeals authorization for issuance of special license plates that have failed to meet the deadline for receipt of the minimum number of prepaid applications. The affected plates are those for registered nurses, submarine service veterans, the American Red Cross, Fraternal Order of Police Associates, Fraternal Order of Police Auxiliary, Corvette motor vehicle enthusiasts, National Association of Retired Federal Employees, Virginia Federation of Women's Clubs, local government attorneys, the Motorcycle Rider Safety Training Program, the Virginia Statute for Religious Freedom, the Marriage Encounter Movement, retired state employees, the POW/MIA logo, insurance agents, Cold War veterans, Virginia is for Lovers, historic covered bridges, the Leukemia and Lymphoma Society, Seton House, the Interdenominational Children's Foundation of Virginia, the Washington Capitals, the National Motto -- In God We Trust, medical doctors, emergency medical technicians, paramedics, hunter safety instructors, the Police Benevolent Association, Langley Air Force Base, multiple sclerosis, Job's Daughters, the Civilian Conservation Corps, coal mining heritage, teachers, the Children's Hospital of the King's Daughters, military parachutists, and the Izaak Walton League.

*Patron - Landes*

**D HB35 Speed limits.** Adds Clarke, Fauquier, Frederick, Warren, and Wythe to the list of counties within which the maximum speed limit on dirt roads is 35 miles per hour, unless increased or decreased by the Commonwealth Transportation Commissioner. Presently, this provision applies only to Loudoun County.

*Patron - Sherwood*

**D HB38 Special license plates.** Authorizes or reauthorizes issuance of special license plates for supporters of adoption programs offered by the Virginia Department of Social Services and licensed Virginia nonprofit child-placing services, Mothers Against Drunk Driving, Project Lifesaver, the Interdenominational Children's Foundation of Virginia, the Boy Scouts of America, and the Juvenile Diabetes Research Foundation; members and associates of court-appointed special advocate programs; members of the American Legion; commemorating the 200th anniversary of the Town of Occoquan, the 350th anniversary of the County of New Kent, the 150th anniversary of Burke's Station, and the 275th anniversary of the County of Prince William; retired law-enforcement officers; U.S. Navy chief petty officers; bicycle enthusiasts; Langley Air Force Base; professional stock car drivers; persons awarded the Combat Infantryman Badge; and general registrars. The bill incorporates HB 233, HB 254, HB 379, HB 426, HB 427, HB 597, HB 606, HB 634, HB 778, HB 808, HB 923, HB 964, HB 965, HB 1110, HB 1170, HB 1285, HB 1295, and HB 1446.

*Patron - Orrock*

**D HB83 Vehicle registration; vehicles owned by regional jail authorities.** Provides for registration of vehicles owned by regional jail authorities as "local government" vehicles. This bill incorporates HB 172, HB 917, and HB 742.

*Patron - Kilgore*

**D HB85 Motor vehicle safety inspections.** Exempts certain new motor vehicles from initial safety inspections.

*Patron - Cosgrove*

**D HB86 Copying driver's licenses, etc.** Prohibits reproduction by photograph or otherwise of any driver's license, temporary driver's permit, learner's permit, or special identification card issued by the Department of Motor Vehicles (DMV) with the intent to commit an illegal act. Present law prohibits copying without permission of DMV (but makes no mention of illegal acts or special identification cards).

*Patron - Cosgrove*

**D HB87 Mobile infrared transmitters.** Prohibits operation by any person of a motor vehicle on the highways of the Commonwealth when the vehicle is equipped with a mobile infrared transmitter used to preempt or change the signal given by a traffic light. The bill also makes it illegal to sell any of these devices in the Commonwealth, except for uses permitted by the bill. The bill doesn't apply to law-enforcement, fire-fighting, life-saving, or rescue vehicles or ambulances responding to an emergency call or operating in an emergency situation, nor to any vehicle providing public transportation service in a corridor approved for public transportation priority by the Virginia Department of Transportation or the governing body of any county, city, or town having control of the highways within its boundaries. The bill incorporates HB 895, HB 366, and HB155.

*Patron - Lingamfelter*

**D HB145 Local motor vehicle taxes and fees.** Allows localities to issue local vehicle licenses (windshield decals) free of charge to active auxiliary members of volunteer fire departments and active auxiliary members of volunteer rescue squads.

*Patron - Orrock*

**D HB180 Odometer reading disclosures.** Exempts owners or transferors of motor vehicles having gross vehicle

weight ratings of more than 16,000 pounds from odometer reading disclosure requirements.

*Patron - Oder*

**D HB232 Sight-seeing carriers; limousine and executive sedan carriers.** Updates an outdated cross-reference to definitions in § 46.2-2000.

*Patron - Hall*

**D HB250 Reckless driving; penalties.** Provides that if a person is convicted of reckless driving while driving on a suspended or revoked operator's license (for a moving violation) and as the sole and proximate cause of his reckless driving, causes the death of another, he is guilty of a Class 6 felony.

*Patron - McQuigg*

**D HB253 Local, prepayable traffic offenses.** Provides that the fine for speeding in certain residential districts that have signs displaying the speed limit is \$200 and can be suspended only if the court orders 20 hours of community service. Under current law the fine can be up to \$200 and there is no reference to community service. The bill also provides that the prepayable fine is \$200 plus an amount per mile-per-hour.

*Patron - McQuigg*

**D HB257 Driver's licenses and learner's permits; renewals; vision examinations.** Provides that no driver's license or learner's permit issued to any person who is 80 years old or older will be renewed unless the applicant for renewal appears in person and either (i) passes a vision examination or (ii) presents a report of a vision examination, made within 90 days prior thereto by an ophthalmologist or optometrist, indicating that the applicant's vision meets or exceeds the standards contained in § 46.2-311. This bill incorporates HB 1197.

*Patron - Jones, D.C.*

**D HB272 Examination of licensees; confidential sources of information.** Adds pharmacists and other licensed medical professionals who are treating the driver or prescribing him medications to those sources of information about a driver's mental and physical capacity that the Department of Motor Vehicles shall keep confidential.

*Patron - Morgan*

**D HB319 Armed forces personnel; expiration of certain licenses, etc.** Provides for extensions of documents (i) issued by the Department of Motor Vehicles (DMV), the DMV Commissioner (except special license plates issued to members of the National Guard), or the Motor Vehicle Dealer Board or (ii) related to the practice of any business, profession, or calling regulated under Title 54.1 of the Code, for citizens of Virginia serving outside Virginia or the United States in the armed forces of the U.S. or the U.S. diplomatic service.

*Patron - Cox*

**D HB340 Trailer dealers.** Exempts from licensure as trailer dealers persons dealing solely in utility/cargo trailers that weigh no more than 3,000 pounds. This bill contains an "emergency clause" and becomes effective on its passage.

*Patron - Pollard*

**D HB346 Abandoned vehicles.** Provides that when a manufactured home or a mobile home is found abandoned on somebody else's property, the owner or person having a security interest in the abandoned manufactured home or mobile home has 120 days (instead of 30 days) to reclaim the vehicle before the owner of the property on which the manufactured home or mobile home was found abandoned can apply to the

Department of Motor Vehicles to get his own title to the abandoned manufactured home or mobile home.

*Patron - Cosgrove*

**D HB429 Utility trailers; study.** Requires that either two or more reflectors of a type approved by the Superintendent of State Police or at least 100 square inches of solid reflectorized material be affixed to the rear end of every trailer that has an unloaded weight of 3,000 pounds or less. The reflectors or reflective material must be applied so as to outline the rear end of the trailer.

*Patron - Reid*

**D HB453 Motor vehicle dealers.** Repeals the provision of § 46.2-1500 that exempts persons who sell and distribute fire-fighting equipment, ambulances, and funeral vehicles from having to be licensed as motor vehicle dealers. The amendment to § 46.2-733 amends a cross-reference to a renumbered subdivision in § 46.2-1500. The bill becomes effective January 1, 2005.

*Patron - McQuigg*

**D HB477 Motorcycle learner's permits.** Allows persons to operate motorcycles under a motorcycle learner's permit if accompanied by a person providing immediate supervision from an accompanying motor vehicle (instead of motorcycle). It also allows nighttime operation and operation on limited access highways. Operation while under supervision of someone who is not licensed to operate a motorcycle is disallowed.

*Patron - Nixon*

**D HB532 Motorcycle rider safety training centers.** Provides for licensure of motorcycle rider safety training centers, instructors, etc., by the Department of Motor Vehicles.

*Patron - Stump*

**D HB552 Operation of bicycles and similar vehicles.** Requires the driver of any vehicle overtaking another vehicle (whether a "motor vehicle" or not) proceeding in the same direction to pass at least two feet to the left of the overtaken vehicle. The bill also allows a person operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped to signal a right turn or pull to the right by extending the right hand and arm in a horizontal position straight from and level with the shoulder beyond the right side of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped, and may signal slowing down or stopping by extending the right arm downward. Additionally, the bill allows persons riding bicycles, electric personal assistive mobility devices, or electric power-assisted bicycles on a highway to ride two abreast if they do not impede the flow of traffic. Helmets required by local ordinances for persons riding bicycles, electric personal assistive mobility devices, or electric power-assisted bicycles on the highway must at least meet the Consumer Product Safety Commission standard. Persons using roller skates or skateboards or riding toys or other devices on wheels or runners on the highways (except bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, and motorcycles) must keep as near as safely practicable to the far right side or edge of the right traffic lane so that they will be proceeding in the same direction as other traffic. It also provides that every bicycle, electric personal assistive mobility device, electric power-assisted bicycle, and moped, when in use between sunset and sunrise, must be equipped with a headlight on the front that emits a white light visible in clear weather from a distance of at least 500 feet and a red reflector visible from a distance of at least 600 feet when directly in front of

lawful lower beams of headlights on a motor vehicle. This bill is identical to SB 252.

*Patron - Hargrove*

**D HB556 Amber warning lights on rural mail delivery vehicles.** Allows rural mail delivery vehicles to display at least one flashing amber warning light, mounted on the roof of the vehicle, in close proximity to a sign with the words "U.S. Mail." For additional safety, a flashing amber warning light may be mounted on the rear of the vehicle to be used in conjunction with rear-mounted "U.S. Mail" signs, but use of such a rear-mounted light is not required.

*Patron - Hargrove*

**D HB557 Driving after forfeiture of license for DUI conviction.** Clarifies which penalty provisions apply for driving on a suspended or revoked license or in violation of the terms of a restricted license.

*Patron - Sherwood*

**D HB564 Passenger cars with nitrous oxide-supplied engines.** Prohibits operation on the public highways of motor vehicles whose engines are supplied with nitrous oxide. Violations constitute Class 3 misdemeanors (fine up to \$500).

*Patron - Albo*

**D HB592 Failing to pay for motor fuel; penalty.** Clarifies that any person who intentionally drives away without paying for motor fuel may be prosecuted for larceny, in addition to the \$100 civil penalty.

*Patron - Janis*

**D HB593 Penalties for aggressive driving.** Allows the court to suspend the driver's license of and issue a restricted license to a person convicted of aggressive driving.

*Patron - Janis*

**D HB608 Antique trailers.** Provides for the registration of antique trailers in the same manner presently provided for the registration of antique motor vehicles. The bill also explicitly authorizes towing of trailers by antique motor vehicles.

*Patron - Gear*

**D HB658 Damaging signs.** Makes it a Class 1 misdemeanor (jail for up to 12 months and/or a fine up to \$2,500) to deface, damage, knock down, or remove any street address sign posted to assist in address identification in connection with enhanced 9-1-1 service.

*Patron - Bell*

**D HB676 Revocation of license for multiple convictions of driving while intoxicated.** Clarifies language regarding administrative license revocation for multiple DUI offenses to eliminate an apparent requirement that a "second offense" or "third offense" be proven for the revocation to occur. The intended effect of new wording is to accomplish revocation for multiple "first offenses," i.e., those cases where the Commonwealth was unable to or did not prove that the defendant had a prior offense.

*Patron - Bell*

**D HB677 Parking on secondary system highways.** Allows the governing bodies of Fairfax, James City, Loudoun, Montgomery, Prince George, Prince William, and York Counties by ordinance to restrict or prohibit parking on secondary highways within their boundaries. Current law requires approval of these actions by the Commonwealth Transportation Board.

*Patron - Rapp*

**D HB721 Parking.** Allows towns in Fairfax County the same power as the County to regulate or prohibit parking of certain vehicles. This bill is identical to SB 273.

*Patron - Shannon*

**D HB774 Driving while license, permit, or privilege to drive suspended or revoked.** Provides that mandatory minimum punishment for a third or subsequent offense of driving on a suspended license applies only if such offense occurs within 10 years of the first offense. The bill also revises existing language in an attempt to clarify, without changing the intent of the law.

*Patron - McDougle*

**D HB777 Traffic lights.** Provides that drivers of vehicles approaching an intersection controlled by traffic lights that are dark because of power failures or similar causes shall proceed as though the intersection were controlled by all-way stop signs.

*Patron - McDougle*

**D HB847 Driver improvement clinics.** Gives the Department of Motor Vehicles (DMV) clear statutory authority to impose penalties for wrongdoing on the part of driver improvement clinic operators and instructors. The bill describes offenses for which DMV may impose suspensions, revocations of clinic and instructor certificates, and gives DMV the ability to impose civil penalties for such offenses. Penalties may be contested using a hearing procedure. The bill also defines and gives DMV express authority to certify computer-based clinic providers.

*Patron - Brink*

**D HB866 Youthful drivers.** Allows foster parents of persons less than 18 years old to certify that they have driven for 40 hours or more, with at least 10 of those hours being at night. Presently, such certification must be made by the applicant's parent or legal guardian.

*Patron - Byron*

**D HB887 Emissions inspections; hybrid vehicles.** Exempts qualified hybrid vehicles from the motor vehicle emissions inspection program.

*Patron - Plum*

**D HB899 Over-the-road operation of golf carts and utility vehicles.** Authorizes limited over-the-road operation of golf carts and utility vehicles and reorganizes present Code provisions dealing, generally, with golf carts and their operation.

*Patron - Wardrup*

**D HB900 Special license plates; "housekeeping."** Makes several "housekeeping" amendments to various statutes relating to special license plates in order to (i) bring greater uniformity issuance of and qualifications for special license plates for persons issued various military decorations and (ii) bring other sections in Article 10 of Chapter 6 of Title 46.2 (Special License Plates) into technical conformity with amendments made in 2003 to § 46.2-725 (special license plates, generally).

*Patron - Wardrup*

**D HB993 Penalties for racing.** Provides that causing serious bodily injury to another while racing a motor vehicle in a manner that shows a reckless disregard for human life is a Class 6 felony. The bill also requires seizure and forfeiture of a

convicted person's vehicle and surrender of the person's driver's license for one to three years.

*Patron - Hugo*

**D HB1002 Distribution of the "four for life" fund.** Revises the formula for distribution of the \$4 per year that is charged and collected for registration of motor vehicles.

*Patron - Orrock*

**D HB1120 Mopeds.** Requires all moped drivers to have identification that includes their name, address, and date of birth. Violations are punishable by a fine of no more than \$50.

*Patron - Weatherholtz*

**D HB1136 Administrative license revocation.** Provides that when a person is arrested or summonsed for a DUI offense, the period of administrative license revocation shall be seven days for a first alleged offense, 60 days or time of trial, whichever occurs first, for a second alleged offense and time of trial for a third or subsequent alleged offense. Under current law, the suspension period is seven days in all cases.

*Patron - McDonnell*

**D HB1305 International Fuel Tax Agreement (IFTA).** Establishes the violations and penalties for interstate motor carriers operating in Virginia without proper registration and identification markers as required by the IFTA. The bill also provides who may be cited for violations and authorizes the seizure of vehicles when an interstate motor carrier fails to satisfy a judgment.

*Patron - Parrish*

**D HB1312 Specialized mobile equipment.** Allows transportation on specialized mobile equipment of safety equipment, including but not limited to highway traffic safety cones, to be used on a job site.

*Patron - May*

**D HB1335 Colored warning lights.** Authorizes certain Department of Military Affairs vehicles and Virginia National Guard vehicles, as designated by the Adjutant General, when used in state active duty service to perform particular law-enforcement functions, to be equipped with flashing, blinking, or alternating blue, blue and red, blue and white, or red, white, and blue combination warning lights of types approved by the Superintendent. Presently, use of these lights is limited to Department of Corrections vehicles designated by the Director of the Department of Corrections and law-enforcement vehicles.

*Patron - Spruill*

**D HB1346 Lane restrictions for certain commercial motor vehicles on certain highways.** Requires that, on Interstate Route 81, commercial motor vehicles not use the left-most lane. The bill also requires that commercial motor vehicles keep to the right-most lane when operating at a speed of 15 miles per hour or more below the posted speed limit on an interstate highway with no more than two lanes in each direction.

*Patron - Saxman*

**D HB1383 Access to DMV records.** Provides for access to records of the Department of Motor Vehicles (DMV) for authorized representatives of insurance companies or of any not-for-profit entities organized to prevent and detect insurance fraud, conduct claims investigations, or perform rating and underwriting activities. No such information shall be

used for solicitation of sales, marketing, or other commercial purposes.

*Patron - McDougle*

**D HB1423 Dealer's manual transaction fee.** Increases from 10 per month to 20 per month the number of manual transactions that may be conducted by a dealer with the Department of Motor Vehicles without incurring an additional fee. The bill is effective on its passage, but expires on January 1, 2006.

*Patron - Stump*

**D HB1425 Motor vehicle safety inspection stations.** Requires each motor vehicle safety station to have garage liability insurance in the amount of at least \$500,000 with an approved surplus lines carrier or an insurance company licensed to write such insurance in this Commonwealth.

*Patron - Phillips*

**D HB1445 School crossing guards.** Requires school crossing guards to whom hand-held stop signs are supplied by their local school divisions to use them to control traffic at school crossings.

*Patron - Howell, A.T.*

**D SB21 Special license plates; Senate omnibus.** Authorizes or reauthorizes special license plates for the 200th anniversary of the Town of Occoquan, the POW/MIA logo, supporters of Virginia agriculture, the 275th anniversary of the County of Prince William, supporters of the Blue Ridge Parkway Foundation, organ donor programs, barbershop quartet singing enthusiasts, supporters of the Washington D.C. United soccer team, supporters of the Canine Health Foundation, and supporters of children with special needs. The bill incorporates SB 52, SB 53, SB 360, SB 340, SB 258, SB 41, SB 42, SB 16, and SB 445.

*Patron - Puller*

**D SB101 Pedestrians.** Allows the governing body of towns in Loudoun County to provide by ordinance for the installation and maintenance of highway signs at marked crosswalks specifically requiring operators of motor vehicles, at the locations where such signs are installed, to yield the right-of-way to pedestrians crossing or attempting to cross the highway. The bill incorporates SB 451.

*Patron - Devolites*

**D SB107 Release of personal data by the Department of Motor Vehicles to toll facility operators and toll technology entities.** Allows the Commissioner of the Department of Motor Vehicles to enter into agreements with private toll facility operators or toll collection technology entities to enable them to obtain from the Department personal information in order to conduct motor vehicle research relating to methods of electronic toll collection.

*Patron - Williams*

**D SB112 Franchised motorcycle dealers.** Requires manufacturers and distributors, in the event of an involuntary discontinuation, cancellation, or nonrenewal of a franchise agreement, to repurchase certain vehicles, parts, and equipment from the dealer.

*Patron - Williams*

**D SB127 Registration of farm vehicles; fees.** Establishes for the purpose of registration of "farm vehicles," what is and what is not a "farm."

*Patron - Watkins*

**D SB148 Release of "Smart Tag" information.** Provides that, with three exceptions, data generated by automated electronic toll-collection systems (such as "Smart Tag") on use of toll facilities by individually identifiable vehicles can only be disclosed when so required by order of a court of competent jurisdiction. The bill also provides for injunctive relief and payment of attorneys' fees for persons aggrieved by violations.

*Patron - Cuccinelli*

**D SB252 Operation of bicycles and similar vehicles.** Requires the driver of any vehicle overtaking another vehicle (whether a "motor vehicle" or not) proceeding in the same direction to pass at least two feet to the left of the overtaken vehicle. The bill also allows a person operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped to signal a right turn or pull to the right by extending the right hand and arm in a horizontal position straight from and level with the shoulder beyond the right side of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped, and may signal slowing down or stopping by extending the right arm downward. Additionally, the bill allows persons riding bicycles, electric personal assistive mobility devices, or electric power-assisted bicycles on a highway to ride two abreast if they do not impede the flow of traffic. Helmets required by local ordinances for persons riding bicycles, electric personal assistive mobility devices, or electric power-assisted bicycles on the highway must at least meet the Consumer Product Safety Commission standard. Persons using roller skates or skateboards or riding toys or other devices on wheels or runners on the highways (except bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, and motorcycles) must keep as near as safely practicable to the far right side or edge of the right traffic lane so that they will be proceeding in the same direction as other traffic. It also provides that every bicycle, electric personal assistive mobility device, electric power-assisted bicycle, and moped, when in use between sunset and sunrise, must be equipped with a headlight on the front that emits a white light visible in clear weather from a distance of at least 500 feet and a red reflector visible from a distance of at least 600 feet when directly in front of lawful lower beams of headlights on a motor vehicle. This bill is identical to HB 552.

*Patron - Deeds*

**D SB259 License plates for certain reconstructed vehicles.** Authorizes use of one rear-mounted license plate on specially constructed vehicles built, reconstructed, restored, preserved, and maintained for historic or hobby interest.

*Patron - Hawkins*

**D SB273 Parking.** Allows towns in Fairfax County the same power as the County to regulate or prohibit parking of certain vehicles. This bill is identical to HB 721.

*Patron - Devolites*

**D SB288 Driver training schools.** Provides the Department of Motor Vehicles with appropriate statutory authority to regulate driver training schools and amend its driver training school regulations.

*Patron - O'Brien*

**D SB345 Commercial driver's licenses; hazmat endorsement.** Authorizes imposition of additional fees for issuance of any hazmat endorsement, in order to off-set costs incurred as the result of provisions of the U.S.A. Patriot Act.

*Patron - Williams*

**D SB350 Local motor vehicle taxes and fees.** Allows localities to issue local vehicle licenses (windshield decals) free of charge to active auxiliary members of volunteer fire departments and active auxiliary members of volunteer rescue squads.

*Patron - Houck*

**D SB362 Disabled parking; license plates.** Provides for the issuance of disabled parking license plates to the parents and legal guardians of persons with physical disabilities that limit or impair their ability to walk.

*Patron - Colgan*

**D SB387 Motor vehicles dealers.** Provides that mobile cranes that exceed the size or weight limitations as set forth in §§ 46.2-1105, 46.2-1110, 46.2-1113, or Article 17 (§ 46.2-1122 et seq.) of Chapter 10 of Title 46.2 (Motor Vehicles) of the Code are not "motor vehicles" for the purpose of sale by persons not licensed as motor vehicle dealers.

*Patron - Williams*

**D SB402 Driver's licenses.** Provides that no driver's license or learner's permit may be issued to any person who is 80 years old or older unless the applicant for renewal appears in person and either (i) passes a vision examination or (ii) presents a report of a vision examination, made within 90 days prior thereto by an ophthalmologist or optometrist, indicating that the applicant's vision meets or exceeds the standards contained in § 46.2-311. This bill is identical to HB 257.

*Patron - O'Brien*

**D SB408 Speed limits.** Provides that the maximum speed limit will be 65 miles per hour on (i) interstate highways, (ii) multi-lane, divided, limited access highways, and (iii) high-occupancy vehicle lanes that are physically separated from regular travel lanes and 60 miles per hour on U.S. Route 360 where it is a nonlimited access, multilane, divided highway.

*Patron - Ruff*

**D SB419 Motor vehicles; failure to pay parking citations.** Repeals the July 1, 2005, "sunset" on the 2003 act that extended the power of the Commissioner of the Department of Motor Vehicles to refuse to renew motor vehicle registrations when an owner of a vehicle owes delinquent parking citations to the locality where it is registered. This act does not apply to rental vehicles.

*Patron - Wagner*

**D SB421 Traffic lights.** Makes noncompliance with traffic light signals a traffic infraction punishable by a fine of no more than \$350.

*Patron - Wagner*

**D SB444 Special license plates; supporters of the Virginia Sheriffs' Institute; fees.** Authorizes issuance of revenue-sharing special license plates to supporters of the Virginia Sheriffs' Institute. The annual fee for these plates will be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 will be paid annually to the Virginia Sheriffs' Institute and used exclusively to memorialize and honor Virginia law-enforcement officers killed in the line of duty.

*Patron - Rerras*

**D SB471 Regulation of parking in certain localities.** Expands the range of vehicles that the counties of Arlington, Fairfax and Prince William (described by form of government) may include in their local ordinances that regulate

the parking of certain vehicles on public highways in residence districts.

*Patron - Ticer*

**D SB499 Reckless driving; license suspension.** Deletes an incorrect Code reference that has existed since the 1974 General Assembly passed the Virginia Driver Improvement Act establishing the uniform demerit point system. The 1974 bill deleted a provision requiring an automatic license revocation for two reckless driving convictions in 12 months; however, a reference to this provision in another section of the Code was not removed.

*Patron - Mims*

**D SB511 Passenger carriers; definition of "minibus."** Increases the number of passengers that can be transported by a "minibus" from 16 to 31.

*Patron - Mims*

## Failed

**: HB5 Possession of open container of alcohol in a motor vehicle; penalty.** Provides that no person shall possess an alcoholic beverage in the passenger area of a motor vehicle upon a public highway of the Commonwealth in other than the manufacturer's unopened, original container. The bill punishes violation with a civil penalty of \$25.

*Patron - Purkey*

**: HB19 Photo-monitoring systems to enforce traffic light signals.** Expands photo-monitoring systems for traffic signal enforcement to all of Virginia instead of specified localities.

*Patron - McQuigg*

**: HB55 Posting of penalties for violations involving transportation of municipal solid waste.** Requires all landfills accepting commercial vehicles carrying municipal solid waste to post the penalties for violating the section of the Code that requires that loads not escape from vehicles and that some loads be covered.

*Patron - Morgan*

**: HB61 Over-the-road operation of farm tractors by certain jail prisoners.** Allows jail prisoners whose licenses, permits, or privileges to operate motor vehicles have been suspended or revoked, under limited circumstances, to engage in over-the-road operation of farm tractors.

*Patron - Louderback*

**: HB92 Vans.** Requires that persons who operate nine-15-passenger vans to transport passengers for or on behalf of any church; school; day care center, program or facility; or any other public or quasi-public entity have a special driver's license endorsement in order to do so. The bill also requires that these vans undergo a safety inspection at least once every six months, instead of once every 12 months. This bill is incorporated into HB 290.

*Patron - Shuler*

**: HB121 Driver's licenses; commercial driver's licenses; learner's permits.** Requires that the Department of Motor Vehicles (DMV) send all licenses and learner's permits (whether originals or renewals) by mail to the licensee's or permittee's address as shown in DMV's records, except for initial driver's licenses issued to youthful licensees by juvenile and domestic relations district court judges under § 46.2-336.

*Patron - Albo*

: **HB122 Driver's license fees; safe-driving brochure.** Imposes an additional fee of \$0.05 on the initial issuance of every driver's license. This money is to be used to produce a safe-driving brochure that will be given to persons 18 years old or younger when they are issued a driver's license or learner's permit.

*Patron - Albo*

: **HB155 Mobile infrared transmitters.** Prohibits operation of motor vehicles equipped with mobile infrared transmitters that are used by emergency vehicles to change traffic light signals so as to afford those emergency vehicles the right of way. The bill does not apply to emergency vehicles responding to emergency calls. The provisions of this bill closely parallel the law (§ 46.2-1079) prohibiting use of radar detectors. This bill is incorporated into HB 87.

*Patron - Van Yahres*

: **HB172 Vehicle registration; vehicles owned by regional jail authorities.** Provides for registration of vehicles owned by regional jail authorities as "local government" vehicles. This bill is incorporated into HB 83.

*Patron - Johnson*

: **HB233 Special license plates; general registrars.** Relocates authorization of issuance of special license plates for general registrars from § 46.2-746.9 to § 46.2-737. The effect of this change is to exempt these plates from the requirement for submission of at least 350 prepaid applications prior to issuance.

*Patron - Cox*

: **HB251 Motor vehicle storage charges.** Provides that charges for storage and safekeeping of a motor vehicle for 24 hours or less shall not exceed charges imposed for one day.

*Patron - McQuigg*

: **HB254 Special license plates; 200th anniversary of the Town of Occoquan.** Authorizes issuance of special license plates commemorating the 200th anniversary of the Town of Occoquan. The provisions of this bill are also contained in SB 21 (Puller).

*Patron - McQuigg*

: **HB255 Use of certain wireless communication devices by drivers while vehicle is in motion.** Provides that the driver of a motor vehicle is prohibited from using any hand-held wireless communication device while his vehicle is in motion, unless the device is equipped for hands-free operation and the driver is so operating the hands-free equipment.

*Patron - Jones, D.C.*

: **HB258 Traffic lights.** Provides that drivers of vehicles approaching an intersection controlled by traffic lights that are dark because of power failures or similar causes shall proceed as though the intersection were controlled by all-way stop signs. The provisions of this section do not apply to intersections controlled by traffic lights displaying flashing red or flashing amber signals. This bill is incorporated into HB 777.

*Patron - Jones, D.C.*

: **HB290 Vans.** Requires that persons who operate nine-15-passenger vans to transport students to, from, or on behalf of any public, private, or parochial school have a special driver's license endorsement in order to do so.

*Patron - Griffith*

: **HB325 Enforcement of collection of local fees and taxes by DMV.** Provides that the Department of Motor

Vehicles will not charge a fee when the person owing a local tax or fee is an individual who has declared bankruptcy.

*Patron - Griffith*

: **HB330 Trailer dealers; vehicle inspections.** Authorizes trailer dealers to be designated by the Superintendent of State Police to perform safety inspections on vehicles they offer for sale.

*Patron - Griffith*

: **HB366 Mobile infrared transmitters.** Prohibits operation of motor vehicles equipped with mobile infrared transmitters that are used by emergency vehicles to change traffic light signals so as to afford those emergency vehicles the right of way. The bill does not apply to emergency vehicles responding to emergency calls. The provisions of this bill closely parallel the law (§ 46.2-1079) prohibiting use of radar detectors. This bill is incorporated into HB 87.

*Patron - Rust*

: **HB374 Motorcycles; helmets.** Allows certain persons who are more than 21 years old, subject to payment to DMV of a fee of \$1 per year, to ride motorcycles helmet-free. The bill also provides that violations of the "helmet law" (i) are punishable by a civil penalty of \$25, to be paid into the Motorcycle Ride Safety Training Fund; (ii) are not to be assessed demerit points or court costs; (iii) do not constitute negligence and cannot be commented on by counsel in any action for the recovery of damages; (iv) may be charged on the uniform traffic summons form; and (v) are "secondary offenses."

*Patron - Lingamfelter*

: **HB379 Special license plates; members of the American Legion.** Reauthorizes issuance of special license plates for members of the American Legion by repealing authorization in § 46.2-746.4 and granting new authorization in § 46.2-746.4:01. These plates were authorized by the 1995 Session of the General Assembly, but fewer than 100 sets of these plates are still in use. This reauthorization will enable the Department of Motor Vehicles to accept new applications for these plates.

*Patron - Lingamfelter*

: **HB383 Commonwealth Vehicle Board.** Establishes an 11-member Board to advise the Department of Motor Vehicles (DMV) and the DMV Commissioner on its programs and operations. The Board is given the power of general control and oversight over the Department's operations, and the Board's approval is required for any expenditure in excess of \$200,000 or any major changes in departmental policies or procedures that impact customer service and departmental efficiency.

*Patron - Lingamfelter*

: **HB416 Safety inspections; vehicle registration.** Makes passage of a safety inspection a precondition to registration (or registration renewal) for vehicles required to be inspected. This eliminates the need for issuance of safety inspection approval and rejection stickers.

*Patron - Lingamfelter*

: **HB426 Special license plates; bicycle enthusiasts.** Authorizes the issuance of special license plates to bicycle enthusiasts. These plates would bear the legend: SHARE THE ROAD. This bill is incorporated into HB 964.

*Patron - Watts*

: **HB427 Special license plates; members and associates of court-appointed special advocacy programs.** Amends present law authorizing issuance of special license

plates to members and associates of the Virginia Court Appointed Special Advocate Association to authorize issuance of special license plates to members and associates of court-appointed special advocate programs, instead.

*Patron - Watts*

: **HB432 Parking in Fairfax and Arlington Counties.** Grants Fairfax and Arlington Counties power to regulate or prohibit, or both, parking of commercial vehicles. The bill grants specific exception, however, for taxicabs.

*Patron - Brink*

: **HB476 Driver's licenses; youthful drivers; motorcycle operation only.** Provides that applicants less than 19 years old who apply for licenses valid solely for the operation of motorcycles may be issued such licenses even if they have not completed the behind-the-wheel portion of driver education courses, provided they present evidence of having successfully completed the Basic Ride Course offered through Virginia's Motorcycle Ride Safety Training Program.

*Patron - Nixon*

: **HB506 Vehicle sound systems; penalty.** Prohibits use of vehicle sound amplification systems that can be heard 50 feet or more from the vehicle. Violations are Class 3 misdemeanors (fine up to \$500).

*Patron - Keister*

: **HB523 Department of Motor Vehicles; trailer dealers; definitions.** Clarifies that the term "trailer" does not include a "modular building," which is defined as single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.).

*Patron - Hogan*

: **HB539 Pedestrians.** Requires motorists to stop for pedestrians crossing highways under certain circumstances.

*Patron - May*

: **HB540 Safety belt system.** Removes the provision that a citation for a violation of the seat belt law may not be issued unless the officer has another reason to stop the vehicle or arrest the driver; however, the officer is prohibited from searching or inspecting a vehicle, its contents, the driver or a passenger solely because of a violation of the seat belt law.

*Patron - May*

: **HB591 Administrative license suspension for DUI.** Provides that, if at the time of an alleged DUI offense, the person is awaiting trial on a prior DUI charge or is driving on a suspended license or a restricted license, suspended or restricted because of a prior DUI conviction, the administrative license suspension -- currently, under the law, seven days -- shall remain in effect until the person is tried on the current alleged offense. This bill is incorporated into HB 1136.

*Patron - Janis*

: **HB597 Special license plates bearing the names, numbers, and color schemes used by professional stock car drivers; fees.** Authorizes the issuance of one or more series of special license plates bearing the name of a specific professional stock car driver and the race car number and color scheme used by that driver. Each driver-specific series developed and issued under this section shall be subject to the requirements of this section. In the event that a race car number, color scheme, or both, change for a driver with a currently

issued series, a new series for that driver may be issued subject to the requirements of this section. The annual fee for these plates will be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this bill, \$15 will be paid annually in equal amounts to the Virginia Economic Development Partnership Authority and the Virginia Department of Business Assistance and used to support their programs related to the Virginia Motor Sports Initiative. This bill incorporates HB 808.

*Patron - Dudley*

: **HB606 Special license plates.** Reauthorizes the issuance of special license plates bearing the legend: LANGLEY AIR FORCE BASE.

*Patron - Gear*

: **HB610 Antique motor vehicle license plates.** Allows owners of vehicles for which antique motor vehicle license plates have been issued to transfer those license plates to other vehicles.

*Patron - Gear*

: **HB634 Special license plates; supporters of the Juvenile Diabetes Research Foundation; fees.** Authorizes the issuance of "revenue sharing" special license plates to supporters of the Juvenile Diabetes Research Foundation. The annual surcharge for these plates would be \$25, instead of the standard \$10 for most other nonrevenue-sharing special license plates. For each set of plates issued (after the first 1,000 sets), \$15 will go to the Juvenile Diabetes Research Foundation to support its programs and activities in Virginia.

*Patron - O'Bannon*

: **HB649 Improper driving; penalty.** Provides that a person may be charged with the offense of improper driving when his conduct is of the kind that constitutes reckless driving but when his degree of culpability is slight. Currently it is only a lesser included offense of reckless driving.

*Patron - Bell*

: **HB706 Mopeds.** Provides that mopeds will be considered motorcycles when operated on any highway.

*Patron - Ingram*

: **HB709 Motor vehicle dealers; temporary certificates of ownership.** Provides that, in transactions where the dealer is not able to provide a certificate of title to the purchaser of a vehicle within 30 days and the purchaser has requested in writing to pay his own fees directly to the Department of Motor Vehicles (DMV), the dealer will not be required to pay any additional fees to DMV for issuance of a second or subsequent temporary certificate of ownership.

*Patron - Nutter*

: **HB742 Vehicle registration; vehicles owned by regional jail authorities.** Provides for registration of vehicles owned by regional jail authorities as "local government" vehicles. This bill is incorporated into HB 83.

*Patron - Stump*

: **HB763 Improper driving; penalty.** Provides that a person may be charged with the offense of improper driving when his conduct is of the kind that constitutes reckless driving but when his degree of culpability is slight. Currently it is only a lesser included offense of reckless driving. This bill is incorporated into HB 655.

*Patron - Hurt*

: **HB773 Failing to pay for motor fuel; penalty.** Provides that any person who drives away without paying for



motor fuel is guilty of larceny. Currently, there is a \$100 civil penalty for such a violation. The bill also provides that the driver's license of such person shall be suspended for at least 60 days, as opposed to the current discretionary 30 days. This bill is incorporated into HB 592.

*Patron - McDougle*

: **HB778 Special license plates; 350th anniversary of the County of New Kent.** Authorizes the issuance of special license plates commemorating the 350th anniversary of the County of New Kent.

*Patron - McDougle*

: **HB779 Administrative suspension of license or privilege to operate a motor vehicle.** Provides that in the case of a person who is driving under a restricted license issued pursuant to § 18.2-271 or a person who has been previously charged with a violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266, or § 18.2-266.1, or any substantially similar local ordinance but whose case has not yet gone to trial, such person's license shall be administratively suspended immediately and shall remain suspended until the case that is the subject of the current charge is heard. This bill is incorporated into HB 1136.

*Patron - McDougle*

: **HB780 Designation of private streets as "highways."** Allows local governing bodies to designate as "highways" the otherwise private streets of residential subdivisions that serve as access to an adjacent residential development.

*Patron - McDougle*

: **HB808 Special license plates; NASCAR supporters.** Authorizes the issuance of special license plates to supporters of the National Association for Stock Car Auto Racing (NASCAR). The DMV Commissioner, on the basis of agreements for the purchase of distinctive NASCAR driver and general motor sports theme license plates, would purchase these license plates from a supplier or other entity as may be necessary. The design of these license plates would be as mutually agreed to by the Commissioner and supplier of the license plates. The annual fee for these license plates would be \$25 in addition to the prescribed fee for state license plates. For each set of these license plates issued by DMV, an amount to be established by an agreement between the Commissioner and the supplier of the license plates would be paid by the Commissioner to the supplier of the license plates. This bill is incorporated into HB 597.

*Patron - Ware, O.*

: **HB895 Mobile infrared transmitters.** Prohibits operation of motor vehicles equipped with mobile infrared transmitters that are used by emergency vehicles to change traffic light signals so as to afford those emergency vehicles the right of way. The bill does not apply to emergency vehicles responding to emergency calls. The provisions of this bill closely parallel the law (§ 46.2-1079) prohibiting use of radar detectors. This bill is incorporated into HB 87.

*Patron - Bell*

: **HB903 Salvage, rebuilt, and repaired vehicles; branded titles.** Requires that titles to salvage/rebuilt vehicles be branded "salvage/rebuilt vehicle," and titles to repaired vehicles be branded "repaired vehicle."

*Patron - Wardrup*

: **HB917 Vehicle registration; vehicles owned by regional jail authorities.** Provides for registration of vehicles owned by regional jail authorities as "local government" vehicles. This bill is incorporated into HB 83.

*Patron - Phillips*

: **HB923 Special license plates; Boy Scouts of America.** Authorizes the issuance of special license plates to supporters of the Boy Scouts of America.

*Patron - Phillips*

: **HB964 Special license plates for bicycle enthusiasts.** Authorizes the issuance of special license plate to bicycle enthusiasts. This bill incorporates HB 426.

*Patron - Barlow*

: **HB965 Special license plates; U.S. Navy chief petty officers.** Authorizes the issuance of special license plates to persons who are or have been chief petty officers in the U.S. Navy.

*Patron - Barlow*

: **HB1003 Distribution of the "four for life" fund.** Revises the formula for distribution of the \$4 per year that is charged and collected for registration of motor vehicles by shifting the funds as follows: a reduction of the amount distributed to the Virginia Association of Volunteer Rescue Squads from two and one-half percent to one and one-half percent; an increase of the amount distributed to the State Department of Health to support various programs, training, and other activities from 13 and one-half percent to 30 percent; an increase in the amount distributed to the Rescue Squad Assistance Fund from 31 and three quarters percent to 32 percent; a reduction of the amount available to the State Department of Health for use in emergency medical services from 27 and one-quarter percent to 10 percent; and an increase of the amount returned by the Comptroller to localities from 25 percent to 26 and one-half percent. The State Department of Health's support activities are expanded to include emergency medical services system development initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; local, regional, and statewide performance contracts for emergency medical services to meet certain objectives set out in statutory law; technology and radio communication enhancements; and improved emergency preparedness and response.

*Patron - Orrock*

: **HB1074 Failure to obey traffic signs.** Amends the general statute of failure to obey traffic signs (§ 46.2-830) to include the operative provisions of the following section (§ 46.2-830.1), providing for nonassignment of driver demerit points if the violation involved a driver's stopping to sleep or rest on the nontraveled portion of a highway.

*Patron - Armstrong*

: **HB1110 Special license plates; retired law-enforcement officers.** Authorizes the issuance of special license plates for retired sworn law-enforcement officers.

*Patron - Moran*

: **HB1170 Special license plates; 275th anniversary of the County of Prince William.** Authorizes the issuance of special license plates commemorating the 275th anniversary of the County of Prince William.

*Patron - Frederick*

: **HB1197 Driver's licenses; vision tests.** Requires applicants for driver's licenses or renewal of their driver's licenses to pass a vision test if they are 80 years old or older. The bill also requires the Department of Motor Vehicles to study the effects of aging on driving ability, for the purpose of developing a comprehensive approach to licensing drivers. This bill is incorporated into HB 257.

*Patron - Scott, J.M.*

: **HB1220 Impoundment of motor vehicle for driving while license suspended.** Provides that a motor vehicle may be seized and impounded for any offense of driving with a suspended license. Currently, only specified offenses qualify for impoundment. The impoundment would continue for the duration of the driver's license suspension period. Currently, the impoundment is limited to 30 days. This bill is incorporated into HB 1130.

*Patron - Spruill*

: **HB1221 Penalties for second DUI conviction.** Provides that a person's operator's license shall be suspended for no less than five and as many as 10 years, and that his motor vehicle may be seized and impounded, for a second or subsequent DUI conviction. The vehicle would remain impounded for the duration of the driver's license suspension period unless retrieved by an owner. This bill is incorporated into HB 1136.

*Patron - Spruill*

: **HB1259 Driving with special license plates after conviction of DUI.** Requires persons convicted of drunk driving who have registered motor vehicles in Virginia to use red license plates with white letters and numbers. This bill is incorporated into HB 990.

*Patron - Bland*

: **HB1275 Special license plates; members of the Virginia General Assembly.** Provides that General Assembly members' special license plate numbers will be the same as their House or Senate district number.

*Patron - Moran*

: **HB1285 Special license plates; supporters of Project Lifesaver.** Authorizes the issuance of special license plates to supporters of Project Lifesaver.

*Patron - Hogan*

: **HB1295 Special license plates; Mothers Against Drunk Driving; fees.** Authorizes the issuance of "revenue sharing" special license plates to supporters of Mothers Against Drunk Driving. The annual surcharge for these plates would be \$25, instead of the standard \$10 for most other non-revenue-sharing special license plates. For each set of plates issued (after the first 1,000 sets), \$15 will go to Mothers Against Drunk Driving to support its programs and activities in Virginia.

*Patron - Reid*

: **HB1319 Driver's licenses; licensee's address.** Requires that every driver's license contain the licensee's residence address.

*Patron - Louderback*

: **HB1387 Operation and Safety Inspections.** Relates to operation and safety inspections of certain vans.

*Patron - Griffith*

: **HB1411 Safety belts.** Exempts video broadcast reporters while operating cameras or other video recording devices from having to wear motor vehicle safety belts.

*Patron - Armstrong*

: **HB1442 Nonrepairable vehicles.** Provides that a late model vehicle that has been damaged and whose estimated cost of repair exceeds 90 percent of its actual cash value prior to damage is not to be deemed a nonrepairable vehicle if, following completion of repairs to the vehicle, the vehicle is

inspected by the Department of Motor Vehicles and found to be safe to be operated on the public highways.

*Patron - Hurt*

: **HB1446 Special license plates; Interdenominational Children's Foundation of Virginia.** Reauthorizes the issuance of special license plates for supporters of the Interdenominational Children's Foundation of Virginia. This legislation was originally passed in 2003 (Chapter 972, 2003 Acts of Assembly).

*Patron - Howell, A.T.*

: **HB1449 Safety inspections.** Exempts vehicles manufactured for the current or immediately preceding model years from safety inspections, provided their odometers show they have been driven no more than 50,000 miles. This exemption does not, however, apply to inspections required to be performed by dealers prior to sale of any vehicle.

*Patron - Oder*

: **HB1457 Special license plates; members of the District of Columbia Air National Guard.** Authorizes the issuance of special license plates to members of the District of Columbia Air National Guard.

*Patron - Cline*

: **SB16 Special license plates; children with special needs; fees.** Authorizes the issuance of "revenue sharing" special license plates bearing the legend: CHILDREN WITH SPECIAL NEEDS. The annual surcharge for these plates would be \$25, instead of the standard \$10 for most other non-revenue-sharing special license plates. For each set of plates issued (after the first 1,000 sets), \$15 will go to Snap4kids to support its programs and activities in Virginia. This bill is incorporated into SB 21.

*Patron - Miller*

: **SB41 Special license plates; supporters of the Canine Health Foundation; fees.** Authorizes the issuance of "revenue sharing" special license plates to supporters of the Canine Health Foundation. The annual surcharge for these plates would be \$25, instead of the standard \$10 for most other nonrevenue-sharing special license plates. For each set of plates issued (after the first 1,000 sets), \$15 will go to the Canine Health Foundation to support its programs and activities in Virginia. This bill is incorporated into SB 21.

*Patron - Howell*

: **SB42 Special license plates; supporters of the Washington D.C. United soccer team.** Reauthorizes issuance of special license plates to supporters of the Washington D.C. United soccer team. These plates were originally authorized in 1997, but the authorization was repealed in 2002, after insufficient prepaid orders were received to permit actual issuance of the plates. This bill is incorporated into SB 21.

*Patron - Howell*

: **SB52 Special license plates; POW/MIA logo.** Reauthorizes issuance of special license plates bearing the POW/MIA logo. These plates were originally authorized by the 2000 Session, but insufficient applications were made to DMV for the plates to actually go into production. This bill is incorporated into SB 21.

*Patron - Puller*

: **SB53 Special license plates; barbershop quartet singing enthusiasts.** Authorizes the issuance of special license plates to barbershop quartet singing enthusiasts. This bill is incorporated into SB 21.

*Patron - Puller*

: **SB189 Speed limits.** Sets the speed limit for non-surface treated roads at 35 mph, unless otherwise posted.

*Patron - Reynolds*

: **SB258 Special license plates to encourage participation in the organ donor program.** Authorizes the issuance of special license plates that encourage Virginia-licensed drivers to participate in the organ donor program. This bill is incorporated into SB 21.

*Patron - Hawkins*

: **SB306 Drivers under 19 years old.** Provides that drivers less than 19 years old whose license or privilege to drive has been suspended can obtain restricted licenses that allow them to drive between their homes or schools and their places of employment. Presently these restricted licenses only allow driving between homes and places of employment.

*Patron - O'Brien*

: **SB340 Special license plates; Blue Ridge Parkway Foundation; fees.** Authorizes the issuance of "revenue sharing" special license plates to supporters of the Blue Ridge Parkway Foundation. The annual surcharge for these plates would be \$25, instead of the standard \$10 for most other non-revenue-sharing special license plates. For each set of plates issued (after the first 1,000 sets), \$15 will go to the Blue Ridge Parkway Foundation to support its programs and activities in Virginia. This bill is incorporated into SB 21.

*Patron - Edwards*

: **SB342 Cranes.** Exempts self-propelled cranes that weigh more than 47,000 pounds from registration as motor vehicles. The bill also provides that these cranes are not motor vehicles for the purpose of the motor vehicle dealer licensure laws. This bill is incorporated into SB 387.

*Patron - Williams*

: **SB360 Special license plates; 275th anniversary of the County of Prince William.** Authorizes the issuance of special license plates commemorating the 275th anniversary of the County of Prince William. This bill is incorporated into SB 21.

*Patron - Colgan*

: **SB380 Driver's license reinstatement fee.** Increases the fee for reinstatement of a suspended or revoked driver's license from \$30 to \$60.

*Patron - Puller*

: **SB445 Special license plates; supporters of Virginia agriculture; fees.** Authorizes the issuance of "revenue sharing" special license plates to supporters of Virginia agriculture. The annual surcharge for these plates would be \$25, instead of the standard \$10 for most other nonrevenue-sharing special license plates. For each set of plates issued (after the first 1,000 sets), \$15 will go to the Office of Farmland Preservation to support its programs and activities in Virginia. This bill is incorporated into SB 21.

*Patron - Rerras*

: **SB451 Pedestrians.** Requires motorists to stop for or yield the right-of-way to pedestrians crossing highways under certain circumstances.

*Patron - Whipple*

: **SB581 Use of certain wireless communication devices by drivers while vehicle is in motion.** Provides that, except in an emergency, the driver of a motor vehicle is prohibited from using any hand-held wireless communication device

while his vehicle is in motion, unless the device is equipped for hands-free operation and the driver is so operating the hands-free equipment. Violations are traffic infractions punishable by a fine of \$100.

*Patron - Ticer*

## Carried Over

**7 HB194 Registration of military vehicles.** Provides for optional permanent registration of military vehicles.

*Patron - Black*

**7 HB271 Golf carts.** Authorizes the operation of golf carts on the easternmost half mile of Virginia Route 712 (Robins Point Avenue) in Middlesex County, provided they are driven by persons who are at least 16 years old, display a slow-moving vehicle emblem, and have not had their engine horsepower increased beyond manufacturer's specifications.

*Patron - Morgan*

**7 HB370 Photo-red.** Repeals the July 1, 2005, "sun-set" on "photo-red" traffic light signal enforcement programs in Virginia.

*Patron - Rust*

**7 HB376 Motor vehicle dealers.** Requires the Commissioner of the Department of Motor Vehicles to enter into an agreement with the Motor Vehicle Dealer Board, pursuant to which motor vehicle dealers may act as agents of the Commissioner in issuing and renewing motor vehicle titles and registrations.

*Patron - Lingamfelter*

**7 HB452 Leaving children unattended in motor vehicles.** Prohibits leaving children who are eight years old or younger unattended in motor vehicles by persons who are at least 14 years old. First offenses are Class 4 misdemeanors. Courts may require persons convicted of violations to attend educational programs in lieu of other penalties.

*Patron - McQuigg*

**7 HB697 Event data recorders; vehicle manufacturers; disclosure.** Requires a manufacturer of a new motor vehicle sold or leased in the Commonwealth that is equipped with one or more recording devices, commonly referred to as "event data recorders" (EDR) or "sensing and diagnostic modules" (SDM), to disclose that fact in the owner's manual for the vehicle. The bill would prohibit specified data that is recorded on a recording device from being downloaded or otherwise retrieved by a person other than the registered owner of the motor vehicle, except under specified circumstances. The bill would also require a subscription service agreement to disclose that specified information may be recorded or transmitted as part of the subscription service. The bill applies to all motor vehicles manufactured on or after July 1, 2004.

*Patron - Morgan*

**7 HB756 Vehicle registration; members of volunteer fire departments and volunteer rescue squads.** Allows persons who are certified to have been members in good standing of volunteer fire departments and volunteer rescue squads for at least 10 years to register one vehicle owned or leased by them free of charge. Such registrations would be permanent.

*Patron - Hurt*

**7 HB991 Motorcycle dealers.** Repeals the requirement that no new or additional motorcycle dealer franchise can be established in any locality unless the manufacturer, factory branch, distributor, distributor branch, or factory or distributor

representative gives advance notice to existing franchised dealers of the same line-make.

*Patron - Hugo*

**7 HB1118 Special license plates; liberty penguin.** Authorizes the issuance of special license plates whose design incorporates the image of a liberty penguin.

*Patron - Weatherholtz*

**7 HB1131 Driving while license, permit, or privilege to drive suspended or revoked.** Provides that any person who is found to have unreasonably refused to provide a blood or breath sample when stopped for driving while intoxicated and who is at the same time driving on a suspended license for a prior conviction of any of the drunk driving statutes shall be punished by a mandatory minimum term of confinement in jail of 90 days. Additionally, upon conviction, any license suspension for the unreasonable refusal shall run consecutively with any existing license suspension.

*Patron - McDonnell*

**7 HB1249 "Out-of-service" inspections.** Requires local law-enforcement agencies to report to the State Police vehicles that have been ordered out of service as the result of "out-of-service" inspections by local law-enforcement officers. State Police is to collect these reports and pass them along, together with similar information on vehicles taken out of service by State Police officers, to the Federal Motor Carrier Administration's Safer System.

*Patron - Scott, J.M.*

**7 HB1310 Headlights.** Requires that vehicle headlights be lit whenever the vehicle is traveling on a two-lane undivided highway with two-way traffic.

*Patron - Hull*

**7 HB1406 Emissions inspections.** Exempts from emissions inspections vehicles owned by persons who are 65 years old or older, if the owner certifies in writing to the Director of the Department of Environmental Quality that the vehicle is driven no more than 2,300 miles a year.

*Patron - Plum*

**7 SB79 Mopeds.** Provides that the phrase "motor vehicle or any self-propelled machinery or equipment" includes mopeds. This has the effect of disallowing operation of mopeds by persons whose driver's licenses are suspended or revoked.

*Patron - Obenshain*

**7 SB88 Trailer dealers.** Exempts trailer dealers whose principal place of business is located in Fairfax County and who sell trailers primarily through a searchable database on an Internet website from requirements that they satisfy all local zoning requirements and that they have sufficient display space for at least 10 trailers.

*Patron - Howell*

**7 SB92 Photo-monitoring systems to enforce traffic light signals.** Expands photo-monitoring systems for traffic signal enforcement to all of Virginia instead of specified localities. Several additional provisions specify where, when, and how these systems are to be used.

*Patron - Devolites*

**7 SB132 Photo-red.** Allows the City of Roanoke to have a "photo-red" traffic light signal enforcement system. The bill also prohibits payment to private entities based on the number of violations detected.

*Patron - Edwards*

**7 SB176 Use of photo-monitoring systems to enforce traffic light signals.** Provides that no locality may begin operation of a traffic light photo-monitoring system after June 30, 2005. The bill eliminates the expiration of the test program (July 1, 2005) and effectively allows those localities with it already in place at that time to continue it. The bill also prohibits payment to private entities based on the number of violations detected.

*Patron - Stolle*

**7 SB235 Motor vehicle safety belts.** Makes safety belt violations primary offenses. The bill also provides that a law-enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a safety belt violation, unless supported by probable cause or consent.

*Patron - Norment*

**7 SB418 Disposition of unattended, immobile, and recovered stolen vehicles.** Establishes procedures for the disposition of unattended, immobile, and recovered stolen vehicles.

*Patron - Wagner*

**7 SB487 Driver eligibility certificates.** Makes issuance of a learner's permit or driver's license to a minor contingent upon possession of a driver eligibility certificate issued by the relevant public or private school principal or homeschool parent or tutor. The driver eligibility certificate is to indicate good academic standing (passing three of four courses in a semester) and regular attendance. The principal or parent issuing the certificate is to notify the Department of Motor Vehicles (DMV) if the student is no longer in good academic standing, and DMV is to revoke the relevant license or permit until the certificate is restored. The Department shall develop guidelines specifying those circumstances of hardship under which applicants who cannot present a driver eligibility certificate may be issued a driver's license. In addition, the bill directs DMV to suspend for one year the license or learner's permit, as the case may be, when the minor student has been (i) suspended for more than 10 consecutive days or expelled from public or private school for violations of school policies addressing alcohol, illegal substances, weapons, or physical assault upon a teacher or other school personnel or (ii) assigned to alternative education for more than 10 consecutive days for such violations. The principal or other administrative authority is to notify DMV of these expulsions, suspensions, and placements.

*Patron - Obenshain*

## Pensions, Benefits and Retirement

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Passed

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**D HB16 Optional supplemental health insurance credit for retired state employees.** Repeals the optional supplemental health insurance credit for retired state employees that has not become effective because the Internal Revenue Service has not affirmatively ruled that such a plan could be treated as a qualified plan for federal income tax purposes. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Miles*

**D HB163 Retirement health insurance credits.** Clarifies that retirees under the state optional and alternative retirement plans are eligible for the health insurance credits provided to state retirees.

*Patron - Putney*

**D HB199 Group life and accident insurance for state and local employees.** Provides an employee who has at least 20 years of creditable service with life insurance benefits equal to twice the amount of his highest annual salary, and provides a retiree, who retired with at least 20 years of creditable service, and then returns to work in a covered position, with life insurance equal to the greater of twice his highest salary or the amount he would have been eligible for had he remained retired. The bill does not apply to eligible employees who retired or retire on or after July 1, 1999, provided that such employees are alive on or after July 1, 2004.

*Patron - Tata*

**D HB200 Virginia Retirement System; overpayments.** Permits the Virginia Retirement System ("VRS") to recoup overpayments of benefits paid under programs administered by VRS, from benefits paid under the VRS Group Insurance Plan.

*Patron - Tata*

**D HB201 Virginia Retirement System benefits; payment to successor of decedent by affidavit.** Permits benefits to be paid to a person claiming to be the successor of a deceased member upon his filing an affidavit certifying, among other things, that the value of the entire personal probate estate does not exceed the maximum value of such estate allowed to be processed by affidavit under the Virginia Small Estate Act (currently \$15,000). Under current law Virginia Retirement Benefits cannot be paid under such conditions if the value of the entire personal probate estate exceeds \$10,000.

*Patron - Tata*

**D HB334 Retirement; law-enforcement officers.** Provides that law-enforcement officers in service on June 30, 2002, and July 1, 2002, with five or more years of creditable service are not required to serve at least five years as a member under a specific retirement system in order to receive maximum retirement benefits. The five-year requirement for service as a member under a specific retirement system was enacted by the 2002 Session of the General Assembly. The bill contains an emergency clause.

*Patron - Pollard*

**D HB356 Retirement; health insurance credits for retired school superintendents.** Provides that school superintendents who retire pursuant to the alternative defined contribution plan shall receive the same health insurance credit benefits afforded to retired teachers.

*Patron - Putney*

**D HB551 Government Employees Deferred Compensation Plan Act; collection of administrative fees by political subdivisions.** Permits participating political subdivisions to collect administrative fees imposed by the Virginia Retirement System from participating employees.

*Patron - May*

**D HB576 Enhanced compensation and retirement benefits for certain employees of local public school boards.** Authorizes local school boards to employ turnaround specialists to address conditions at a public school that may impede educational progress and effectiveness and academic success. The bill also authorizes local school boards to offer increased

retirement benefits and compensation to turnaround specialists and licensed instructional personnel teaching in a subject matter in grades six, seven, or eight under a middle school critical shortage program adopted by the State Board of Education.

*Patron - Hamilton*

**D HB699 Virginia Sickness and Disability Program; long-term disability benefits; state employees.** Requires employees, as a condition to receiving long-term disability benefits under the Virginia Sickness and Disability Program, to apply for Social Security disability benefits unless they are otherwise directed.

*Patron - Ingram*

**D HB700 Virginia Sickness and Disability Program; suspension of eligibility.** Clarifies that an employee is ineligible to participate in the Virginia Sickness and Disability Program during any period of nonpay status due to suspension pending investigation or outcome of employment-related court action.

*Patron - Ingram*

**D HB701 Sickness and Disability Program for state employees.** Clarifies that when an employee receives long-term disability benefits and returns to active employment in any position, not just the same position he previously held, then any succeeding period of disability shall constitute a new period of disability.

*Patron - Ingram*

**D HB702 Virginia Sickness and Disability Program; actuary.** Clarifies that the actuary authorized to recommend certain benefit adjustments is the actuary of the Virginia Sickness and Disability Program, instead of the actuary of the Virginia Retirement System.

*Patron - Ingram*

**D HB703 Virginia Sickness and Disability Program; collection of disability overpayments.** Permits the Board of Trustees of the Virginia Retirement System to collect overpayments of disability benefits from any payments due the disabled member's survivor and beneficiaries. Under current law the Board is authorized to make such collections from payments due directly to the disabled member.

*Patron - Ingram*

**D HB1171 Rehiring of retired teachers; designation of critical need areas.** Directs local school boards to annually survey their respective divisions to identify critical shortages of teachers and administrative personnel by subject matter, and report such critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System (VRS). The school board may delegate this duty to the division superintendent. Retired persons rehired as teachers and administrators for such identified shortage positions may elect to continue to receive VRS benefits. Under current law, only the Superintendent of Public Instruction is empowered to identify the critical shortage areas; this authority expires on July 1, 2005. Similarly, additional enactment clauses create a corresponding July 1, 2005, sunset for this bill, and an emergency clause makes it effective upon final passage.

*Patron - Dillard*

**D HB1179 Long-term care insurance.** Requires the Department of Human Resource Management to develop and implement a long-term care insurance plan for state employees and for any person who has five or more years of creditable service in any retirement plan administered by the Virginia Retirement System whether or not such person is employed by an employer participating in the Virginia Retirement System,

and whether or not such person is receiving retirement benefits.

*Patron - Bryant*

**D SB174 Judicial Retirement System; technical correction.** Makes a technical correction to the maximum credit that a former judge may transfer to the Virginia Retirement System when he accepts a nonjudicial position covered by the Virginia Retirement System.

*Patron - Stolle*

**D SB311 Virginia Law Officers' Retirement System.** Classifies service rendered as an employee under the Virginia Law Officers' Retirement System as service rendered in a hazardous position for purposes of retirement benefits under or pursuant to the State Police Officers' Retirement System. The bill applies to persons retiring on or after October 1, 1999.

*Patron - Hawkins*

**D SB540 Virginia Retirement System; defined contribution plan.** Permits an employee who moves from a position covered under the Virginia Retirement System's ("VRS") defined contribution plan to a position covered under a different VRS retirement program to use his own funds to purchase service time in the new program if the amount in his defined contribution plan account is insufficient to pay the actuarial cost of the total time worked in the prior position.

*Patron - Stosch*

**D SB541 Virginia Retirement System; employer in default.** Clarifies the process to occur when an employer becomes financially unable to make contributions to the Virginia Retirement System on behalf of its employees.

*Patron - Stosch*

**D SB599 State and local retirement systems; electronic communication.** Permits the Virginia Retirement System and certain local retirement systems to communicate required information to members and beneficiaries through electronic media.

*Patron - Lambert*

**D SB628 Virginia Sickness and Disability Program.** Precludes payment of short-term disability benefits for elective medical procedures, including surgery, during an initial six-month probationary period without (i) certification by the program administrator and (ii) coordination of the required leave of absence between the employee and employer. Current law provides such coverage beginning the first day of employment. The provisions do not apply to short-term disability benefits for which payment began prior to July 1, 2004.

*Patron - Devolites*

## Failed

**: HB18 Virginia Law Officers' Retirement System.** Adds sworn employees of the Enforcement Division of the Division of Motor Vehicles to membership in the Virginia Law Officers' Retirement System.

*Patron - Parrish*

**: HB84 Retirement; state police officers and certain local law-enforcement officers.** Modifies the retirement benefits of state police officers and to certain local law-enforcement officers by (i) increasing from 1.7 percent to 2.7 percent the percentage of average final compensation multiplied by the years of creditable service in such positions, and by deleting the supplemental allowance currently paid to members upon retirement until their Social Security retirement age;

(ii) deleting the minimum age requirement for retirement for members with 25 or more years of service; and (iii) providing that deputy sheriffs employed by political subdivisions participating in the Virginia Retirement System shall receive the same retirement benefits as sheriffs.

*Patron - Callahan*

**: HB111 Virginia Retirement System; purchase of retirement credit for prior service as a substitute teacher.** Provides that an employee may purchase retirement credit for prior service as a substitute teacher providing educational instruction to children of military service members in Department of Defense Education Activity schools located outside the United States.

*Patron - Van Landingham*

**: HB135 Virginia Retirement System; creditable compensation of teachers.** Provides that the creditable compensation of teachers for retirement purposes under the Virginia Retirement System shall include all compensation payable to teachers by their public school boards, including compensation that is not pursuant to a contract for teaching.

*Patron - Kilgore*

**: HB225 Health insurance credit for retired teachers.** Increases the health insurance credit for retired teachers to \$4 per month for each year of creditable service with no monthly cap. Under current law, retired teachers with 15 or more years of service are allowed a health insurance credit of \$2.50 per month for each year of creditable service with a cap of \$75 per month. Retired state employees with 15 or more years of service are allowed a health insurance credit of \$4 per month for each year of creditable service with a cap of \$120 per month.

*Patron - Shuler*

**: HB244 Retirement; service credit for state employees when there is no general salary increase.** Provides that state employees shall be credited with up to 12 months of additional retirement service credit for each fiscal year that the Commonwealth does not provide a general salary increase. The amount of service credit to be credited to each such employee shall be equal to the number of months that the person was in service as a state employee in the relevant fiscal year, rounded up to the nearest whole month. Local government employees are not eligible to receive the additional service credit. The bill is effective for fiscal years beginning on or after July 1, 2004.

*Patron - Nutter*

**: HB273 State Police Officers' Retirement System.** Modifies the retirement allowance paid to state police officers by increasing from 1.7 percent to 2.0 percent the percentage of average final compensation multiplied by the years of creditable service in such positions, and by deleting the supplemental allowance currently paid to members upon retirement until their Social Security retirement age (currently \$9,264 annually). This provision applies to employees who become members of the State Police Officers' System on or after July 1, 2004, and to such current employees who elect to accept the modifications by October 31, 2004.

*Patron - Putney*

**: HB274 Health insurance credits for retired state employees.** Removes the monthly credit cap of \$120. The bill is a reenactment of Chapter 909 of the 2003 Acts of Assembly, as such chapter is not effective unless reenacted.

*Patron - Putney*

: **HB490 Health insurance credits for retired teachers.** Increases the monthly health insurance credit from \$2.50 for each year of creditable service to \$4 and removes the monthly health insurance credit cap of \$75.

*Patron - Tata*

: **HB500 Virginia Retirement System; benefits.** Increases monthly retirement benefits of certain future retirees by increasing the percentage of average final compensation multiplied by the amount of creditable service from 1.7 to 2.0 for years of service in excess of 25 years for most state employees, and from 2.0 to 2.3 for certain state law-enforcement officers.

*Patron - Callahan*

: **HB621 State Police Officers' Retirement System.** Changes the retirement benefits under the State Police Officers' Retirement System by increasing the percent of average final compensation that is multiplied by the amount of creditable service from 1.7 to 2.5, and eliminating the supplemental benefit that was payable from the date of retirement until retirement age under the Social Security Act.

*Patron - Carrico*

: **HB661 Virginia Retirement System; defined contribution plan.** Creates a new defined contribution plan for all employees who enter on or after July 1, 2004, into any position covered by any retirement plan administered by the Virginia Retirement System. The employee has 90 days after entering into such a position to elect to participate in the defined contribution plan or the retirement plan for which he is otherwise eligible.

*Patron - Bell*

: **HB698 Virginia Sickness and Disability Program; short-term disability benefit.** Changes all references to "maternity leave" to "medical absences due to pregnancy" for purposes of describing one of several events constituting a short-term disability.

*Patron - Ingram*

: **HB704 Virginia Sickness and Disability Program; health insurance for injured law-enforcement officers.** Provides for payment of the state's portion of the health insurance premiums for law-enforcement officers injured in the line of duty for up to six months of long-term disability under the Virginia Sickness and Disability Program. Payment would commence immediately upon the disabled person's attaining long-term disability status and would continue until a finding that the person could return to work, or a final determination of disability. Under the existing Virginia Sickness and Disability Program, after six months of short-term disability, the disabled employee must pay potentially prohibitive insurance premiums out of pocket until he is able to return to work or is determined permanently disabled. This bill would bridge that gap for a period not to exceed six months.

*Patron - Ingram*

: **HB711 Virginia Retirement System; benefits.** Increases monthly retirement benefits of state employees by increasing the percentage of average final compensation multiplied by the amount of creditable service from 1.7 to 2.0 for most state employees, and from 2.0 to 2.3 for certain law-enforcement officers.

*Patron - Nutter*

: **HB860 Virginia Law Officers' Retirement System.** Adds firefighters of the Virginia National Guard Fire and

Rescue as members of the Virginia Law Officers' Retirement System.

*Patron - Ingram*

: **HB922 Virginia Retirement System membership; Breaks Interstate Park.** Permits members of the Breaks Interstate Park Commission's retirement system to transfer to the Virginia Retirement System. A majority of the members of the Breaks Interstate Park Commission's retirement system must petition for such transfer prior to September 1, 2004.

*Patron - Phillips*

: **HB1075 Virginia Retirement System; state employees.** Prohibits any reduction of benefits provided by the Commonwealth to retired state employees during any period of their retirement.

*Patron - Armstrong*

: **HB1115 Virginia Law Officers' Retirement System; deputy sheriffs.** Makes deputy sheriffs members of the Virginia Law Officers' Retirement System under certain conditions, including the election of such by the respective sheriff. Funding for such membership shall be provided by the Compensation Board.

*Patron - Weatherholtz*

: **HB1229 Virginia Law Officers' Retirement System; Department of Corrections special agents.** Expands the definition of "employee" to include special agents of the Department of Corrections, making such individuals members of the Virginia Law Officers' Retirement System.

*Patron - Landes*

: **HB1300 Virginia Sickness and Disability Program.** Begins short-term disability coverage for state employees hired on or after July 1, 2004, one year after employment, and begins long-term disability coverage for such employees five years after employment. Current law provides such coverage beginning the first day of employment.

*Patron - Waits*

: **SB60 Health insurance; credits for retired teachers.** Increases the amount of monthly health insurance credit for retired teachers from \$2.50 to \$4 per year of service. The maximum monthly credit will not exceed \$120.

*Patron - Potts*

: **SB254 Virginia Retirement System membership; Breaks Interstate Park.** Permits members of the Breaks Interstate Park Commission's retirement system to transfer to the Virginia Retirement System. A majority of the members of the Breaks Interstate Park Commission's retirement system must petition for such transfer prior to September 1, 2004.

*Patron - Puckett*

: **SB279 Virginia Law Officers' Retirement System.** Provides that managers of political subdivisions that participate in the retirement system shall receive benefits equivalent to those of state police officers, except for the benefits provided under § 51.1-209, regardless of whether the employer has elected to provide equivalent benefits.

*Patron - Wampler*

: **SB422 Retirement benefits; creditable compensation of certain law-enforcement officers.** Includes in creditable compensation the overtime compensation paid to law-enforcement officers employed full time at an airport in the Commonwealth.

*Patron - Wagner*

: **SB431 Retirement; service credit for state employees when there is no general salary increase.** Provides that state employees shall be credited with up to 12 months of additional retirement service credit for each fiscal year that the Commonwealth does not provide a general salary increase. The amount of service credit to be credited to each such employee shall be equal to the number of months that the person was in service as a state employee in the relevant fiscal year, rounded up to the nearest whole month. Local government employees are not eligible to receive the additional service credit. The bill is effective for fiscal years beginning on or after July 1, 2004.

*Patron - Wagner*

: **SB476 Virginia Retirement System; purchase of retirement credit for prior service as a substitute teacher.** Provides that an employee may purchase retirement credit for prior service as a substitute teacher providing educational instruction to children of military service members in Department of Defense Education Activity schools located outside the United States.

*Patron - Ticer*

## Carried Over

**7 HB247 Virginia Sickness and Disability Program; appeal of disability benefit determinations.** Clarifies the authority of the Board of Trustees of the Virginia Retirement System to develop an appeals process as an alternative to the process set forth in the Administrative Process Act (APA), provided that claimants under the process have the right to (i) appear in person or by counsel, (ii) have notice of contrary facts in possession of the Board that can be relied upon in making an adverse decision, (iii) receive a prompt decision, and (iv) be informed in writing of the factual or procedural basis for an adverse decision.

*Patron - Petersen*

**7 HB491 Virginia Retirement System; Virginia Local Sickness and Disability Program.** Creates a new optional local sickness and disability program for local employees similar to the program that exists for state employees. The Program is optional at the election of each local employer, with all costs to be borne by the local employer. The bill has a delayed effective date of July 1, 2005, but a pilot program is authorized beginning July 1, 2004.

*Patron - Tata*

**7 HB1121 Virginia Law Officers' Retirement System.** Permits any member of the Virginia Law Officers' Retirement System ("VaLORS") who commenced employment on or after July 1, 2001, and who, within 90 days of such employment, was a (i) State Police Officer or a local law-enforcement officer with similar retirement coverage or (ii) a state law-enforcement officer already covered under VaLORS, to elect to choose between two retirement benefit packages. The choice is between receiving the annual supplemental payment from the date of retirement until age 65, or receiving monthly retirement benefits calculated with a "multiplier" of 2.0 percent rather than 1.7 percent. Under current law, such choice was provided only to members who were employed prior to July 1, 2001, all other members were automatically provided the higher multiplier rather than the supplemental payment.

*Patron - Weatherholtz*

**7 SB157 Virginia Retirement System; purchase of prior service credit.** Provides that certain local government chief executive officers may purchase an additional 10 years of

retirement service credit for prior service for the Commonwealth or another state (this is in addition to the four years under law that may already be purchased). The cost for each additional year of service shall equal 10 percent of the local government chief executive officer's compensation at the time of purchase, provided that the additional retirement service is purchased within one year of the local government chief executive officer's eligibility and is paid for in one lump-sum payment to the Virginia Retirement System. For each year of service purchased under the bill, the local government chief executive officer is required to serve the same number of years as a local government chief executive officer subsequent to the date of purchase. Any local government chief executive officer who fails to serve the required number of years shall forfeit any credited service for the number of years not served and shall be liable to his governing body for any amount paid by it for purchasing the forfeited prior service credit.

*Patron - Potts*

**7 SB164 Virginia Law Officers' Retirement System (VALORS).** Adds juvenile probation and parole officers as members of VALORS.

*Patron - Colgan*

**7 SB332 State Police Officers' Retirement System.** Increases the multiplier for average final compensation from 1.70 to 2.50 and eliminates the additional annual allowance for service rendered in a hazardous position. The bill affects the retirement allowances of state police officers retiring on or after July 1, 2004.

*Patron - Stolle*

## Persons with Disabilities

### Passed

**D HB12 Advisory Boards for the Virginia Industries for the Blind.** Combines the regional advisory boards for the Virginia Industries for the Blind in Charlottesville and Richmond into one state board with a reduced membership. The two existing boards began to conduct joint meetings in 1998 as an efficiency measure, and the joint venture has proved to be successful. Under current law, an advisory board is created for each manufacturing and servicing district established. Because only two service districts currently exist and the Department does not anticipate that any more will be created, the authority of the Board for the Blind and Vision Impaired to establish advisory boards is repealed. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill incorporates HB 204.

*Patron - Cox*

**D HB354 Assistive Technology Loan Fund Authority; powers.** Authorizes the board of directors of the Assistive Technology Loan Fund Authority to borrow money to carry out its statutory purposes and to execute evidences of such indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from funds pledged for that purpose and to provide for the payment of the same and for the rights of the holders thereof. The bill also adds a definition of bonds and contains technical amendments.

*Patron - Bryant*



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## Failed

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**: HB204 Advisory Boards for the Virginia Industries for the Blind.** Combines the regional advisory boards for the Virginia Industries for the Blind in Charlottesville and Richmond into one state board with a reduced membership. The two existing boards began to conduct joint meetings in 1998 as an efficiency measure, and the joint venture has proved to be successful. Under current law, an advisory board is created for each manufacturing and servicing district established. Because only two service districts currently exist and the Department does not anticipate that any more will be created, the authority of the Board for the Blind and Vision Impaired to establish advisory boards is repealed. This bill is identical to HB12, which was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill is incorporated into HB 12.

*Patron - Athey*

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## Police (State)

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## Passed

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**D HB214 Amber alert system; issuance of alerts.** Clarifies that the initial decision to make a local or regional Amber Alert is at the discretion of the local or regional law-enforcement officials, but the local or regional law-enforcement officials must provide information regarding the abducted child to the State Police prior to issuing the alert. The initial decision to make a statewide Amber Alert is at the discretion of the State Police.

*Patron - Athey*

**D HB360 Unclaimed property; sale and disposal by State Police.** Allows the State Police to provide for the sale or use of unclaimed personal property that has been in its possession unclaimed for more than 60 days. "Unclaimed personal property" is defined to include any personal property, other than firearms or other weapons, that (i) belongs to another that has been acquired by a law-enforcement officer pursuant to his duties; (ii) is not needed in any criminal prosecution; (iii) has not been claimed by its rightful owner; and (iv) the State Treasurer has indicated will be declined pursuant to the Uniform Disposition of Unclaimed Property Act. Prior to sale or use of the unclaimed property, the State Police must attempt to notify by mail the rightful owner of the property, receive in writing from the attorney for the Commonwealth that the property is not needed for a criminal prosecution, post on its website for 60 days a description of the property and notice of the time, date, and place of display and sale of the property and publish in a newspaper of general circulation in the locality where the sale is to be held once a week for two successive weeks prior to the sale, a notice that includes the date, time, place of the sale, general description of items to be sold and the State Police website address. The bill also provides for the disposition of funds from such sale into the Literary Fund. Alternatively, the State Police may retain any unclaimed personal property for its own use, or use of other law-enforcement agencies, if that is a more economical alternative to the purchase of a similar item. No claim may be made or any suit initiated for the recovery of the property or the proceeds after one year from the date of sale. The bill also creates a section that allows the State Police to destroy unclaimed firearms or other weapons if it complies

with the notice provisions relating to the disposition of unclaimed personal property set forth above.

*Patron - Miles*

**D HB516 Commercial motor vehicle safety; hours of service.** Exempts from hours-of-service requirements operators of vehicles engaging in the provision or restoration of utility services when the loss of such service is unexpected, unplanned or unscheduled. This bill contains an "emergency clause" and becomes effective upon its passage.

*Patron - Orrock*

**D SB608 State Police radio system.** Authorizes the Secretary of Public Safety to finalize and implement the State-wide Agencies Radio System (STARS) contract, consistent with the language in the 2003 budget bill. This includes the authority to acquire sites by eminent domain. STARS is a state-wide radio and data communication system for law enforcement.

*Patron - Stolle*

**D SB634 Applicant Fingerprint Database.** Requires the State Police to develop a separate fingerprint database for use in criminal background checks for the purpose of allowing agencies and entities who require a criminal background check as a condition of licensure, certification, employment or volunteer service to be advised when an individual who is currently licensed, certified, employed or volunteering is arrested for, or convicted of a criminal offense which would disqualify the individual from his current status. The bill also provides that an entity authorized to submit fingerprints to the database shall not be considered negligent per se in a civil action if it elected not to submit fingerprints.

*Patron - Saslaw*

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## Failed

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**: HB611 Virginia State Police; State Police Training and Retention Fund.** Establishes the State Police Training and Retention Fund to create and support programs for the training and retention of state police officers.

*Patron - Carrico*

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## Carried Over

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**7 HB724 Reporting organized criminal gang membership.** Requires that law-enforcement agencies report known members of organized criminal gangs to the Virginia Criminal Information Network (VCIN) and the National Criminal Information Center (NCIC) as soon as practicable after determining through admission, arrest, incarceration or investigation that a person is a member of an organized criminal gang. Such entries must be validated and maintained pursuant to established VCIN and NCIC policies. The bill also repeals § 16.1-299.2, relating to organized juvenile criminal gang membership.

*Patron - Shannon*

**7 SB225 Virginia Racial Profiling and Traffic Statistics Reporting Act.** Requires the Superintendent of State Police to require each local and state police officer, during the course of their official duties, to collect certain information pertaining to traffic stops, including the race, ethnicity, color, age and gender of the alleged traffic offender, and to record the specific reason for the stop, whether the person was interrogated, charged or arrested, and whether a written citation or warning was issued. Police officers must also indicate the specific traffic violation committed. Police officers participating in the collection of such traffic data and information have been

granted civil immunity for acts and omissions during the performance of their official duties, absent gross negligence or willful misconduct. The bill also requires the development of a statewide database for collecting, correlating, analyzing, interpreting, and reporting data and information generated through such traffic stop reports. The Superintendent may engage any accredited public institution of higher education in the Commonwealth or an independent body with the experience, expertise, and technical capacity to conduct such research to assist in designing the database, and the collection, analysis, and interpretation of the data. The Superintendent must report the findings and recommendations annually to the Governor, the General Assembly, and the Attorney General and provide copies to each attorney for the Commonwealth. This act expires on July 1, 2008. Previously, this bill was a recommendation of the Joint Subcommittee Studying the Status and Needs of African-American Males in the Commonwealth and the House Committee on Transportation's Special Subcommittee on Racial Profiling and Pretextual Traffic Stops.

*Patron - Marsh*

## Prisons and Other Methods of Correction

### Passed

**D HB235 State Compensation Board.** Requires the State Compensation Board to (i) maintain in the Local Inmate Data System (LIDS) specific data fields for an inmate's country of birth and country of citizenship, (ii) require all jail facilities that are subject to LIDS reporting to complete the additional fields for all inmates housed at such facilities, (iii) annually encourage all jail facilities subject to LIDS reporting to request compensation from the United States Department of Justice State Criminal Alien Assistance Program (SCAAP) for costs associated with incarcerating undocumented aliens; (iv) provide information to all jail facilities on the eligibility requirements to obtain such funds; and (v) monitor local jail participation in the SCAAP program.

*Patron - Cox*

**D HB504 Assessment for courthouse and courtroom security.** Broadens the use of the \$5 fee collected by the courts for assessment for courthouse and courtroom security to allow the fee to be used to fund equipment and other personal property to be used in connection with courthouse security, if requested by the sheriff, and not just security personnel as under current law. This bill is identical to SB 214.

*Patron - Keister*

**D HB792 Parenting programs; Department of Correctional Education.** Authorizes the Department of Correctional Education to arrange for noncustodial parent offenders committed to the custody of the Department of Corrections to be afforded the opportunity to participate in pre-release parenting programs that include parenting skills training and anger management. The programs must be administered by the Department directly or by contract and must include integration with transitional programs and other programs for offenders as appropriate. The individuals may be required to establish, reestablish, or maintain family ties and communications in order to continue to participate in the programs. A pre-release parenting program may be part of an offender's treatment program. The provisions of this bill will not become effective unless an appropriation of general funds effectuating

the purposes of the bill is included in the appropriation act and signed into law by the Governor. This bill is identical to SB 98.

*Patron - Watts*

**D HB1042 State correctional facilities; private contracts.** Provides that on or after July 1, 2004, no new prison financing, site selection, acquisition, construction or maintenance, leasing, management or operation of a new prison facility shall be commenced unless based upon a written analysis of the benefit to the Department of Corrections, including an analysis of the costs and benefits of utilizing the Correctional Private Management Act (§ 53.1-261 et seq.) or the Public-Private Education Facilities and Infrastructure Act (§ 56-575.1 et seq.).

*Patron - Saxman*

**D SB98 Parenting programs; Department of Correctional Education.** Authorizes the Department of Correctional Education to arrange for noncustodial parent offenders committed to the custody of the Department of Corrections to be afforded the opportunity to participate in pre-release parenting programs that include parenting skills training and anger management. The programs must be administered by the Department directly or by contract and must include integration with transitional programs and other programs for offenders as appropriate. The individuals may be required to establish, reestablish, or maintain family ties and communications in order to continue to participate in the programs. A pre-release parenting program may be part of an offender's treatment program. The provisions of this bill will not become effective unless an appropriation of general funds effectuating the purposes of the bill is included in the appropriation act and signed into law by the Governor. This bill is identical to HB 792.

*Patron - Devolites*

**D SB214 Assessment for courthouse and courtroom security.** Broadens the use of the \$5 fee collected by the courts for assessment for courthouse and courtroom security to allow the fee to be used to fund equipment and other personal property to be used in connection with courthouse security, if requested by the sheriff, and not just security personnel as under current law. This bill is identical to HB 504.

*Patron - Edwards*

**D SB389 Jails; good time policies.** Clarifies that it is the responsibility of each individual jailer to determine the manner in which discretionary additional credits are awarded for institutional work assignments, participation in classes and local work force programs. The jailer is required to have written policy stating the criteria for and conditions of the credits. The bill does not change the rate of five days for every 30 days served.

*Patron - Norment*

**D SB448 Interstate Compact for the Supervision of Adult Offenders.** Establishes a new interstate compact to replace the existing Compact. The former Compact (Out of State Supervision of Parolees or Probationers, 1937) will stay in effect to deal with those states that do not adopt the new Compact. The Compact takes effect on the later of July 1, 2004, or the date that 35 states adopt it. Under the new Compact, an Interstate Commission is created. The Commission's duties include establishing uniform procedures to manage the movement of adult offenders under community supervision between participating states; ensuring the opportunity for input and providing a timely notice to victims and jurisdictions where offenders are authorized to travel or relocate across state lines; establishing a uniform data collection system; monitoring compliance of interstate movement of offenders and initiat-

ing interventions to address noncompliance; and coordinating training programs regarding interstate movement for officials involved in such activities. Each Compacting State is responsible for supervision of adult offenders in its communities who are authorized by the Compact to travel across state lines. Such responsibilities include tracking the location of offenders, transferring supervision, and returning offenders to originating jurisdictions. The bill also creates a council to oversee the operations of the Compact within Virginia.

*Patron - Rerras*

**D SB516 Property conveyance; former Staunton Correctional Center.** Authorizes the Governor to convey the former Staunton Correctional Center, upon consultation with the Attorney General, for fair market value.

*Patron - Hanger*

**D SB615 State correctional facilities; stores.** Provides that a portion of the profits from stores or commissaries within correctional facilities may be expended for pre-release and post-release reentry and transition services. Currently, the profits are used for recreational and educational purposes and other purposes beneficial to the inmates. This bill incorporates SB 613.

*Patron - Bell*

## Failed

**: HB112 State Board of Corrections; composition; jurisdiction.** Increases the size of the State Board from nine members to 12 members (the quorum being seven instead of five). The bill requires that the members include three community leaders, three elected officials, three members of the medical profession and three citizens with an immediate family member incarcerated within the Commonwealth of Virginia. The bill also empowers the State Board to enter and inspect state correctional facilities at any time.

*Patron - Van LANDINGHAM*

**: HB245 Assessment for courthouse and courtroom security.** Broadens the use of the \$5 fee collected by the courts for assessment for courthouse and courtroom security to funding all courthouse security, not just security personnel.

*Patron - Nutter*

**: HB259 Discharge of prisoner; required records 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) the prisoner's medical records, including copies of current prescriptions and a physician's summary of continuing or pending medical treatment; (ii) verification of the prisoner's work history while in custody; and (iii) verification of all educational and treatment programs completed by the prisoner while in custody.

*Patron - Jones, D.C.*

**: HB362 Good conduct allowance; mandatory functional literacy requirement.** Provides for good conduct allowance for prisoners depending on their performance and conduct in which escalating credits toward good conduct allowance are available in four class levels. The highest level available is 50 percent credit for those prisoners with exemplary behavior and who have earned or are making progress toward earning their general educational development (GED) certificate.

*Patron - Miles*

**: HB457 Assessment for courthouse and courtroom security.** Broadens the use of the \$5 fee collected by the courts for assessment for courthouse and courtroom security to funding all courthouse security, not just security personnel. This bill is incorporated into HB 504.

*Patron - Athey*

**: HB670 Good conduct credit.** Provides that no good conduct credit is earned for any day on which a prisoner was under the influence of alcohol or illegal drugs. An arrestee is presumed to be under the influence of alcohol or illegal drugs for the first 24 hours following his arrest for driving under the influence.

*Patron - Bell*

**: HB1140 Courthouse security fee.** Allows the funds from the courthouse security fee to be used for equipment related to courthouse security. This bill is incorporated into HB 504.

*Patron - McDonnell*

**: HB1400 Telephone systems within correctional facilities.** Requires each state, local and regional correctional facility to offer debit telephone systems, in addition to any existing collect calling system, which allow telephone calls to be placed to an incarcerated person's children in order to encourage healthy bonds between the incarcerated parents and their children.

*Patron - Ebbin*

**: SB43 Residential community programs.** Requires the Department of Corrections to give nonviolent prisoners who have not been sentenced upon a conviction of murder in the first degree, rape in violation of § 18.2-61, forcible sodomy, animate or inanimate object sexual penetration or aggravated sexual battery or sentenced to a term of life imprisonment or two or more life sentences the opportunity to participate in a residential community program, work release, or a community-based program. Current law requires that the prisoner not be convicted of any violent crime and be sentenced to at least three years. The bill also restricts the cost of keep to up to 30 percent of gross earnings.

*Patron - Miller*

**: SB474 Mandatory release on parole.** Provides that a prisoner whose parole is revoked on a technical violation is not required to serve the minimum six months. Under this bill, the prisoner would receive credit for good time if the parole violation was technical, but not if the violation involved a new and subsequent charge. This bill is incorporated into SB 658.

*Patron - Ticer*

**: SB613 Prisons and correctional facilities; stores.** Requires that a portion of the profits from inmate canteen or stores within correctional facilities be expended for employment and housing assistance for inmates, prerelease and postrelease. Currently, the profits are used for recreational and educational purposes and other purposes beneficial to the inmates. This bill is incorporated into SB 615.

*Patron - Ticer*

**: SB658 Mandatory release on parole.** Provides that a prisoner whose parole is revoked on a technical violation is not required to serve the minimum six months. Under this bill, the prisoner would receive credit for good time if the parole violation was technical, but not if the violation involved a new and subsequent charge. "Technical violation" means any failure to adhere to conditions of parole that is not deliberate

defiance of those conditions or does not constitute further criminal conduct or both. This bill incorporates SB 474.

*Patron - Quayle*

## Carried Over

**7 HB150 Jail fees paid by those convicted of crimes.** Provides that a sheriff or jail superintendent may charge an inmate convicted of a criminal offense, for each night spent in the facility, an amount equal to the average annual cost to house an inmate for one day at that facility, or he may charge \$70 per day, whichever is less. The bill also provides that the sheriff or jail superintendent may not charge the inmate for more than five nights, or \$350, whichever is less. The charge is based upon the 2002 average annual, statewide cost of housing a jail inmate of \$67.19.

*Patron - Albo*

**7 HB223 Residential community programs.** Requires the Department of Corrections to give nonviolent prisoners who have not been sentenced upon a conviction of murder in the first degree, rape in violation of § 18.2-61, forcible sodomy, animate or inanimate object sexual penetration or aggravated sexual battery or sentenced to a term of life imprisonment or two or more life sentences the opportunity to participate in a residential community program, work release, or a community-based program. Current law requires that the prisoner not be convicted of any violent crime and be sentenced to at least three years. The bill also restricts the cost of keep to up to 30 percent of gross earnings.

*Patron - Shuler*

**7 HB673 Organization of regional jail board.** Provides that only a sheriff shall be eligible to be chairman of a regional jail board.

*Patron - Bell*

**7 HB790 Reading for Good Time.** Establishes a Reading for Good Time credits program in which inmates can receive additional good conduct allowance for reading and passing examinations on such material. Good conduct allowance is applied to reduce the person's maximum term of confinement in any state correctional facility.

*Patron - Watts*

**7 HB815 Department of Corrections; prisoner visitation.** Requires the Department of Corrections to provide for family friendly visitors' areas.

*Patron - Eisenberg*

**7 HB1306 State Police; executive protective services.** Provides for the State Police to render executive protective services to the Governor, his immediate family for certain events or periods of time, and to government officials for certain events or periods of time. The bill exempts from public access information related to plans or resources used to provide such services.

*Patron - Miles*

**7 HB1384 Inmate workers; court orders allowing work.** Provides that the circuit or district court of any county or city may enter an order allowing a person confined in a jail operated by that city or county to work on state, county, city, or town property, certain private property, or nonprofit organization property. Currently, the law only allows the courts to enter such orders for persons confined in a jail of that city or county. The amendment would clarify that a court in one county or city could enter such an order for a person confined in a facility

operated by that county or city, but that is physically located in another jurisdiction.

*Patron - McDougle*

**7 SB75 Good conduct allowance; mandatory functional literacy requirement.** Provides for good conduct allowance for prisoners depending on their performance and conduct in which escalating credits toward good conduct allowance are available in four class levels. The highest level available is 50 percent credit for those prisoners with exemplary behavior and who have earned or are making progress toward earning their general educational development (GED) certificate.

*Patron - Marsh*

**7 SB82 Restoration of right to vote.** Provides that a person convicted of a felony for the distribution of marijuana or possession with the intent to distribute marijuana where the amount of marijuana was five pounds or less, who completed his sentence at least 10 years previously and has no other criminal convictions can petition for restoration of his civil right to be eligible to vote. The existing Code requirement of the demonstration of civic responsibility through community or comparable service will apply. In addition, the applicant must go through the procedure established by the Governor, who will determine whether to grant the petition.

*Patron - Puller*

**7 SB83 Residential community programs.** Requires the Department of Corrections to give nonviolent prisoners who have not been sentenced upon a conviction of murder in the first degree, rape in violation of § 18.2-61, forcible sodomy, animate or inanimate object sexual penetration or aggravated sexual battery or sentenced to a term of life imprisonment or two or more life sentences the opportunity to participate in a residential community program, work release, or a community-based program. Current law requires that the prisoner not be convicted of any violent crime and be sentenced to at least three years. The bill also restricts the cost of keep to up to 30 percent of gross earnings.

*Patron - Puller*

**7 SB89 Reading for Good Time.** Establishes a Reading for Good Time credits program in which inmates can receive additional good conduct allowance for reading and passing examinations on such material. Good conduct allowance is applied to reduce the person's maximum term of confinement in any state correctional facility.

*Patron - Marsh*

**7 SB441 State Board of Corrections; composition; jurisdiction.** Increases the size of the State Board from nine members to 12 members (the quorum being seven instead of five). The bill requires that the members include three community leaders, three elected officials, three members of the medical profession and three citizens with an immediate family member incarcerated within the Commonwealth of Virginia. The bill also empowers the State Board to enter and inspect state correctional facilities at any time.

*Patron - Locke*

## Professions and Occupations

### Passed

**D HB7 Advisory Board on Rehabilitation Providers.** Abolishes the Advisory Board on Rehabilitation Providers. The advisory board was created in 1994 (i) to recommend to

the Boards of Counseling; Medicine; Nursing; Psychology; and Social Work regulatory criteria for the voluntary certification of their licensees who provide rehabilitation services and for standards of conduct of licensees so certified and (ii) to recommend to the Board of Counseling regulatory criteria for certification and for standards of professional conduct of persons who provide rehabilitative services but who are exempt from licensure as professional counselors. The advisory board has not met since the development of initial regulations. The activities of the advisory board are currently subsumed within the Board of Counseling, which has the authority to form ad hoc advisory groups should the need arise for additional expertise. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Cox*

**D HB8 Advisory Committee on Certified Practices.** Abolishes the Advisory Committee on Certified Practices. The advisory committee was created in 1994 to recommend to the Boards of Counseling, Medicine, Nursing, Psychology, and Social Work standards for the voluntary certification of their licensees as sex offender treatment providers and to recommend to the Board of Psychology standards for the mandatory certification of sex offender treatment providers for those professionals who are otherwise exempt from licensure. The advisory committee has not met since the development of the initial regulations. The activities of the advisory committee are currently subsumed within the Board of Psychology, which has the authority to form ad hoc advisory groups should the need arise for additional expertise. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill incorporates HB 210.

*Patron - Cox*

**D HB124 Board for Barbers and Cosmetologists; membership.** Requires that of the two licensed cosmetologists on the Board for Barbers and Cosmetologists, at least one such member shall be a salon owner. Currently, of the two licensed cosmetologists appointed, one may be an owner or operator of a cosmetology school. The bill provides that it does not affect existing appointments for which the terms of current members have not expired. However, any new appointments made after July 1, 2004, shall be made in accordance with the provisions of the bill. The bill contains technical amendments.

*Patron - Albo*

**D HB211 Medical complaint investigation committees and medical and psychological practices audit committees.** Abolishes medical complaint investigation committees, medical practices audit committees, and psychological practices audit committees. The medical complaint investigation committees conduct informal inquiries for the purpose of recommending to the Board of Medicine whether sufficient grounds exist to warrant further proceedings by the Board on whether disciplinary action against a practitioner should be taken. The medical practices audit committees review the practice of the disciplined licensees to ascertain whether their practices conform to the conditions placed on their licenses by the Board of Medicine. The Board has had difficulty in finding physicians to serve on these committees. Currently, the Board of Medicine, the Department of Health Professions, the Health Practitioners' Intervention Program and expert witnesses carry out the functions of the medical practices audit and medical complaint investigation committees. Psychological practices audit committees review the practices of disciplined licensees

to ascertain whether their practices conform to the conditions placed on their licenses by the Board of Psychology. The Board has always chosen to conduct audits with the assistance of expert witnesses as needed instead of appointing formal committees. This bill is identical to SB 5, which was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Athey*

**D HB270 Certain vocational rehabilitation counselors.** Authorizes employees or independent contractors of the Commonwealth's agencies and sheltered workshops, who are currently exempt from obtaining Virginia certification as rehabilitation counselors unless they are providing vocational rehabilitation services through workers' compensation, to use the title "rehabilitation provider" or another similar title and to deliver vocational rehabilitation services under workers' compensation if they have obtained certification by the Commission on Rehabilitation Counselor Certification (CRCC) as certified rehabilitation counselors (CRC) or by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists (CCWAVES) as certified vocational evaluation specialists (CVE). At this time, there is a disconnect between the required federal standard for delivery of services under the federal Rehabilitation Act through the Department of Rehabilitative Services (DRS) and the Department for the Blind and Vision Impaired (DBVI) and the Virginia workers' compensation program. Federal authorities recognize national or state certification and Virginia workers' compensation law presently requires state certification for reimbursement. Thus, at this time, Virginia's public employees who hold national certification and work to assist individuals with disabilities to become employed or to maintain employment, cannot provide services to workers' compensation recipients unless they hold state certification. This provision eliminates this dual requirement.

*Patron - Morgan*

**D HB283 Itinerant merchants; regulation; penalty.** Provides that violations of the chapter are punishable as Class 4 misdemeanors except that any itinerant merchant improperly selling infant formula, baby formula or nonprescription drugs is guilty of a Class 3 misdemeanor.

*Patron - Cosgrove*

**D HB309 Occupational therapy.** Requires persons who practice or advertise as occupational therapy assistants or use the designation "O.T.A." or any variation thereof to obtain initial certification from a credentialing organization approved in regulation by the Board of Medicine. This provision also makes it unlawful to practice occupational therapy without licensure from the Board. The Board is also given clear authority to require licensure of occupational therapists and certification of occupational therapy assistants. The occupational therapist members of the Advisory Board are required to be licensed. Further, the Advisory Board's powers are revised to include recommendations to the Board of credentialing organizations to be approved for initial certification of occupational therapy assistants. Current law authorizes the practice of occupational therapy assistants without certification as long as the person is supervised by an occupational therapist in compliance with Board requirements. The current law also restricts the use of titles such as "occupational therapist" to individuals who hold licensure from the Board. Under this bill, applicants for licensure will continue to use titles such as "occupational therapist, license applicant." Individuals who do not claim to be occupational therapy assistants may continue to assist in the provision of occupational therapy services under the supervi-

sion of an occupational therapist in accordance with Board requirements. Two enactment clauses require the Board to promulgate emergency regulations and condition initial compliance with the licensure and certification requirements of this provision on the timelines, etc., set forth in the Board's regulations.

*Patron - Purkey*

**D HB409 Practice of podiatry; surgery.** Increases the anatomical area of the foot where a podiatrist may perform amputations. The bill authorizes podiatrists to perform amputations proximal to the metatarsal-phalangeal joints in a hospital or ambulatory surgery center that has the appropriate statutorily required accreditation. The bill does not allow amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts.

*Patron - Welch*

**D HB422 Board for Contractors; prohibited acts; misrepresentation; penalty.** Adds a prohibition for any person contracting for, or bidding upon the construction, removal, repair or improvements to or upon real property owned, controlled or leased by another person without the proper class of license as defined in § 54.1-1100 (i.e., Class A, B, or C license) for the value of work to be performed. Currently, a person is prohibited from contracting for, or bidding upon the construction, removal, repair or improvements to or upon real property owned, controlled or leased by another person without a license or certificate. The bill also provides that any person undertaking such work without the proper class of license (i.e., Class A, B, or C license) shall be fined an amount not to exceed \$500 per day for each day that such person is in violation, in addition to the authorized penalties for the commission of a Class 1 misdemeanor.

*Patron - Watts*

**D HB454 Department of Professional and Occupational Regulation and the Board for Contractors.** Directs the Director of the Department of Professional and Occupational Regulation and the Board for Contractors to establish a pilot program consisting of a cooperative agreement with at least one local governing body that authorizes the building official of such locality to assist in the investigation of complaints and the implementation of final disciplinary orders of the Board. The bill also requires the Director and the Board to submit reports to the Governor and the General Assembly on progress made in the development and implementation of the pilot program. The bill has a sunset of July 1, 2006. The bill is identical to SB 285.

*Patron - McQuigg*

**D HB462 Department of Professional and Occupational Regulation; Board for Asbestos, Lead, and Home Inspectors; summary suspension of licenses.** Provides authority for the Board for Asbestos, Lead, and Home Inspectors to order summary suspension of a license issued by the Board or approvals for training managers, principal instructors, and training courses issued by the Board without a hearing or an informal fact finding conference. The bill also provides that proceedings for a hearing or an informal fact finding conference must be instituted simultaneously with the suspension.

*Patron - Drake*

**D HB463 Department of Professional and Occupational Regulation; Board for Asbestos, Lead, and Home Inspectors; necessity for license.** Clarifies that it is unlawful to contract or perform asbestos or lead abatement activities without possessing a license as an asbestos contractor or lead contractor.

*Patron - Drake*

**D HB524 Board of Dentistry; continuing education for dental hygienists.** Eliminates the requirement that dental hygienists complete 15 hours of continuing education courses for license renewal or reinstatement after April 1, 1995. Under the bill, continuing education courses will still be required in accordance with the Board of Dentistry's regulations, which will now have the flexibility to set the requisite number of hours.

*Patron - Hogan*

**D HB577 Health professions; disciplinary proceedings.** Grants to all health regulatory boards the authority to delegate some informal fact-finding proceedings to an appropriately qualified agency subordinate pursuant to regulations adopted by the relevant board. The bill makes general an existing provision for most health regulatory boards to order a physical or mental examination of a practitioner when he is unable to practice because of excessive use of alcohol or drugs or mental illness, after preliminary investigation by an informal fact-finding proceeding. The bill moves two sections relating to reporting requirements for hospital and other health care institutions and practitioners into the general provisions for health regulatory boards. Both sections are amended to require that the reports be made to the Director of the Department of Health Professions and are made applicable to persons holding the multistate licensure privilege to practice nursing. The bill requires the Commissioner of the Department of Social Services to report health professionals who may be guilty of fraudulent, unethical or unprofessional conduct. The bill adds an immunity provision for any person who reports regarding the conduct or competency of a health care practitioner as required by law or regulation or provides information pursuant to an investigation or testifying in a judicial or administrative proceeding as a result of such report, unless the person acted in bad faith or with malicious intent. Finally, the bill requires the health regulatory boards to promulgate emergency regulations relating to the delegation of fact-finding proceedings to an agency subordinate.

*Patron - Hamilton*

**D HB623 Registration of pharmacy technicians in free clinics.** Requires the Board of Pharmacy to waive the initial registration fee and the first examination fee for the Board-approved examination for a pharmacy technician applicant who works as a pharmacy technician exclusively in a free clinic pharmacy. If such applicant fails the examination, he must be responsible for any subsequent fees to retake the examination. A person registered pursuant to this subsection will be issued a limited-use registration. A pharmacy technician with a limited-use registration will be prohibited from performing pharmacy technician tasks in any setting other than a free clinic pharmacy. The Board will also waive renewal fees for such limited-use registrations. A pharmacy technician with a limited-use registration may convert to an unlimited registration by paying the current renewal fee.

*Patron - Orrock*

**D HB626 The practice of licensed dentists in certain dental clinics.** Authorizes licensed dentists to practice as employees of dental clinics operated by the Department of Health, the Department of Mental Health, Mental Retardation and Substance Abuse Services or a Virginia charitable corporation operated as a clinic for the indigent and the uninsured that is organized for the delivery of primary health care services as a federal qualified health center or at a reduced or sliding fee scale or without charge. Present law is presumed to authorize only dentists who hold temporary permits to practice in these settings.

*Patron - O'Bannon*

**D HB690 Filling and stocking of automated drug dispensing systems in hospital pharmacies by registered pharmacy technicians.** Clarifies that the filling and stocking of automated drug dispensing systems in hospital pharmacies may be delegated to registered pharmacy technicians. A pharmacist will remain legally responsible for the proper and accurate stocking and filling of the automated drug dispensing system, i.e., either the pharmacist who is charged with filling and stocking the device or, if a registered pharmacy technician is delegated this task, the pharmacist-in-charge.

*Patron - Morgan*

**D HB716 Department of Professional and Occupational Regulation; complaint information; time for filing complaints.** Authorizes the Department of Professional and Occupational Regulation to consider information from public sources as the basis for written complaints against a regulant. The bill also extends the period of time that a complaint may be filed against a regulant where the regulant has misrepresented, concealed or omitted any information material to the establishment of a violation to two years from the date of discovery of the misrepresentation, concealment or omission. Under current law, the period of time is extended only when the regulant materially misrepresents any information required by statute or regulation to be disclosed. The bill further provides that in cases where criminal charges involving matters that would also constitute a violation of the regulations or laws of the regulant's profession or occupation enforced by the Department are brought against the regulant, an investigation may be initiated by the Department within two years of the date that the criminal charges are brought.

*Patron - Shannon*

**D HB783 Inventories of controlled substances required by the Board of Pharmacy; certain limited exceptions.** Eliminates the requirement for the Division of Forensic Science to inventory the approximately 1200 drugs maintained in very small quantities as "standards" for making comparisons with the evidence that may be submitted for analyses. In addition, no inventory for the purpose of compliance with Board of Pharmacy requirements will be required of known or suspected controlled substances that have been received as evidentiary materials for analyses by the Division of Forensic Science. This bill tracks federal law to provide limited exceptions to the state inventory requirements, a task requiring many hours of the Division's staff time. The Division's exceptions apply to standards of (i) controlled substances on hand at the time of the inventory in a quantity of less than one kilogram, other than a hallucinogenic controlled substance listed in Schedule I of the Drug Control Act; or (ii) hallucinogenic controlled substances listed in Schedule I of the Drug Control Act, other than lysergic acid diethylamide (LSD), on hand at the time of the inventory in a quantity of less than 20 grams; or (iii) LSD on hand at the time of the inventory in a quantity of less than 0.5 grams.

*Patron - McDougle*

**D HB829 Board for Contractors; certification of elevator mechanics.** Institutes a certification program by the Board for Contractors of elevator mechanics and sets forth the requirements for certification. The bill defines elevator mechanic as an individual who is certified by the Board for Contractors and is engaged in erecting, constructing, installing, altering, servicing, repairing, testing or maintaining elevators, escalators, or related conveyances in accordance with the Uniform Statewide Building Code. However, a person not certified as an elevator mechanic may perform maintenance that is not related to the operating integrity of an elevator, escalator, or related conveyance, as provided in the regulations of the Board. The bill provides a one-year waiver of the examination

requirement if the applicant is able to demonstrate that he has at least five years experience as a mechanic in the elevator industry. The bill provides that elevator mechanics must be certified effective July 1, 2005.

*Patron - Drake*

**D HB831 Board for Contractors; exemptions from licensure; penalty.** Grants an exemption from licensure to any person who performs or supervises repair or improvement of residential dwelling units owned by him that are subject to the Virginia Residential Landlord Tenant Act. The bill further provides that such person and certain persons enumerated in the bill who are exempted from licensure shall comply with the Uniform Statewide Building Code. The bill contains technical amendments.

*Patron - Drake*

**D HB849 Board for Contractors; necessity for licensure; design-build construction.** Provides that, while a licensed architect or professional engineer is not required to be licensed or certified as a contractor to engage in, or offer to engage in, contracting work or operate as an owner-developer in the Commonwealth when bidding upon or negotiating design-build contracts or performing services under a design-build contract, he must be licensed as a contractor to render construction services in connection with a design-build contract.

*Patron - Jones, S.C.*

**D HB851 Collaborative agreements between pharmacists and practitioners of medicine, osteopathy, or podiatry.** Repeals the sunset clauses of two 1999 Acts of Assembly to avoid the sunset date of July 1, 2004, and thereby continue the authority for pharmacists involved directly in patient care to participate with practitioners of medicine, osteopathy, or podiatry in collaborative agreements that authorize cooperative procedures related to treatment using drug therapy, laboratory tests or medical devices for the purpose of improving patient outcomes.

*Patron - Jones, S.C.*

**D HB852 Exemptions from the requirements to be licensed as wholesale distributors.** Exempts permitted medical equipment suppliers from being licensed as wholesale distributors when engaging in wholesale distributions of small quantities of oxygen when such wholesale distributions are in compliance with federal law and such wholesale distributions do not exceed five percent of the gross annual sales of oxygen by the relevant permitted medical equipment supplier.

*Patron - Jones, S.C.*

**D HB854 Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects; necessity for license; design-build contracts.** Provides that a contractor licensed by the Board for Contractors is not required to get an architect's or engineer's license to bid on or negotiate design-build contracts or perform services, other than architectural, engineering or land surveying services under a design-build contract. The bill provides, however, that the architectural, engineering or land surveying services offered or rendered in connection with such contracts shall only be rendered by a licensed architect, professional engineer or land surveyor.

*Patron - Jones, S.C.*

**D HB856 Practice of optometry.** Revises the requirements for the practice and licensure of optometrists by requiring that, after June 30, 2004, every person initially licensed to practice optometry must meet the qualifications for a TPA-certified optometrist, i.e., be trained to prescribed thera-

peutic pharmaceutical agents for treatment of diseases of the human eye and its adnexa. The bill expands the prescriptive authority of TPA-certified optometrists to include the prescribing and administering of Schedule III through VI controlled substances and devices to treat diseases of the human eye and its adnexa, within the scope of practice of optometry and as determined by the Board. Present law limits TPA-certified optometrists' prescriptive authority to Schedule III and Schedule VI. The Board of Optometry is required, pursuant to an enactment clause, to promulgate emergency regulations, i.e., within 280 days of the bill's enactment.

*Patron - Jones, S.C.*

**D HB857 Cemetery Board; perpetual care trust funds and preneed burial contracts; appointment of receiver.** Authorizes the Cemetery Board to petition the court to appoint a receiver to oversee the cemetery operations of a cemetery company in certain situations in order to protect the public. The bill also (i) increases the amount that a new cemetery company must place in an irrevocable perpetual care trust fund from \$25,000 to \$50,000, and (ii) clarifies that the principal of the trust fund must be used for perpetual care unless approval for other uses has been approved by the Board or the court. The bill requires the Board to promulgate regulations within 280 days.

*Patron - Jones, S.C.*

**D HB875 Copies of patient records when professional practice closed, sold or relocated; notice; charges.** Modifies the provision requiring notice specifying that copies of records will be sent to any like-regulated provider of the patient's choice or provided to the patient when a practice is being closed, sold or relocated. This bill provides that the charges for the records must not exceed the actual costs of copying and mailing or delivering the records. "Current patient" is defined as "a patient who has had a patient encounter with the provider or his professional practice during the two-year period immediately preceding the date of the record transfer." "Relocation of a professional practice" is defined as "the moving of a practice located in Virginia from the location at which the records are stored at the time of the notice to another practice site that is located more than 30 miles away or to another practice site that is located in another state or the District of Columbia."

*Patron - O'Bannon*

**D HB1022 Department of Professional and Occupational Regulation; Auctioneers Board; continuing education.** Provides for the Auctioneers Board to establish continuing education for licensed auctioneers. Under the bill, the Board shall require at least six hours of Board-approved continuing education courses for the renewal or reinstatement of a license. In addition, the bill provides that any continuing education courses completed by an auctioneer pursuant to a requirement of the Certified Auctioneer's Institute or participation in the educational programs sponsored by the National Auctioneer's Association or Virginia Auctioneer's Association shall satisfy the continuing education requirement.

*Patron - Dillard*

**D HB1049 Practice of dentistry or dental hygiene by students; temporary licenses to persons enrolled in advanced dental education programs; emergency.** Modernizes the authority for dental students and dental hygiene students to practice under the direction of competent instructors. This bill removes the mere authority to perform dental operations when enrolled in advanced dental programs (e.g., internships, residencies, certificate and degree programs in hospitals and schools of dentistry) and authorizes the Board to issue temporary annual licenses to these advanced dental students. The

Board may promulgate regulations to carry out the temporary licensure program and may require reports from the hospitals and schools of dentistry that operate the programs. Students enrolled in schools of dentistry may perform dental operations in accredited programs, nonprofit dental clinics providing indigent care, governmental or indigent care clinics to which they are assigned in their final academic year, and private dental offices for a limited time during the final academic year. Two enactment clauses require that (i) the Board of Dentistry must promulgate emergency regulations and (ii) the act is an emergency, to be in effect from its passage.

*Patron - Hamilton*

**D HJ118 School of pharmacy in Buchanan County.** Endorses the establishment of a school of pharmacy in Buchanan County. This resolution notes the need for economic development projects in Southwest Virginia and the recent establishment of the Appalachian School of Law and the proposal for a pharmacy school at the University of Appalachia in Grundy. A \$3 million loan has been granted for the construction of the pharmacy school and the Board of Supervisors of Buchanan County has strongly endorsed this project. Copies of the resolution are to be transmitted to the members of the Virginia Congressional Delegation and the Governor with directions to disseminate the resolution to relevant federal officials and various state higher education entities, respectively. This resolution is identical to SJR 49.

*Patron - Stump*

**D HJ205 Nurse practitioner prescriptive authority.** Requests the Board of Nursing to collect information on nurse practitioner prescriptive authority. The Board shall collect data regarding the (i) practice locations of nurse practitioners and (ii) number of nurse practitioners with the authority to prescribe each Schedule of controlled substances and devices. The Board of Nursing shall submit an executive summary of its findings to the Joint Commission on Health Care, the House Committee on Health, Welfare and Institutions, and the Senate Committee on Education and Health.

*Patron - Bryant*

**D SB5 Medical complaint investigation committees and medical and psychological practices audit committees.** Abolishes medical complaint investigation committees, medical practices audit committees, and psychological practices audit committees. The medical complaint investigation committees conduct informal inquiries for the purpose of recommending to the Board of Medicine whether sufficient grounds exist to warrant further proceedings by the Board on whether disciplinary action against a practitioner should be taken. The medical practices audit committees review the practice of the disciplined licensees to ascertain whether their practices conform to the conditions placed on their licenses by the Board of Medicine. The Board has had difficulty in finding physicians to serve on these committees. Currently, the Board of Medicine, the Department of Health Professions, the Health Practitioners' Intervention Program and expert witnesses carry out the functions of the medical practices audit and medical complaint investigation committees. Psychological practices audit committees review the practices of disciplined licensees to ascertain whether their practices conform to the conditions placed on their licenses by the Board of Psychology. The Board has always chosen to conduct audits with the assistance of expert witnesses as needed instead of appointing formal committees. This bill is identical to SB 5 (Martin) and is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Martin*



**D SB159 Regulation of athletic trainers.** Revises the regulatory requirements for athletic trainers from certification to licensure. The Board of Medicine will promulgate regulations for the credentials of athletic trainers with the assistance of the Advisory Board on Athletic Training. Athletic trainers who are certified pursuant to the law in effect on June 30, 2004, will not be required to be licensed until July 1, 2005. Enactment clauses require the Board of Medicine to promulgate emergency regulations to implement the provisions of this act and to deem that athletic trainers who are certified to practice athletic training pursuant to the law in effect on June 30, 2004, will be, upon application, in compliance with the new licensure requirements and will be issued a license to practice athletic training. The Board is authorized to charge a reasonable fee for the application for and issuance of the license.

*Patron - Potts*

**D SB160 Physician-patient relationships; establishment, effect of certain emergency room evaluations, termination.** Provides that any physician-patient relationship that may be created by virtue of an on-call physician or his agent evaluating or treating a patient in an emergency room will be deemed terminated without further notice upon the discharge of the patient from the emergency room or if the patient is admitted to the hospital, upon his discharge from the hospital and after completion of follow-up as prescribed by the physician, unless the physician and the patient affirmatively elect to continue the physician-patient relationship. This provision does not relieve a physician of his post-discharge duty to satisfy the standard of care required in Virginia, i.e., "the degree of skill and diligence practiced by a reasonably prudent practitioner in the field of practice or specialty in this Commonwealth."

*Patron - Potts*

**D SB224 Physician disclosure of medical treatment options.** Authorizes physicians to disclose fully all medical treatment options to patients whether or not (i) such treatment options are experimental or covered services, (ii) the treatment options include services that the health insurer will not authorize, or (iii) the costs of the treatment will be borne by the health insurer or the patient, if the physician determines that an option is in the best interest of the patient. This bill also prohibits health insurers from limiting, restricting, or prohibiting physicians from disclosing such information. Physicians who disclose such information to persons with whom they have a physician-patient relationship are immune from liability to any health insurer, in an action instituted solely on behalf of the health insurer, for any civil damages arising from the disclosure of such information.

*Patron - Marsh*

**D SB285 Department of Professional and Occupational Regulation; Board for Contractors; cooperative agreements.** Directs the Director of the Department of Professional and Occupational Regulation and the Board for Contractors to establish a pilot program consisting of a cooperative agreement with at least one local governing body that authorizes the building official of such locality to assist in the investigation of complaints and the implementation of final disciplinary orders of the Board. The bill also requires the Director and the Board to submit reports to the Governor and the General Assembly on progress made in the development and implementation of the pilot program. The bill has a sunset of July 1, 2006. This bill is identical to HB 454.

*Patron - O'Brien*

**D SB303 Department of Professional and Occupational Regulation; Cemetery Board; financial reports;**

**authorization for interment.** Clarifies that the annual financial report that cemetery companies are required to provide the Cemetery Board for a perpetual care trust fund or preneed trust account be provided on forms prescribed by the Board. The bill also (i) authorizes a cemetery to accept the notarized signature of one next of kin of a decedent for the purpose of authorizing the interment or entombment of the deceased or the erection of a memorial or marker unless the cemetery has written notice of a dispute among the next of kin, (ii) authorizes the Board to regulate and establish qualifications for compliance agents, and (iii) provides for the cemetery to withhold services until the parties have reached mutual agreement or a court has entered an order adjudicating the issue. In addition, the bill requires the Cemetery Board to promulgate regulations within 280 days of the effective date of the act.

*Patron - O'Brien*

**D SB498 Podiatric specialty board certification.** Allows podiatrists to list specialty board certifications awarded by the American Board of Multiple Specialties in Podiatry (ABMSP) on their practitioner profiles. Currently, the Board of Medicine only allows the listing of specialty certifications approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association. The ABMSP offers specialty certification to qualified podiatrists in three areas: primary care in podiatric medicine, podiatric surgery, and prevention and treatment of diabetic foot wounds.

*Patron - Mims*

**D SB539 Board of Accountancy.** Establishes the Board of Accountancy Trust Account to provide the Board with a supplemental source of funding to study, research, investigate and adjudicate regulatory issues and possible violations of statutes and regulations governing certified public accountants (CPA) or CPA firms licensed in the Commonwealth. In addition, the bill (i) authorizes the use of CPA firms to perform peer reviews and clarifies that persons conducting the peer review must hold a valid CPA license, (ii) deletes provisions authorizing the Board to admit graduates of Bristol College and the Benjamin Franklin School of Accountancy and Financial Administration to the CPA examination, and extends such authority for the admission of graduates with a baccalaureate degree with a major in accounting or a concentration in accounting from the National College of Business and Technology, (iii) authorizes the Board to impose monetary penalties on former licensees and other individuals and entities engaged in the unlicensed practice of public accounting or using the CPA title without a license, (iv) deletes provisions prohibiting referral and contingency fees and required disclosure provisions regarding such fees, and (iv) provides for firm registrations to be renewed annually rather than biennially. The bill also contains technical amendments.

*Patron - Stosch*

**D SB555 Pronouncements of death under certain circumstances by physician assistants.** Authorizes a physician assistant practicing under the supervision of a physician to pronounce death under the following circumstances: (i) the physician assistant works at (a) a home health organization, or (b) a hospice, or (c) a hospital or nursing home, including state-operated hospitals, or (d) the Department of Corrections; (ii) the physician assistant is directly involved in the care of the patient; (iii) the patient's death has occurred; (iv) the patient is under the care of a physician when his death occurs; (v) the patient's death has been anticipated; (vi) the physician is unable to be present within a reasonable period of time to determine death; and (vii) there is a valid Do Not Resuscitate Order pursuant to § 54.1-2987.1 for the patient who has died. The physician assistant must inform the patient's attending and consulting physicians of his death as soon as practicable and

must inform the chief medical examiner of unexpected deaths. The physician assistant will not make a determination of the cause of death, i.e., physicians will continue to have this responsibility. The Board of Medicine's procedures, if any, will apply to these pronouncements of death, and the physician assistant is not relieved of any liability from failure to comply with the Board's regulations. This bill provides limited authority to pronounce death to physician assistants identical to the authority registered nurses have already been granted.

*Patron - Lucas*

**D SB573 Department of Professional and Occupational Regulation and the Department of Health Professions; continuing education for certain professional licensees.** Provides that the extension for compliance with requirements for maintaining professional licenses for regulators who are on active military duty shall be granted for one year after such person's release from active military duty provided such extension would not constitute a danger to the public health, safety or welfare.

*Patron - Bolling*

## Failed

**: HB139 Persons who may witness an advance directive.** Removes the prohibition that a spouse or blood relative of the patient cannot serve as a witness of the signing of an advance directive. This provision authorizes any person over the age of 18, including a spouse or blood relative of the declarant, to serve as a witness for the advance directive.

*Patron - Kilgore*

**: HB166 Rules of the Supreme Court regarding Interest on Lawyer's Trust Account (IOLTA) and Consumer Real Estate Settlement Protection Act (CRESPA) accounts.** Requires the Court to prescribe rules allowing attorneys or law firms to designate charities to which the interest or dividends from IOLTA and CRESPA accounts shall be paid according to the same procedures and requirements established for the transmission of interest or dividends to the Legal Services Corporation of Virginia.

*Patron - Albo*

**: HB210 Advisory Committee on Certified Practices.** Abolishes the Advisory Committee on Certified Practices. The advisory committee was created in 1994 to recommend to the Boards of Counseling, Medicine, Nursing, Psychology, and Social Work standards for the voluntary certification of their licensees as sex offender treatment providers and to recommend to the Board of Psychology standards for the mandatory certification of sex offender treatment providers for those professionals who are otherwise exempt from licensure. The advisory committee has not met since the development of the initial regulations. The activities of the advisory committee are currently subsumed within the Board of Psychology, which has the authority to form ad hoc advisory groups should the need arise for additional expertise. This bill is identical to HB 8, which was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill is incorporated into HB 8.

*Patron - Athey*

**: HB212 Advisory Board on Rehabilitation Providers.** Abolishes the Advisory Board on Rehabilitation Providers. The advisory board was created in 1994 (i) to recommend to the Boards of Counseling; Medicine; Nursing; Psychology; and Social Work regulatory criteria for the volun-

tary certification of their licensees who provide rehabilitation services and for standards of conduct of licensees so certified and (ii) to recommend to the Board of Counseling regulatory criteria for certification and for standards of professional conduct of persons who provide rehabilitative services but who are exempt from licensure as professional counselors. The advisory board has not met since the development of initial regulations. The activities of the advisory board are currently subsumed within the Board of Counseling, which has the authority to form ad hoc advisory groups should the need arise for additional expertise. This bill is identical to HB 7, which was recommended by the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Athey*

**: HB268 Cemetery Board; powers; use of income by cemeteries.** Provides that no regulation of the Cemetery Board shall require a cemetery company to provide an accounting of trust funds more often than quarterly. The bill also authorizes the use of the income from the perpetual care trust fund for any capital improvements to the cemetery deemed necessary by the cemetery company. The bill contains technical amendments.

*Patron - Morgan*

**: HB381 Notification of parents of certain health services to minors.** Requires, notwithstanding other law to the contrary and unless prohibited by federal law or regulation, any state or local government agency employee who provides services to a minor, for which such minor is deemed an adult for purposes of consent, to notify, within two business days of delivery of such services, a custodial parent, legal guardian or other person standing in loco parentis of any service and any reason, condition or diagnosis requiring such service when the service relates to sexually transmitted diseases, the provision of emergency contraception, pregnancy, illegal drug use, and the contemplation of suicide. The employee is required to provide notice in person or by telephone, or if such attempts to notify are unsuccessful, by certified mail to the authorized person; however, notification will not be required when the employee has knowledge that such notification may result in future physical or mental abuse.

*Patron - Lingamfelter*

**: HB581 Health professions; practice of midwifery.** Provides for the licensure by the Board of Medicine of those persons who have obtained the Certified Professional Midwife credential to practice midwifery pursuant to regulations adopted by the Board of Medicine. The Board of Medicine shall adopt regulations, with advice from the Advisory Board on Midwifery established in this bill. The regulations shall (i) address the requirements for licensure to practice midwifery; (ii) be consistent with the current job analysis for the profession; (iii) ensure independent practice; (iv) provide for an appropriate license fee; and (v) include requirements for licensure renewal and continuing education. The regulations shall not (a) require any agreement, written or otherwise, with another health care professional, or (b) require the assessment of a woman who is seeking midwifery services by another health care professional. Licensed midwives must disclose to clients certain background information, including their training and experience, a written protocol for medical emergencies, malpractice or liability insurance coverage, and procedures to file complaints with the Board of Medicine. The bill provides immunity to physicians, nurses, prehospital emergency personnel or health care institutions for acts resulting from the administration of services by any licensed midwife.

*Patron - Hamilton*

: **HB696 Professions and occupations; unlawful acts; penalties.** Includes public agencies and local school boards specifically as "entities" that must not engage in any enumerated unlawful acts. The bill modifies the provision relating to violating any statute or regulation governing the practice of any regulated profession or occupation to include "facilitating" the violation of any statute or regulation governing the practice of any regulated profession or occupation and to cover any statutory or regulatory requirement for direction and supervision of the practice of any regulated profession or occupation.

*Patron - Morgan*

: **HB853 Home inspectors; voluntary certification program.** Provides that nothing in law that limits the use of the term "certified home inspector" or other like terms shall be construed to prohibit a person who holds a valid license to engage in the practice of architecture or engineering issued pursuant to § 54.1-406 from rendering services as a home inspector.

*Patron - Jones, S.C.*

: **HB870 Respiratory care practitioners; authorization to administer controlled substances within scope of practice.** Adds respiratory care practitioners to the exception to the practice of medicine relating to authority to draw blood, give intravenous infusions and injections, and insert tubes. This provision also clarifies the present authority of respiratory care practitioners to administer controlled substances to coincide with current training and practice by removing the restriction on the present authority to drugs administered by inhalation. The new language allows prescribers to authorize respiratory care practitioners to administer controlled substances and devices that are within the respiratory care practitioner's scope of practice, which might include intravenous infusions and injections and the insertion of tubes. Technical amendments are included to revise the lettering of the subsections.

*Patron - Byron*

: **HB953 Records, reports, and requirements relating to certain services delivered to minors.** Requires that every local or district health department that delivers health care services, and every community services board, by whatever name known or described in law, must maintain aggregate records, without specific patient identifiers and in compliance with federal patient privacy requirements, on the services delivered to minors who are deemed to be adults for the purpose of consent that relate to sexually transmitted diseases; outpatient care, treatment or rehabilitation for substance abuse; pregnancy; and the contemplation of suicide. Such records shall, at minimum, include the following information as relevant: (i) the specific sexually transmitted disease for which treatment was sought and the treatment recommended or provided; (ii) the specific drug or drugs for which substance abuse outpatient care, treatment or rehabilitation was sought and the treatment recommended or provided; (iii) the month of pregnancy at the time prenatal care was initiated and any particular treatment recommended or provided; (iv) the reason for or any mental illness diagnosis that is implicated in the minor's contemplation of suicide; (v) any prescription drugs that the minor is currently taking; and (vi) the minor's rationale for excluding his parent from participating in the specific health care being sought. As a condition of delivery of such care, each local or district health department or community services board must require that such minors (a) disclose any prescription drugs currently being taken; (b) acknowledge, in writing, that it is best to have his parent participate in such treatment decisions and (c) disclose the rationale for excluding his parent from par-

ticipating in the specific health care being sought. A report of such aggregate data must be compiled and distributed to the Governor and the General Assembly annually by June 30. Such report will include the reason for seeking health care, the diagnosis, the number of minors seen for each category of care for which a minor may be deemed an adult, the number of minors treated in the last 12 months, the number of visits any minor made for the same health condition, and the number of minors who are treated for sexually transmitted diseases who are also known to be substance abusers. The combined report of aggregate data must also be posted on the Department of Health's website in a manner that allows the general public to access the results for each local jurisdiction in the Commonwealth as well as the state at large.

*Patron - Lingamfelter*

: **HB1219 Funeral services; exemption from licensure; board membership.** Exempts from licensure as a funeral services provider persons who sell items of merchandise to consumers that will be used in connection with a funeral or an alternative to a funeral or final disposition of human remains including caskets. The bill also requires a majority of citizen members on the nine-member Board of Funeral Directors and Embalmers. The Board's current composition is seven funeral services licensees and two citizen members.

*Patron - Spruill*

: **HB1354 Midwifery not the practice of medicine.** Excludes from the definition of the practice of medicine and other healing arts the usual professional activities of any midwife who is properly trained to provide care or services in giving primary assistance in the birth process either free, for trade, or for a fee.

*Patron - Hamilton*

: **HB1403 Morning-after pill; parental consent for minors required.** The bill requires a prescriber to obtain parental consent prior to prescribing Plan B, or any other form of the MAP, to an unemancipated minor. Prescribing without consent is a Class 1 misdemeanor.

*Patron - Byron*

: **HB1459 Department of Professional and Occupational Regulation; examinations by regulatory boards.** Provides that in awarding contracts for examination services, regulatory boards may enter into contracts with at least two businesses, as defined in § 2.2-4301, and afford to each applicant for certification or licensure the opportunity to select from among such businesses to fulfill such applicant's examination requirement.

*Patron - Suit*

: **HJ127 Board of Health Professions; midwifery regulations.** Requests the Board of Health Professions to recommend a regulatory system for establishing the appropriate regulation of certain direct entry midwives. The Board shall confer with the North American Registry of Midwives (NARM), the crediting agency for the Certified Professional Midwife (CPM), and the Commonwealth Midwives Alliance (CMA), which represents the direct entry midwives of Virginia. The Board shall also provide for public participation. The Department of Health Professions shall provide technical assistance to the Board, and the Chairman of the Board shall submit an executive summary and report no later than the first day of the 2005 Regular Session of the General Assembly.

*Patron - Hamilton*

: **SB674 Involuntary commitment hearings; law students.** Provides that it is not the unauthorized practice of law for a third-year law student at a Virginia law school to rep-

resent a petitioner in an involuntary mental commitment hearing without the presence of a practicing attorney. The student must have completed certain coursework and training. The student must inform the petitioner that he is not a licensed attorney, that he may not be compensated for his services and that he can be held liable only for intentional malfeasance.

*Patron - Cuccinelli*

## Carried Over

**7 HB160 Causes for revocation or suspension of an optometrist's license or reprimand of an optometrist.** Provides an additional rationale for revocation or suspension of an optometrist's license or for reprimand of an optometrist, i.e., practicing optometry in any setting or location in which there is access to or from the practice through a common door or doorway between both the practice and a commercial or mercantile establishment.

*Patron - Reid*

**7 HB455 Health professions; licensure of dietitians.** Requires dietitians to be licensed by the Board of Medicine. The "practice of dietetics" is defined as the integration and application of principles derived from the sciences of nutrition, biochemistry, food, physiology, management and behavioral and social sciences to achieve and maintain health through the provision of nutrition care services that shall include (i) assessing the nutrition needs of individuals and groups based upon appropriate biochemical, anthropomorphic, physical, and dietary data to determine nutrient needs and recommend appropriate intake including enteral and parenteral nutrition; (ii) establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources; (iii) providing dietetic nutrition counseling by advising and assisting individuals or groups on appropriate nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrients and meal preparation consistent with cultural background and socioeconomic status; (iv) developing, implementing, and managing nutrition care delivery systems; and (v) evaluating, making changes in, and maintaining standards of quality in food and nutrition care services. The bill provides that the practice of dietetics includes medical nutrition therapy. The Board of Medicine is given the authority to establish criteria for licensure that include (a) at least a bachelors degree in human nutrition, nutrition education, foods and nutrition, food systems management, dietetics, or public health nutrition or a related field from an accredited college that meets the requirements of the Commission on Dietetic Registration; (b) at least 900 hours of supervised experience approved by the Commission on Dietetic Registration; (c) passage of the examination for registration administered by the Commission on Dietetic Registration or current registration with the Commission on Dietetic Registration; and (d) documentation that the applicant for licensure has not had his license or certification as a dietitian suspended or revoked and is not the subject of any disciplinary proceedings in another jurisdiction. Exceptions to the licensure requirement are provided for (1) any student performing activities related to an educational program under the supervision of a licensed dietitian or any person completing the supervised practice required for licensure; (2) a registered dietetic technician working under the supervision and direction of a licensed dietitian; (3) a government employee or a person under contract to the government acting within the scope of such employment or contract; (4) any health professional licensed or certified under this title when engaging in the profession for which he is licensed or any person working under the supervision of such a professional; (5) a certified teacher employed by or under contract to any public or private elemen-

tary or secondary school or institution of higher education; (6) any person with management responsibility for food service department policies, procedures or outcomes in any food service department in any program or facility licensed by the Commonwealth; (7) any person who does not hold himself out to be a dietitian who furnishes general nutrition on food, food materials, or dietary supplements or explains to customers about foods or food products in connection with marketing and distribution of food or food products; or (8) any person who provides weight control, wellness, or exercise services involving nutrition provided the program has been reviewed by a licensed dietitian, no change is initiated without prior approval of the dietitian, and consultation is available from a licensed dietitian. No dietitian employed as such prior to June 30, 2004, will be required to comply with licensure until July 1, 2006. Finally, the bill creates an Advisory Board on Dietitians that expires July 1, 2007.

*Patron - McQuigg*

**7 HB602 Podiatric surgery.** Modifies the statute that requires podiatrists to perform surgery under general anesthesia in a hospital or ambulatory surgery center to provide that podiatrists may provide medical direction and supervision for the practice of certified registered nurse anesthetists when performing such surgery in hospitals or ambulatory surgery centers. Currently, the Board of Nursing's regulation, 18VAC90-30-120 C, authorizes nurse anesthetists to practice only under the medical direction and supervision of doctors of medicine, osteopathy and dentistry. Thus, enactment clauses direct the Board of Nursing to revise its regulations to authorize the nurse anesthetists to so practice with podiatrists and to promulgate emergency regulations.

*Patron - Dudley*

**7 HB761 Virginia State Bar; availability of membership lists.** Clarifies that the provisions of the Freedom of Information Act do not apply to requests for copies of the Virginia State Bar membership lists. The bill does provide, however, that copies shall be made available, upon request, to Virginia organizations that regularly conduct continuing legal education programs in the Commonwealth and that such lists shall be provided at a reasonable cost. Currently, copies of this list are provided to legal aid societies and the Virginia Law Foundation as well as continuing legal education providers on a cost recovery basis.

*Patron - Hurt*

**7 HB1173 Legal aid societies.** Requires the Virginia State Bar to provide a check-off box on its annual bar dues statement for voluntary monetary contributions to Legal Services Corporation of Virginia.

*Patron - Kilgore*

**7 HB1415 Continued nurse practitioner competency; instruction relating to prevention, symptoms and diagnosis of certain communicable diseases.** Requires the Boards of Nursing and Medicine to include, in the regulations on continued nurse practitioner competency, instruction on prevention of transmission and the symptoms and proper methods of diagnosis of communicable diseases, such as hepatitis C, that may often go undetected and untreated by health care practitioners.

*Patron - Amundson*

**7 HB1440 Delegation of certain nursing tasks; attendant care services.** Requires the Board of Nursing to (i) encourage schools of nursing in the Commonwealth to include in their curricula information on delegation of certain nursing tasks not involving assessment, evaluation or nursing judgment to appropriately trained unlicensed personnel under the super-

vision of a registered nurse; (ii) provide a brochure about such delegation to current registered nurses; (iii) provide materials on delegation to employers of unlicensed assistive personnel; and (iv) develop through regulation, a training program for registered nurses to teach delegable nursing tasks to unlicensed personnel. The bill creates a new category of "attendant care services," and provides that nothing in Chapter 30 of Title 54.1 shall be construed to prohibit a person not licensed under the chapter from providing such services directed by or on behalf of an individual in need of in-home care. "Attendant care services" are defined as those basic and ancillary services that enable an individual in need of in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care, and mobility. The bill also excludes attendant care services from the definition of practical nursing.

*Patron - Eisenberg*

**7 SB187 Board of Dentistry regulations on dental amalgams containing mercury.** Requires the Board of Dentistry to promulgate regulations for the appropriate and safe use of dental amalgams containing mercury. The regulations must include, but need not be limited to, information on mercury and its environmental and health hazards; the safe handling of dental amalgams containing mercury to avoid human and animal exposure to mercury; appropriate disposal of mercury amalgams and waste products to prevent mercury pollution of the environment; conditions under which amalgams containing mercury are contraindicated and are not to be used in certain patients; a requirement that each patient be given informed consent about the health and safety concerns relating to amalgams containing mercury; and a requirement that any dentist who is continuing to use dental amalgams containing mercury must provide each of his patients with the option of receiving a dental filling other than dental amalgams containing mercury.

*Patron - Miller*

**7 SB272 Causes for revocation or suspension of an optometrist's license or reprimand of an optometrist.** Provides an additional rationale for revocation or suspension of an optometrist's license or for reprimand of an optometrist, i.e., practicing optometry in any setting or location in which there is access to or from the practice through a common door or doorway between both the practice and a commercial or mercantile establishment.

*Patron - Quayle*

**7 SB624 Department of Professional and Occupational Regulation, Board for Barbers and Cosmetology; designation of shop or salon.** Requires applicants for licensure as a barber, cosmetologist or nail technician to submit a designation to the Board for Barbers and Cosmetology of the licensed barbershop, cosmetology salon or nail salon at which the applicant will conduct his business. In addition, the bill requires barbers, cosmetologists and nail technicians to update the designation when the license is renewed. The bill has a delayed effective date of July 1, 2005, and provides for the Board to promulgate regulations pertaining to the designation requirement by January 1, 2005.

*Patron - O'Brien*

## Property and Conveyances

Passed

**D HB153 Landlord and tenant law; termination of tenancies; security deposit.** Amends the Landlord Tenant Act

to make it consistent with the Residential Landlord Tenant Act concerning termination of month-to-month tenancies. The bill clarifies that a landlord may purchase commercial insurance for damage coverage in lieu of all or part of a security deposit and grants the landlord the authority to purchase renter's insurance coverage for a tenant. The bill caps the amount of the security deposit and insurance premiums combined at two months' rent that can be collected from a tenant upfront. The bill also allows a landlord to include a liquidated damage penalty in the rental agreement and sets the cap for that penalty.

*Patron - Albo*

**D HB275 State Treasurer; interest paid to owners of unclaimed property.** Specifies the applicable rate of interest to be paid to the owner of unclaimed property if the property was interest bearing and the holder fails to report the applicable rate of interest.

*Patron - Purkey*

**D HB276 Unclaimed property; electronic filing of reports.** Requires a person to electronically remit reports containing 25 or more items of funds or other property presumed abandoned in a format prescribed by the State Treasurer. The State Treasurer may waive this requirement when he determines, in his discretion, that it creates an undue hardship. Current law does not specify the format for remission.

*Patron - Purkey*

**D HB448 Virginia Real Estate Time-Share Act; possibility of reverter.** Authorizes a time-share developer to utilize a deed of reverter in lieu of foreclosure on a time-share estate unit. The bill sets out the procedures required for the possibility of reverter to become effective, and specifies what the defaulting time-share unit owner must do to cure.

*Patron - Suit*

**D HB449 Condominium Act and Property Owners' Association Acts; nonjudicial foreclosure.** Clarifies that a unit or lot sold in a nonjudicial foreclosure proceeding shall be sold subject to prior liens. The bill reverses the Supreme Court holding in *Wachovia vs. Colchester Towne*, which required lienholders to be paid by the sale proceeds. The bill clarifies that these associations have the authority to serve as a unit owner's or a lot owner's statutory agent and may transfer title to the unit or lot to the purchaser at the foreclosure sale. The bill also (i) extends from 24 to 36 months, the time for initiating foreclosure proceedings to enforce a lien; (ii) adds additional notice requirements to the owner of the unit or lot; (iii) provides for the appointment of a trustee to conduct the sale; (iv) allows the association to bid on the unit or lot; (v) clarifies that foreclosure sale expenses include the association's advertising costs and reasonable attorneys' fees; and (vi) requires the association to prepare an accounting to show the distribution of the sale proceeds. The bill contains technical amendments and is identical to SB 463.

*Patron - McQuigg*

**D HB493 Theft of timber; penalty.** Provides that any person who cuts, removes, or severs any timber from the land of another without legal right or permission shall be liable to the rightful owner for treble damages, reforestation costs, the costs of ascertaining the value of the lumber and legal costs. Establishes criminal penalties for the theft of timber. Provides that prima facie evidence of the intent to steal timber exists where the timber was harvested or removed from property marked with readily visible paint marks in specific places on trees or posts along the property line. This bill is identical to SB 548.

*Patron - Kilgore*

**D HB555 Condominium Act; insurance.** Deletes the provision that requires any insurance deductible under the master casualty policy to be paid by the unit owners' association as a common expense if the cause of the damage to or destruction of any portion of the condominium originated in or through the common elements or an apparatus located within the common elements. The bill also deletes the requirement that a unit owner pay such deductible if the cause of any damage to or destruction of any portion of the condominium originated in or through a unit or any component thereof without regard to whether the unit owner was negligent.

*Patron - Hargrove*

**D HB824 Virginia Residential Landlord Tenant Act; disclosure of mold in dwelling unit.** Provides that as part of the written report of the move-in inspection, the landlord shall disclose whether there is any visible evidence of mold in the dwelling unit. If the landlord's written disclosure states that there is no visible evidence of mold in the dwelling unit, this record shall be deemed correct unless the tenant objects thereto in writing within five days after receiving the report. If the landlord's written disclosure states that there is visible evidence of mold in the dwelling unit, the tenant shall have the option to terminate the tenancy or to accept the dwelling unit in an "as is" condition. The bill also defines "visible evidence of mold" and puts an obligation on the landlord to use reasonable efforts to maintain the premises in such a condition as to prevent the accumulation of moisture and the growth of mold and to promptly respond to any written notices from a tenant. The bill also obliges a tenant to use reasonable efforts to maintain the dwelling unit and any other part of the premises that he occupies in such a condition as to prevent accumulation of moisture and the growth of mold and to promptly notify the landlord in writing of any moisture accumulation that occurs or of any visible evidence of mold discovered by him. The bill contains technical amendments. The bill is a recommendation of the Virginia Housing Study Commission.

*Patron - Drake*

**D HB894 Property Owners' Association Act; access to association records.** Provides that except for certain topics, draft minutes of the board of directors shall be open for inspection and copying (i) within 60 days from the conclusion of the meeting to which such minutes appertain or (ii) when such minutes are distributed to board members as part of an agenda package for the next meeting of the board of directors, whichever occurs first.

*Patron - Sickles*

**D HB974 Virginia Residential Landlord Tenant Act; access by landlord to correct nonemergency property condition.** Authorizes a landlord, upon the determination of the existence of a nonemergency property condition in a dwelling unit, to temporarily relocate the tenant from the unit in order to alleviate the condition. The total costs for making the repairs to alleviate the condition shall be at the expense of the landlord and the relocation of the tenant must be to a comparable dwelling unit, at no expense to the tenant and for a period not to exceed 30 days. In addition, the bill provides that the landlord is responsible for any damage to the tenant's property provided the tenant notifies the landlord of the damage within 10 days of returning to the dwelling unit. Under the bill, the failure of the tenant to cooperate with the temporary removal shall be deemed a breach of the rental agreement unless the tenant agrees to vacate the unit and terminate the rental agreement.

*Patron - Reese*

**D HB981 Virginia Residential Landlord Tenant Act; noncompliance of rental agreement; award of attorneys' fees.** Provides that if the rental agreement provides for the payment of reasonable attorneys' fees in the event of a breach of the agreement and the tenant fails to prove by a preponderance of the evidence that the failure to pay rent or vacate the premises was due to (i) the breach of the lease by the landlord, or (ii) unlawful actions on the part of the landlord, the court shall award such reasonable attorneys' fees.

*Patron - Reese*

**D HB1264 Notice of sale by trustee; instrument of appointment.** Provides that the notice of sale that a trustee must give to the present lienholder, any subordinate lienholder, and other interested parties must include, in addition to the time, date and place of any proposed sale, the instrument number or deed book and page numbers of the instrument of appointment for the trustee or substitute trustee.

*Patron - Athey*

**D HB1388 Total Return Unitrust.** Allows a trustee to convert a Virginia trust that directs or permits the distribution of trust net income (an income trust) into a unitrust that distributes a percentage of the trust assets. This bill provides statutory authority that is responsive to federal regulations revising the definition of income for federal tax law purposes. Those federal regulations in turn are responsive to changes in state law, including Virginia law, that permit trusts to use a total return method of investing to promote equitable treatment of trust beneficiaries. This bill codifies in Virginia law the safe harbor provisions of the federal regulations so that Virginia has full authority for converting an income trust to a total return trust, thus ensuring that Virginia trusts will not migrate to other states that have enacted the safe harbor provisions in state law.

*Patron - Janis*

**D HB1435 Virginia Real Estate Cooperative Act.** Requires certain disclosures in the public offering statement of a cooperative relating to the assumption of debt by the association. The bill also provides that during development of a cooperative containing additional land or withdrawable land, phase lines created by the cooperative instruments shall not be considered property lines for purposes of subdivision. If the cooperative may no longer be expanded by the addition of additional land, then the owner of the land not part of the cooperative shall subdivide such land prior to its conveyance, unless such land is subject to an approved site plan, or prior to modification of such approved site plan. In the event of any conveyance of land within phase lines of the cooperative, the cooperative and any lot created by such conveyance shall be deemed to comply with the local subdivision ordinance, provided such land is subject to an approved site plan. The bill also provides for the appointment of members of the executive board and the termination of certain management contracts, and provides that unless approved by an 80 percent vote of the proprietary lessees other than the declarant (i) the association shall not assume or take subject to any debt incurred in the original acquisition, development or construction of or the conversion of the cooperative in excess of the amounts disclosed in the public offering statement pursuant to § 55-478 or § 55-479, nor shall the cooperative or any proprietary lessee's interest be encumbered by a security interest for any greater amount incurred for such purposes and (ii) the declarant may not amend the public offering statement to change the amounts disclosed after conveyance of the first unit to a proprietary lessee. In addition, no interest shall accrue on any debt to be assumed by the association until such debt has been assumed. Notwithstanding the foregoing, the amounts disclosed shall not be subject to adjustment such that the association or the proprietary

lessees are subjected to the construction or market risks of the declarant.

*Patron - Suit*

**D SB348 Property Owners' Association Act; board of directors; access to committee and subcommittee meetings.** Provides that meetings of any subcommittee or other committee of the board of directors of a property owners' association shall be open to members of record of the association.

*Patron - Houck*

**D SB463 Condominium Act and Property Owners' Association Acts; nonjudicial foreclosure.** Clarifies that a unit or lot sold in a nonjudicial foreclosure proceeding shall be sold subject to prior liens. The bill reverses the Supreme Court holding in *Wachovia vs. Colchester Towne*, which required lienholders to be paid by the sale proceeds. The bill clarifies that these associations have the authority to serve as a unit owner's or a lot owner's statutory agent and may transfer title to the unit or lot to the purchaser at the foreclosure sale. The bill also (i) extends from 24 to 36 months, the time for initiating foreclosure proceedings to enforce a lien; (ii) adds additional notice requirements to the owner of the unit or lot; (iii) provides for the appointment of a trustee to conduct the sale; (iv) allows the association to bid on the unit or lot; (v) clarifies that foreclosure sale expenses include the association's advertising costs and reasonable attorneys' fees; and (vi) requires the association to prepare an accounting to show the distribution of the sale proceeds. The bill contains technical amendments. The bill is identical to HB 449.

*Patron - Whipple*

**D SB503 Virginia Condominium Act and the Virginia Property Owners Association Act; foreclosure on liens.** Clarifies that an action to foreclose any liens that has been perfected under the provisions of either Acts must be initiated within 36 months from the time the memorandum of lien was recorded.

*Patron - Mims*

**D SB504 Purchase money trusts.** Provides that any deed of trust that secures a loan is deemed a purchase money deed of trust if the borrower uses proceeds to acquire the secured real property.

*Patron - Mims*

**D SB505 Release of deed of trust or other lien.** Allows a lien creditor to directly file a certificate of satisfaction with the clerk unless he receives notice from a settlement agent to deliver the certificate to such settlement agent. If the certificate is filed directly with the clerk prior to receipt of a notice from a settlement agent, the lien creditor will provide the settlement agent with a copy of the certificate.

*Patron - Mims*

**D SB548 Theft of timber; penalty.** Provides that any person who cuts, removes, or severs any timber from the land of another without legal right or permission shall be liable to the rightful owner for treble damages, reforestation costs, the costs of ascertaining the value of the lumber and legal costs. Establishes criminal penalties for the theft of timber. Provides that prima facie evidence of the intent to steal timber exists where the timber was harvested or removed from property marked with readily visible paint marks in specific places on trees or posts along the property line. This bill is identical to HB 493.

*Patron - Puckett*

## Failed

**: HB1199 Foreclosure sale; advertisement.** Requires the trustee in a foreclosure sale to indicate in the required advertisement if the property is encumbered by more than one mortgage or lien.

*Patron - Cline*

**: HB1451 Condominium Act; applicability of local ordinances or proffers.** Provides that no zoning ordinance, other land use ordinance, or proffer shall prohibit condominiums as such by reason of the form of ownership inherent therein. Currently, this prohibition applies only to zoning or other land use ordinances.

*Patron - Oder*

**: SB449 Virginia Condominium Act and the Virginia Property Owners Association Act; fees related to providing statements of assurance, resale certificate or disclosure packet.** Increases the fee that owners' associations under the Condominium Act and the Property Owners Association Act may charge for providing a statement of assurance from 10 cents per page with a \$50 maximum to 15 cents per page with a \$100 maximum. The bill also increases the fee that an owners' association may charge for preparing a certificate of resale or disclosure packet from 10 cents per page with a \$100 maximum to 15 cents per page with a \$150 maximum. In addition, the bill clarifies that the purchaser may also request a statement of assurance and a certificate of resale or disclosure packet and makes technical amendments.

*Patron - Whipple*

## Carried Over

**7 HB443 Condominium and Property Owners' Association Acts; resale disclosures.** Provides that in the Condominium and Property Owners' Association Acts any request by a lender to a unit owner's association, or a management company representing the unit owner's association for information necessary for a borrower to provide to the lender as a condition precedent to a settlement of a mortgage loan, shall be provided to the lender within seven calendar days after the date of receipt of the written request received by mail, fax, hand delivery or electronic mail, and shall be provided as part of the resale certificate, at no additional charge.

*Patron - Suit*

**7 HB969 Virginia Real Estate Time-Share Act; developer control in time-share estate program.** Provides that the transfer of control from the developer shall be required after five years has elapsed during which time no significant number of units have been built or are under construction in a phase or portion thereof of a time-share project. The bill defines "significant number" as five percent of the total build-out number. The bill also provides any transfer of legal or equitable ownership of at least 90 percent of the time-share estates counts in determining when the developer control period terminates and is not limited to such transfers to purchasers.

*Patron - Barlow*

**7 HB1367 Foreclosures generally; removal of occupants.** Provides the procedure for the successful bidder at a foreclosure sale to remove any holdover occupants.

*Patron - Drake*

**7 HB1368 Condominium Act and the Property Owners' Association Act; fees for disclosure packets.** Increases from \$100 to \$200, the fee a condominium associa-

tion or a property owners' association may charge for providing a resale certificate or disclosure packet, respectively. The bill also contains technical amendments.

*Patron - Dillard*

**7 HB1391 Foreclosure; real property purchased at auction.** Provides that a successful bidder shall have 10 business days from the date of his purchase of real property at auction to satisfy himself that such property will be conveyed with clear title. If there is a reasonable problem with the title, the date of settlement shall be extended for a reasonable time, not to exceed 60 days, to allow the seller to correct any reported title defects. If such defects cannot be corrected, the successful bidder shall have the right to close the transaction with such defects without any abatement of a portion of the purchase price or to terminate the agreement.

*Patron - Weatherholtz*

**7 SB506 Uniform Trust Code.** Sets out the Uniform Trust Code which was finalized by the National Conference of Commissioners on Uniform State Laws in 2000 and is the first national codification of the law of trusts. Much of the Code is a codification of the common law of trusts. Most of the Uniform Trust Code consists of default rules that apply only if the terms of the trust fail to address or insufficiently cover an issue. The drafter of a trust is free to override a substantial majority of the Code's provisions, although there are some that are not subject to override. Includes comprehensive provisions on representation of beneficiaries in the Uniform Trust Code, as are rules on trust modification and termination. There are special rules on revocable trusts. A subcommittee of the Virginia Bar Association Section on Wills, Trusts and Estates is examining the act. The intent is to have the bill carried over to the 2005 General Assembly Session so that it can continue to be studied and so that provisions of current statutory law that are impacted are identified and revised.

*Patron - Mims*

## Public Service Companies

### Passed

**D HB59 Electric utility restructuring; electrical generating facility certificates.** Extends by two years the expiration date of certificates granted by the State Corporation Commission to construct and operate electrical generating facilities for which applications were filed with the Commission prior to July 1, 2002. This bill is identical to SB 239.

*Patron - Parrish*

**D HB754 Public service companies; limited liability companies.** Authorizes any Virginia limited liability company that is issued a certificate of public convenience and necessity by the State Corporation Commission authorizing it to furnish telecommunications services, and that seeks to construct or acquire facilities for use in providing the certificated telecommunications service, to enter upon property in order to conduct examinations and to acquire property by the exercise of eminent domain. Such powers are currently granted to public service corporations. However, any limited liability company that was certificated to provide telecommunications service prior to July 1, 2004, (i) will not have the power of eminent domain until the Commission specifically authorizes it to exercise such power, and (ii) will not be authorized to exercise the power of eminent domain with respect to any real property that is the subject of any action for trespass or related cause of action in which it is alleged that the limited liability company

entered upon and damaged the property, unless the Commission finds that the proceeding has been settled or otherwise dismissed. The bill does not affect the right of any property owner to pursue actions for damages to persons or property done by a certificated limited liability company prior to July 1, 2004.

*Patron - May*

**D HB798 Telecommunications; telephonic reading services.** Authorizes funding for the operation of telephonic reading services through the assessments already being received for the telecommunications relay service. "Telephonic reading services" means audio information provided by telephone to the blind and visually impaired through a nationally available, multi-state service center to registered readers in all parts of the Commonwealth, including the interstate acquisition and distribution of daily newspapers and other information. Enactment of this bill is contingent upon future general fund appropriations.

*Patron - Petersen*

**D HB920 Natural gas; access by certain public schools.** Authorizes a company or its affiliate to make a first or direct sale, ancillary transmission, or delivery service of natural or manufactured gas to certain public schools in the Commonwealth when the schools are not located in a territory for which a certificate to provide gas service has been issued by the State Corporation Commission. Such sale, transmission, or delivery to public schools in the Counties of Dickinson, Wise, Russell, and Buchanan, and the City of Norton, may be made without regard to the number of schools involved and such schools shall not count in determining whether the company is providing sales or transmission or delivery services to fewer than 35 customers.

*Patron - Phillips*

**D HB938 Telecommunications; competition policy.** Directs the State Corporation Commission, in resolving issues and cases concerning local exchange telephone service under the federal Telecommunications Act or state law to consider it in the public interest, as appropriate, to treat all providers of local exchange telephone services in an equitable fashion and without undue discrimination and, to the greatest extent possible, apply the same rules to all providers of local exchange telephone services. The Commission is also required to consider it in the public interest, as appropriate, to promote competitive product offerings, investments, and innovations from all providers of such services in all areas of the Commonwealth and to reduce or eliminate any requirement to price retail and wholesale products and services at levels that do not permit providers of such services to recover their costs of those products and services.

*Patron - Kilgore*

**D SB171 Telecommunications; Wireless E-911 Fund; Fund payments.** Eliminates the requirement that the Wireless E-911 Board make qualifying payments to eligible operators and providers in four equal payments at the beginning of each calendar quarter, and authorizes the Board to make the payments on an alternate schedule approved by the Board.

*Patron - Stolle*

**D SB651 Electric Utility Restructuring Act; extension of rate caps and fuel factors; electrical generating facility certificates; municipal and state aggregation; minimum stay requirements; wires charges; net metering.** Extends until December 31, 2010, the rate caps currently in place for incumbent electric utilities, unless the rate caps are terminated sooner by the State Corporation Commission (SCC) upon a finding of an effectively competitive market for genera-



tion services in the service territory of an incumbent utility. After January 1, 2004, an incumbent electric utility not, as of July 1, 1999, bound by a rate case settlement adopted by the SCC that extended in its application beyond January 1, 2002, may petition the SCC for approval of a one-time change in its rates. If capped rates are continued after July 1, 2007, such an incumbent electric utility may at any time after July 1, 2007, again petition the SCC for approval of a one-time change in its rates, except such a utility that has not retained ownership of its generation may petition only for a change in the nongeneration components of its capped rates. Such a utility is also entitled to an adjustment in its capped rates not more than once in any 12-month period for the timely recovery of its incremental costs for transmission or distribution system reliability and compliance with environmental laws to the extent such costs are prudently incurred on and after July 1, 2004. The bill provides for an extension of the fuel costs recovery tariff provisions (fuel factors) in effect on January 1, 2004, for any electric utility that purchases fuel for the generation of electricity and that was, as of July 1, 1999, bound by a rate case settlement adopted by the SCC that extended in its application beyond January 1, 2002. The fuel factors shall remain in effect until the earlier of (i) July 1, 2007; (ii) the termination of capped rates; or (iii) the establishment of tariff provisions as directed by the SCC. The incumbent electric utilities that have transferred all of their generation assets to an affiliate prior to January 1, 2002, are allowed to recover increases in purchased power costs through fuel factor adjustments on and after July 1, 2007, and otherwise such utilities' capped rates may be changed in accordance with the terms of the SCC's order approving their divestiture of generation assets. The bill extends by two years the expiration date of certain certificates granted by the SCC to construct and operate electrical generating facilities. Only those certificates for which applications were filed with the SCC prior to July 1, 2002, will receive an extension. The bill provides that a municipality or other political subdivision may aggregate the electric energy load of residential, commercial, and industrial retail customers within its boundaries on either an opt-in or opt-out basis, eliminates the requirement that customers must opt in to select such aggregation, and eliminates the requirement that such municipality or other political subdivision may not earn a profit from such aggregation. The bill also authorizes any large industrial or commercial customer that is returning to its incumbent electric utility or default provider after purchasing power from a competitive supplier to elect to accept market-based pricing as an alternative to being bound by the minimum stay period (currently 12 months unless otherwise authorized) prescribed by the SCC. Customers exempted from minimum stay periods will not thereafter be entitled to purchase retail electric energy from their incumbent electric utilities at the capped rates unless such customers agree to satisfy any minimum stay period then applicable. This bill also authorizes industrial and commercial customers, as well as aggregated customers in all rate classes, to switch to a competitive service provider without paying a wires charge if they agree to pay market-based prices if they ever return to the incumbent electric utility. However, the program is limited for each utility to customers totalling not more than 1,000 or eight percent of the utility's prior year Virginia adjusted peak load within 18 months after the commencement date of the wires charge exemption program. Customers who make this commitment and obtain power from suppliers without paying wires charges are not entitled to obtain power from their incumbent utility at its capped rates. The bill increases from 25 kilowatts to 500 kilowatts the amount of electric generating capacity a nonresidential customer-generator's facility can produce and still qualify to participate in the net metering program. Finally, the bill authorizes any investor-owned distributor that has been designated a default service provider to petition the SCC for approval to construct a coal-fired generation facility that uti-

lizes Virginia coal and is located in the coalfield region of the Commonwealth, in order to meet its native load and default service obligations. A distributor that builds such a facility shall have the right to recover the costs of the facility, plus a fair rate of return, through its default service rates. The construction of such a facility is declared to be in the public interest.

*Patron - Norment*

**D SB663 Natural gas companies; right of entry upon property.** Allows interstate natural gas companies to enter upon property to make examinations, tests, land auger borings, appraisals and surveys without the written consent of the owner, if the companies seek the landowner's permission to inspect and give notice of intent to enter. In addition, such companies may use motor vehicles, self-propelled machinery, and power equipment on the property after receiving the landowner's permission. A company using the right of entry is liable for any actual damages resulting from its entry upon the land. The bill does not impair any rights of natural gas companies obtained by the power of condemnation, an easement granted by the landowner or his predecessor in title, or any other agreement between the natural gas company and the landowner or his predecessor in title.

*Patron - Wagner*

## Failed

**: HB1437 Electric Utility Restructuring Act.** Suspends indefinitely, except for pilot programs, competition among suppliers of electric energy to retail customers in the Commonwealth; facilitates the proceedings of the Commission on Electric Utility Restructuring with regard to monitoring the development of competitive wholesale electric markets and making future judgments as to the viability of retail customer choice in the Commonwealth; returns incumbent electric utilities to the rate making jurisdiction of the State Corporation Commission on a cost-of-service basis pursuant to Chapter 10 of Title 56; and authorizes, except as otherwise provided, the State Corporation Commission to continue to regulate the generation, transmission, and distribution of retail electric energy in the Commonwealth. The bill does not disturb requirements related to the transfer of management and control of transmission assets to regional transmission entities, including the Commission's responsibilities concerning such transfers, nor does it inhibit retail competition involving pilot programs.

*Patron - Morgan*

**: SB688 Public-Private Education Facilities and Infrastructure Act of 2002.** Amends the Public-Private Education Facilities and Infrastructure Act of 2002 by requiring the comprehensive agreement to include provisions for performance and payment bonds as provided in the Virginia Public Procurement Act and a bid bond in the amount of five percent of the total cost of the project. In addition, the bill requires local governing bodies proceeding under the Act to have the comprehensive agreement approved by the Design/Build Construction Management Review Board and analyzed by the Auditor of Public Accounts prior to final approval. The bill also requires the local governing body to hold a public hearing regarding the nature, costs and other facts relating to the project.

*Patron - Edwards*

## Carried Over

**7 HB264 Electric utility restructuring; protection of state jurisdiction; customer choice suspended.** Suspends customer choice until July 1, 2007, unless the State Corpora-

tion Commission finds that rate unbundling will not result in the Commonwealth ceding its jurisdiction and authority to ensure reliable service at reasonable rates. The Commission is directed to immediately rebundle incumbent electric utilities' rates and take the actions necessary to protect the Commonwealth's jurisdiction to ensure reliable electric service at reasonable rates. This bill has an emergency clause.

*Patron - Morgan*

**7 HB265 Electric utility restructuring; stranded costs; overearnings.** Defines stranded costs and just and reasonable net stranded costs, and requires the State Corporation Commission to calculate on an annual basis the stranded costs of each incumbent electric utility. The bill authorizes the State Corporation Commission to reduce or eliminate an incumbent utility's wires charges, capped rates, or both, if after notice and hearing, it determines that a utility has collected its stranded costs.

*Patron - Morgan*

**7 HB967 Water systems and small water utilities; emergency electricity generation systems.** Requires the owner of a water system or a small water utility to prepare a cost study of an emergency electrical generation system and file it with the State Corporation Commission if more than 50 percent of the water system's or water utility's customers request it in writing. If the Commission determines the cost study is reasonable, the provider shall install such a system if more than 50 percent of its customers so request.

*Patron - Barlow*

**7 HB1268 Electric Utility Restructuring Act; Commission on Electric Utility Restructuring.** Repeals the Electric Utility Restructuring Act and abolishes the Commission on Electric Utility Restructuring. The State Corporation Commission will continue to be authorized to approve the construction and operation of all electrical generating facilities. Electric cooperatives are permitted to recover their costs relating to implementation of the Act if those costs were incurred prior to the repeal of the Act.

*Patron - Orrock*

**7 HB1348 Public-Private Transportation Act of 1995.** Prohibits imposition of tolls on existing interstate highways in connection with highway projects undertaken under the Public-Private Transportation Act of 1995.

*Patron - Saxman*

**7 SB116 Electric utility restructuring; municipal and state aggregation.** Provides that a municipality or other political subdivision may aggregate the electric energy load of residential, commercial, and industrial retail customers within its boundaries on either an opt-in or opt-out basis, eliminates the requirement that customers must opt in to select such aggregation, and eliminates the requirement that such municipality or other political subdivision may not earn a profit from such aggregation.

*Patron - Watkins*

**7 SB117 Electric utility restructuring; minimum stay requirements; wires charges.** Authorizes any large industrial or commercial customer that is returning to its incumbent electric utility or default provider after purchasing power from a competitive supplier to elect to accept market-based pricing as an alternative to being bound by the minimum stay period (currently 12 months unless otherwise authorized) prescribed by the State Corporation Commission. Customers exempted from minimum stay periods will not be entitled to purchase retail electric energy from their incumbent electric utilities thereafter at the capped rates unless such customers

agree to satisfy any minimum stay period then applicable. This bill also authorizes industrial and commercial customers, as well as aggregated customers in all rate classes, to switch to a competitive service provider without paying a wires charge if they agree to pay market-based prices if they ever return to the incumbent electric utility. Customers who make this commitment and obtain power from suppliers without paying wires charges are not entitled to obtain power from their incumbent utility at its capped rates.

*Patron - Watkins*

**7 SB239 Electric utility restructuring; electrical generating facility certificates.** Extends by two years the expiration date of certificates granted by the State Corporation Commission to construct and operate electrical generating facilities for which applications were filed with the Commission prior to July 1, 2002. This bill is identical to HB 59.

*Patron - Norment*

**7 SB282 Localities providing local exchange telecommunications services; cost allocation manuals.** Provides that a cost allocation manual filed by a locality that provides local exchange telecommunications services shall be deemed to be sufficient indication of the lack of cross-subsidization if the State Corporation Commission accepts the manual. In such event, the locality shall not be required to maintain any further cost study but it will be required to maintain and update the cost allocation manual on an annual basis.

*Patron - Wampler*

**7 SB383 Telecommunications; basic services regulation.** Creates a new form of regulation known as "basic services regulation." Telephone companies choosing to opt for such form of regulation would be required to offer basic services that are limited to one or more unbundled, single line, unlimited usage, residential, or business voice local exchange telephone services. Prices for these services shall be provided under tariff and cannot increase by more than 10 percent per year. After a transition period, such prices would be the same throughout the company's local service territory. Telephone companies may set without filing tariffs nonrecurring prices for basic services. A telephone company opting into basic services regulation must offer under tariff a universal service plan guaranteeing low prices to recipients of Medicaid and food stamps. Network components of enhanced 911 services shall be offered under tariff at prices set by the telephone company. All other services may be offered without tariff at prices set by the telephone company. The State Corporation Commission (SCC) would retain authority to set rules governing (i) network service quality standards limited to those necessary to maintain the public health and safety; (ii) technical network and database standards of emergency 911 service; (iii) customer notice for tariffed rate changes and tariffed service withdrawals; (iv) disconnection of residential customers for nonpayment of local exchange service; and (v) customer deposits. The SCC would also retain authority to (i) review provisions not related to rates in tariffs; (ii) enforce the Underground Utility Damage Prevention Act; (iii) administer the Telecommunications Relay Service; and (iv) designate carriers of last resort that have responsibility to provide basic services to anyone in their service territory. The SCC would not retain any authority to (i) set rules to govern retail customer service standards; (ii) approve affiliate transactions; and (iii) approve equity and debt financing. The SCC would retain limited authority to handle customer complaints. There are no changes in the provision of wholesale services to competitors.

*Patron - Norment*

**7 SB673 Voice-over-Internet Protocol; State Corporation Commission; regulation; taxation.** Excludes Voice-

over-Internet Protocol (VoIP) from regulation by the State Corporation Commission, which exempts VoIP from state taxes on telecommunications providers. The bill also limits the definition of telecommunications service and telephone service for purposes of local taxation.

*Patron - Cuccinelli*

## Religious and Charitable Matters; Cemeteries

### Passed

**D HB162 Access to private or family cemeteries.** Allows members of a deceased's family, cemetery plot owners, or persons engaged in genealogy research to enter upon the land of a private or family cemetery where such deceased is interred after notice to the property owner. The bill grants certain rights to the property owner to set frequency and duration of access. The bill also limits a property owner's liability for any claim that may arise out of the access except willful conduct or gross negligence.

*Patron - Putney*

**D HB1432 Lovettsville Union Cemetery Company.** Updates the 1879 Act of Assembly that incorporated the cemetery company.

*Patron - May*

**D SB61 Exemption from consumer affairs registration requirements for regional emergency medical services councils.** Provides an exemption for regional emergency medical services councils from the registration requirements that charitable organizations that solicit contributions must satisfy. Such organizations will still be subject to the remaining provisions concerning solicitation found in Chapter 5 of Title 57 of the Code of Virginia.

*Patron - Edwards*

**D SB73 Churches; recordation taxes on incorporated churches or religious bodies.** The bill exempts from state and local recordation taxes deeds conveying real estate to an incorporated church or religious body, deeds of trust or mortgages given by an incorporated church or religious body, and deeds conveying real estate from an incorporated church or religious body. The bill contains an emergency clause with an effective date of January 1, 2004.

*Patron - Howell*

**D SB447 Appropriation of glebe lands and church property.** Authorizes Northampton County to appropriate moneys from the Glebe Fund for improvements to the courthouse and related facilities provided such funds are used exclusively for compliance with the Americans with Disabilities Acts (ADA) at the courthouse or related facilities. The bill limits, prospectively, the use of such funds for ADA compliance. Currently the Counties of Essex, Middlesex and Lancaster are authorized to make appropriations for such uses.

*Patron - Rerras*

### Carried Over

**7 HB1343 Virginia's veterans.** Conveys veterans' land to the Commonwealth as a perpetual memorial park, and war memorial to remember fallen Veterans' gallantry and

valor, who were conscripted or volunteered and were ordered into battle by the Virginia General Assembly.

*Patron - Councill*

**7 HB1365 Solicitation of contributions; definition of charitable organization.** Exempts from the definition of "charitable organization" any nonprofit organization submitting grant proposals to specifically targeted corporations or foundations, and not to the general public, for funding for study or research on medical, rehabilitative, scientific, technical or scholarly issues produced or collected by such organization.

*Patron - Petersen*

**7 HB1466 Churches; incorporation.** Provides that churches may incorporate and hold legal title to real or personal property. In general, any legitimate business transaction or act of an incorporated church may be made without the appointment or use of trustees, to include the conveyance of any real or personal property owned by the incorporated church. A trustee of a church would be permitted to convey real or personal property to an incorporated church without the filing of an application or petition or other action in circuit court. The bill contains an emergency clause.

*Patron - Scott, J.M.*

## State Corporation Commission

### Failed

**: HB1439 Membership of the State Corporation Commission.** Allows the number of judges of the State Corporation Commission to be increased from three to four in certain situations.

*Patron - Parrish*

## Taxation

### Passed

**D HB17 Fuels tax.** Makes several technical corrections, adds new civil penalties for persons failing to submit reports and data required under the fuels tax laws, and allows a jeopardy assessment against any licensed distributor or importer who fails to pay the tax due the supplier.

*Patron - Parrish*

**D HB94 Real property tax exemption; elderly and disabled.** Changes the financial criteria that localities may use in determining eligibility for real estate exemptions or deferrals for the elderly or disabled by: (i) increasing from \$8,500 to \$10,000 the amount of income of a nonspouse relative living with an elderly or disabled person; (ii) increasing from \$5,000 to \$10,000 the maximum amount of assets that an elderly or disabled person needing live-in assistance from a relative and enjoying a real estate tax exemption may transfer without adequate consideration, and still exclude the relative's income for purposes of determining maximum income for the tax exemption; (iii) increasing from \$100,000 to \$200,000 the maximum financial work cap; and (iv) increasing from \$7,500 to \$10,000 the maximum amount a locality may exclude from the income of a totally disabled person in calculating maximum income allowed.

*Patron - Cole*

**D HB97 Real property tax exemption; elderly and disabled.** Increases from one to 10 the maximum number of acres a locality may exclude in calculating maximum financial worth of the elderly or disabled for real estate tax exemptions.

*Patron - Cole*

**D HB104 Income tax returns.** Allows the Department of Taxation to include the mailing addresses of the Department and the local commissioners of the revenue with the appropriate income tax forms and filing instructions.

*Patron - Callahan*

**D HB143 Taxation; special classification of certain motor vehicles for local taxation.** Increases from one to two the number of specially classified motor vehicles in households containing both a member and an auxiliary member of a volunteer rescue squad or a volunteer fire department. Such special classifications are used for local taxation of certain personal property. This bill is identical to SB 349.

*Patron - Orrock*

**D HB154 Real estate tax exemptions for the elderly and disabled.** Adds Charlottesville to certain specified cities and counties that are authorized to have higher caps on total income and total financial worth than other cities and counties in determining real estate tax exemptions for the elderly and disabled.

*Patron - Van Yahres*

**D HB246 Sales and use tax; telephone calling cards.** Makes telephone calling cards subject to the state sales and use tax and exempts them from all other state and local utility taxes.

*Patron - Petersen*

**D HB282 Income tax; qualified equity and subordinated debt investment tax credit.** Reduces the annual revenue level required for a company to qualify for the credit from \$5 million to \$3 million; excludes companies from participating in the credit that have already successfully raised more than \$3 million in total investment capital; eliminates the availability of the credit to professional/institutional investors such as larger venture capital funds; and adjusts the tax penalties under the credit so they do not create disincentives to investment, and are in line with counterparts in competitive states.

*Patron - Purkey*

**D HB293 Local taxes; offers in compromise.** Authorizes (i) the commissioner of the revenue or other tax assessment official to compromise and settle certain tax assessments prior to the exhaustion of all administrative and judicial review, upon a determination that there is substantial doubt under applicable law as to the taxpayer's liability; and (ii) the treasurer or other tax collection official to compromise and settle the tax amount due and payable upon a determination that collection of the entire amount is in substantial doubt and the best interests of the locality will be served by such compromise.

*Patron - Ware, R.L.*

**D HB295 Local business taxes; written opinions of Tax Commissioner.** Authorizes the State Tax Commissioner to issue written opinions regarding machinery and tools tax, business tangible personal property tax, and merchant's capital tax and the administration of such taxes prior to the filing of an appeal.

*Patron - Ware, R.L.*

**D HB298 Local taxation; effect of application for correction of assessment or appeal upon applications for local permits and licenses.** Prohibits localities from denying permits and licenses to persons who have failed to pay taxes, penalties and interest pending correction of an assessment; appeal by locality of an assessment correction; application for correcting or an appeal of a local business tax; or correction or equalization of an assessment of real property. Also, there is no requirement to issue a local vehicle license or a vehicle registration or renewal of registration that is withheld pursuant to § 46.2-752.

*Patron - Ware, R.L.*

**D HB372 Local telecommunication tax; the Towns of Herndon and Vienna.** Authorizes the Towns of Herndon and Vienna to impose the local tax on the purchase of telecommunication service and prohibits Fairfax County from simultaneously imposing such a tax within such towns. Under current law, such towns would have had to impose such tax on or before January 1, 2000, to continue to impose such tax in the manner provided.

*Patron - Rust*

**D HB403 Real property tax; exemptions for elderly and handicapped.** Permits Goochland County to increase the income and financial worth limitations used to determine whether certain elderly or handicapped persons are eligible for exemption from or deferral of real property tax. This bill is identical to SB 122.

*Patron - Janis*

**D HB464 Local taxes; appeals.** Permits any taxpayer who is aggrieved by the assessment of any tangible personal property tax on airplanes, boats, campers, recreational vehicles or trailers to appeal such assessment to the State Tax Commissioner for a determination of the issue. Either party may appeal the determination of the State Tax Commissioner to the circuit court. The bill requires the Department of Taxation to develop and publish guidelines for such appeals no later than November 1, 2004, and exempts the development of the guidelines from the Administrative Process Act.

*Patron - Drake*

**D HB465 Remote access fees; treasurers.** Allows local treasurers who provide electronic access to public records to charge a fee to cover operational expenses. The fee goes into a special nonreverting local fund.

*Patron - Drake*

**D HB515 Sales and use tax; nonprofit entities.** Modifies the process for exempting nonprofit entities from sales and use tax as such process was designed by the 2003 General Assembly to go into effect on July 1, 2004, by: (i) permitting churches to continue self-renewal exemptions; (ii) grandfathering and creating a new category of the types of organizations that are exempt from collecting sales and use tax on fund-raising sales of tangible personal property; and (iii) making several technical amendments. This bill is identical to SB 585.

*Patron - Orrock*

**D HB549 Deed recordation fee for open-space preservation.** Imposes a \$1 fee on every deed admitted to record as of July 1, 2004, in those jurisdictions where open-space easements are held by the Virginia Outdoors Foundation. The bill requires the State Comptroller to distribute on a monthly basis the revenue from such collected fees to the Virginia Outdoors Foundation. The Foundation, established to promote the preservation of open-space lands and to encourage

private gifts of money, securities, land or other property to preserve the natural, scenic, historic, scientific, open-space and recreational areas of the Commonwealth, shall hold and administer these funds in accordance with its statutory purpose and powers.

*Patron - May*

**D HB615 Income tax; major business facility job tax credit.** Lowers the threshold amount of jobs from 100 to 25 that must be created in order to take the major business facility job tax credit in severely economically distressed areas that have an unemployment rate of at least twice the average statewide unemployment rate and applies only to taxable years 2004 and 2005. The total amount of credit permitted annually in such areas is limited to \$100,000 in the aggregate.

*Patron - Carrico*

**D HB739 Transient occupancy tax.** Authorizes Floyd County to levy a transient occupancy tax at the rate of five percent. Any revenues attributable to the portion of the tax greater than two percent shall be spent for promoting tourism, travel or business that generates tourism or travel in the County.

*Patron - Dudley*

**D HB741 Transient occupancy tax.** Permits the Counties of Chesterfield, Hanover, and Henrico to impose a transient occupancy tax at the rate of one percent with additional revenues designated and spent for the development and improvement of the Virginia Performing Arts Foundations' facilities in Richmond, for promoting the use of the Richmond Centre, and for promoting tourism, travel or business that generates tourism and travel in the Richmond metropolitan area.

*Patron - O'Bannon*

**D HB743 Local consumer utility tax; exemption for churches.** Broadens the permissive exemption from the consumer utility tax that localities may provide to certain churches or religious bodies.

*Patron - Stump*

**D HB902 Income tax; filing returns with the commissioner of the revenue and the Department of Taxation.** Clarifies that taxpayers may file their individual and fiduciary income tax returns with the Department of Taxation as well as the local commissioners of the revenue.

*Patron - Wardrup*

**D HB924 Taxation; collection of delinquent state taxes by local government treasurers.** Allows the Department of Taxation to appoint local government treasurers to collect delinquent state taxes in the same manner as they collect delinquent local taxes.

*Patron - Johnson*

**D HB925 Taxation; nonjudicial sale of tax delinquent property.** Allows unimproved real property that is assessed at less than \$10,000 with taxes that have been delinquent at least five years and is either less than 4,000 square feet or has been determined by the local zoning administrator to be unsuitable for building to be sold by the local treasurer or other officer responsible for collecting taxes. Notice of the sale must be mailed to the registered owner and anyone having an interest in the property, and notice shall be posted at the circuit courthouse of the locality and on the property if it fronts on a street.

*Patron - Ingram*

**D HB926 Personal Property Tax Relief Act of 1998.** Permits treasurers not to collect de minimus personal

property tax balances on a taxpayer's qualifying vehicle of \$5 or less without affecting the locality's reimbursement from the state for the qualifying vehicle.

*Patron - Ingram*

**D HB928 Real property taxes; alternative due dates for Prince William County seniors.** Allows Prince William County to provide alternative due dates for payment of real property taxes to taxpayers aged 65 or older, without penalty or interest.

*Patron - Frederick*

**D HB975 State recordation taxes; exemptions.** Exempts the recordation of leases of real estate to the same extent as deeds are exempt, and exempts conveyances from the United States from the grantor's tax.

*Patron - Reese*

**D HB1001 Transient occupancy tax; Fairfax County.** Provides for an additional two percent transient occupancy tax in Fairfax County beginning July 1, 2004, subject to the board of supervisors of the County appropriating the revenues from such tax to a nonprofit convention and visitor's bureau and for tourism in the County. No more than 75 percent of the revenues from such tax shall be designated for and appropriated to the County to be spent for tourism promotion, and the remaining revenues from such tax shall be designated for and appropriated to a nonprofit convention and visitor's bureau located in Fairfax County.

*Patron - Hugo*

**D HB1027 Lottery.** Modifies several provisions of the Virginia Lottery Law, generally granting to the Department and Director greater latitude and authority in which to operate the lottery. Among the changes: (i) monthly meetings of the Board are reduced to a minimum of quarterly meetings, (ii) flexibility is given to the Board to determine the types of games qualifying as a lottery, (iii) clarification is made that the Department is not subject to the Virginia Public Procurement Act, (iv) theft of a lottery ticket or prize is established as a crime, and (v) certain notice and venue requirements for assignment of lottery prizes are established.

*Patron - Albo*

**D HB1028 Lottery.** Modifies for board members and officers and employees of lottery vendors, the process for criminal background checks, including the taking of fingerprints.

*Patron - Albo*

**D HB1030 Tangible personal property classifications for taxation.** Specifies that localities may exempt from personal property, in whole or in part, or set a different tax rate for trailers primarily used by farmers to transport farm animals or other farm products.

*Patron - Cole*

**D HB1076 Property tax exemptions.** Clarifies the process localities must follow to exempt from real or personal property taxes the property of certain charitable and other related organizations. This bill contains an emergency clause.

*Patron - Parrish*

**D HB1084 Sales tax; exemption for textbooks and other educational materials for free distribution.** Extends the sunset date from July 1, 2004, to July 1, 2008, for textbooks and other educational materials withdrawn from inventory at book-publishing distribution facilities for free distribution to professors. This bill is identical to SB 347.

*Patron - Scott, E.T.*

**D HB1159 Individual income tax preparers; electronic filing; penalty.** Requires income tax return preparers who prepared at least 100 individual income tax returns for any taxable year beginning on January 1, 2004 (200 returns for taxable years beginning January 1, 2003) to file tax returns for all subsequent taxable years using electronic means or software that produces a two dimensional barcode using 2D technology.

*Patron - Hull*

**D HB1174 Telecommunications taxation; Section 1 bill.** Proposes changes in the way telecommunications are taxed that would repeal several state and local taxes and replace them with a yet-to-be-named tax and E-911 fee and tax. Following the 2004 General Assembly Session, the working group of industry and local government representatives that has been assisting the Joint Subcommittee Studying the State and Local Taxation of the Entire Telecommunications Industry and Its Customers within the Commonwealth (HJR 651, 2003; HJR 209, 2002) with its work would continue to meet and work on remaining issues. The working group would report its recommendations to the chairmen of the House and Senate Finance Committees no later than November 15, 2004. The proposal is for legislation to be introduced during the 2005 General Assembly that would actually contain the provisions necessary to carry out this intent. This method is similar to the manner used for developing the changes needed for electric utility deregulation.

*Patron - Bryant*

**D HB1185 Land preservation income tax credits.** Permits any pass-through entity that allocates or transfers land preservation income tax credits among taxpayers to designate with the Tax Commissioner a general partner, member/manager, or shareholder of the entity as the individual that the Tax Commissioner must first proceed against for the collection of taxes in the event any portion of the credit is disallowed in the future.

*Patron - Bryant*

**D HB1208 Sales tax revenues; allocation.** Adds Newport News to the cities that are permitted to keep a portion of the state sales tax collected in certain public facilities for which bonds have been issued.

*Patron - BaCote*

**D HB1241 Sales and use tax; dealers filing returns.** Allows a dealer to deliver sales tax returns to his local commissioner of the revenue or local treasurer instead of the State Tax Commissioner.

*Patron - Griffith*

**D HB1243 Entitlement to certain sales tax revenues.** Entitles the City of Salem (described by population) to all sales tax revenues generated by transactions taking place in certain public facilities to pay the cost of bonds issued to pay for such public facilities. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 30 years, and all such sales tax revenues shall be applied to repayment of the bonds.

*Patron - Griffith*

**D HB1262 Sales and use tax exemption; film and audiovisual works.** Extends to July 1, 2009, the sunset date for the sales and use tax exemption allowed for certain tangible personal property and services used in the production of audiovisual work. This bill is identical to SB 571.

*Patron - Janis*

**D HB1426 Coal and gas road improvement tax; distribution of revenues to local public service authority.** Provides that any revenues generated by the coal and gas road improvement tax and designated for local water projects shall be distributed to the local public service authority rather than the local governing body.

*Patron - Phillips*

**D HB1453 Delinquent real estate taxes; actions to collect; necessary parties.** Provides that anyone who acquires an interest in real estate that is the subject of an action to collect delinquent taxes after filing of suit and a lis pendens, shall not be deemed a necessary party, but shall be permitted to intervene in the proceedings to file his claim. Failure to file such a claim shall bar any such claim.

*Patron - Gear*

**D HB1461 Real Estate Assessments.** Allows Powhatan County to establish its own real estate assessment department.

*Patron - Ware, R.L.*

**D HB1486 Voluntary contributions of tax refunds to certain organizations.** Provides requirements for adding new and removing current organizations that are recipients of voluntary contributions of tax refunds. The bill limits the number of organizations who may receive such voluntary contributions to a list of 25 organizations and designates the next two additions to such list in the event another organization is removed.

*Patron - Purkey*

**D SB14 Local consumer utility tax.** Allows the local governing body of the Town of Iron Gate to impose the local consumer utility tax on mobile phones by adopting a local ordinance on or after July 1, 2004. While such town ordinance remains in effect, Alleghany County shall not impose the tax within the limits of the Town.

*Patron - Deeds*

**D SB71 Local consumer utility tax; exemption for churches.** Allows any county, city or town to exempt from the consumer utility tax utilities consumed on property of churches or nonprofit associations that are exempt from the local property taxes.

*Patron - Puckett*

**D SB120 Annual report filing by utilities.** Provides that the real and tangible personal property in the Commonwealth leased and operated by each electric supplier and corporation in the business of furnishing heat, light and power by means of electricity includes only those assets directly associated with production facilities and shall not mean real estate or vehicles. The provisions apply for tax years beginning on or after January 1, 2004, and there is an emergency clause.

*Patron - Watkins*

**D SB122 Real property tax; exemptions for elderly and handicapped.** Adds Goochland County to the list of localities that may increase the income and financial worth limitations used to determine whether certain elderly or handicapped persons are eligible for exemption from or deferral of real property tax. This bill is identical to HB 403.

*Patron - Watkins*

**D SB165 Taxation; secrecy of information.** Allows the Tax Commissioner to provide tax information about employers and employees to the Commissioner of Labor and Industry to facilitate the collection of unpaid wages. The infor-

mation would be used solely for satisfying the wage claims made under the payment of wage law and would be subject to agreement between Labor and Industry and Taxation.

*Patron - Colgan*

**D SB166 Taxation; secrecy of information.** Allows the Tax Commissioner to provide to the Department of the Treasury for its confidential use the tax information needed to locate the holders of unclaimed property.

*Patron - Colgan*

**D SB231 Taxation; major business facility job tax credit.** Extends the sunset date for the major business facility job tax credit from January 1, 2005, to January 1, 2010.

*Patron - Lambert*

**D SB316 Local consumer utility tax.** Allows the local governing bodies of the Towns of Herndon and Vienna to impose the local consumer utility tax on mobile phones by adopting a local ordinance on or after July 1, 2004. Each town may adopt such ordinance. While the town ordinance remains in effect, Fairfax County shall not impose the tax within the limits of the respective town that has adopted the ordinance.

*Patron - Howell*

**D SB347 Sales tax; exemption for textbooks and other educational materials for free distribution.** Extends the sunset date from July 1, 2004, to July 1, 2008, for textbooks and other educational materials withdrawn from inventory at book-publishing distribution facilities for free distribution to professors. This bill is identical to HB 1084.

*Patron - Houck*

**D SB349 Taxation; special classification of certain motor vehicles for local taxation.** Increases from one to two the number of specially classified motor vehicles in households containing both a member and an auxiliary member of a volunteer rescue squad or a volunteer fire department. Such special classifications are used for local taxation of certain personal property. This bill is identical to HB 143.

*Patron - Houck*

**D SB361 Real property tax; exemptions for elderly and handicapped.** Permits Northern Virginia localities to increase the income and financial worth limitations (from \$62,000 to \$72,000 and from \$240,000 to \$340,000) used to determine whether certain elderly or handicapped persons are eligible for exemption from or deferral of real property tax.

*Patron - Colgan*

**D SB366 Taxation of certain electric suppliers' real and personal property.** Clarifies that localities may tax certain electric suppliers' generating equipment at a rate less than the local real estate tax rate.

*Patron - Watkins*

**D SB398 Sales tax; revenues generated from transactions in certain public facilities in Newport News.** Entitles the City of Newport News to sales tax revenues generated from public facilities constructed or substantially renovated from the proceeds of bonds issued by the City between July 1, 2004, and July 1, 2007.

*Patron - Norment*

**D SB399 Recordation tax; leases.** Provides that the tax on the recordation of leases of oil and gas rights and of outdoor advertising signs owned by a person in the business of outdoor advertising shall equal \$25. The bill sets a tax of \$50 on the recordation of leases of coal and other mineral rights. Under current law, the tax on the recordation of leases of oil

and gas rights and of outdoor advertising signs may not exceed \$25, and the tax on the recordation of leases of coal and other mineral rights may not exceed \$50. The bill also provides that the tax on the recordation of a lease of a communications tower or a communications tower site shall be \$75. The tax on the recordation of each lease to affix communications equipment or antenna to any such tower or other structure shall be at a rate of \$15.

*Patron - Norment*

**D SB403 Taxation; secrecy of information.** Allows the Tax Commissioner to provide earnings information to the director of the Department of Human Resource Management to assist in collecting overpayments resulting from the failure of injured workers to report income.

*Patron - Colgan*

**D SB517 Transient occupancy tax; Rockbridge County and the Cities of Lexington and Buena Vista.** Authorizes an additional two percent transient occupancy tax to be imposed by the governing bodies in the County of Rockbridge and the Cities of Lexington and Buena Vista. The governing bodies of all three localities are authorized to impose the tax. Revenues collected from the tax shall be appropriated for the payment of principal and interest on promissory notes executed by the Virginia Horse Center Foundation or the Virginia Equine Center Foundation prior to January 1, 2004, that were part of an agreement for the Rockbridge Industrial Development Authority to issue bonds on behalf of or for improvements at the Virginia Horse Center Foundation, Virginia Equine Center Foundation, or the Virginia Equine Center. The tax may no longer be imposed after the final payment of principal and interest on all such notes.

*Patron - Hanger*

**D SB526 Income tax; the Commonwealth's system of taxation and conformity of terms.** Changes the date that Virginia conforms with the provisions of the Internal Revenue Code from December 31, 2002, to December 31, 2003. The bill also contains an emergency clause.

*Patron - Hanger*

**D SB533 Sales and use tax exemption; advertising businesses.** Extends the sunset date from July 1, 2004, to July 1, 2008, for the exemption from sales and use tax for the purchase of printing materials by advertising businesses when the printed material is distributed outside the Commonwealth.

*Patron - Stosch*

**D SB571 Sales tax exemption for film, video, and audio.** Extends the expiration date for the exemption of sales tax for film, video, and audio from July 1, 2004, to July 1, 2009. This bill is identical to HB 1262.

*Patron - Lambert*

**D SB585 Sales and use tax; nonprofit entities.** Modifies the process for exempting nonprofit entities from sales and use tax as such process was designed by the 2003 General Assembly to go into effect on July 1, 2004, by: (i) permitting churches to continue self-renewal exemptions; (ii) grandfathering the types of organizations that are exempt from collecting sales and use tax on fund-raising sales of tangible personal property; and (iii) making several technical amendments. This bill is identical to HB 515.

*Patron - Colgan*

**D SB627 Local consumer utility tax.** Allows the local governing body of the Towns of Vienna and Clifton to impose the local consumer utility tax on mobile phones by adopting a local ordinance on or after July 1, 2004. While the

town ordinance remains in effect, Fairfax County shall not impose the tax within the limits of such town.

*Patron - Devolites*

**D SB632 Sales and use tax exemption for software and content delivered electronically.** Expressly exempts the electronic delivery of software, data, content and other information services via the Internet from the Commonwealth's sales and use tax. This bill clarifies existing law by codifying a long line of State Tax Commissioner Rulings (97-405 and 02-111).

*Patron - Devolites*

**D SB642 Coal and gas road improvement tax; water/sewer projects.** Adds sewer systems and lines to water projects as an option for localities to use a portion of the coal and gas road improvement tax revenues. The bill also provides that any revenues generated by the coal and gas road improvement tax and designated for local water or sewer projects shall be distributed to the local public service authority rather than the local governing body.

*Patron - Puckett*

**D SB652 Transient occupancy tax; additional amount for overnight accommodations in greater Williamsburg area.** Allows the Counties of James City and York to impose an additional transient occupancy tax of up to \$2 for overnight accommodations. The revenues collected from the additional tax must be used for advertising the Historic Triangle area (City of Williamsburg, Counties of James City and York) as an overnight destination. The additional tax expires January 1, 2008, unless any one of the governing bodies of the City of Williamsburg and the Counties of James City and York fails to adopt an ordinance by August 1, 2004, imposing the tax, in which event the additional tax will expire on such date. Establishes the Williamsburg Area Destination Marketing Committee of the Williamsburg Area Convention and Visitors Bureau to direct such advertising.

*Patron - Norment*

**D SB681 Taxation; minimum tax on certain electric suppliers.** Requires certain electric suppliers to pay a minimum tax rather than the corporate income tax for any year their minimum tax liability is greater than their corporate income tax liability. The minimum tax is equal to 1.45 percent of the electric supplier's gross receipts minus the state's portion of the electric utility consumption tax billed to consumers. For electric cooperatives that are exempt from federal taxation under § 501 of the Internal Revenue Code, the minimum tax is equal to 1.45 percent of the cooperative's gross receipts from sales to nonmembers minus the consumption tax collected from nonmembers. Also included are provisions dealing with electric suppliers that file consolidated or combined returns. The bill will be effective for taxable years beginning on or after January 1, 2004, and there is an emergency clause.

*Patron - Watkins*

**D SB684 Transient occupancy taxes and food and beverage taxes.** Makes technical changes to the transient occupancy taxes and the food and beverage taxes for counties by replacing indirect references to specific counties with the names of the counties.

*Patron - Watkins*

**D SB690 Corporate income taxes; tax credit for machinery and equipment used to produce property from recyclable materials.** Extends the sunset date from December 31, 2003, to December 31, 2006, for a corporate income tax

credit for machinery and equipment used to produce personal property from recyclable materials.

*Patron - Hawkins*

## Failed

: **HB4 Estate tax.** Conforms the amount of Virginia estate tax due from an estate to the maximum amount of the federal estate tax credit for state estate taxes, as permitted under federal estate tax law, as such law shall be amended from time to time. Under current law the amount of Virginia estate tax cannot be less than the federal credit under federal law as such law existed on January 1, 1978. The bill is identical to SB 392, incorporates HB 1134, and is incorporated into SB 30.

*Patron - Tata*

: **HB33 Tobacco Products Tax; Health Care Revenue Act of 2004.** Allows the Commonwealth to impose a tax on all tobacco products (cigarettes, cigars, snuff, chewing tobacco, and smoking tobacco) at the rate of 50 cents per pack or package and five cents per cigar. The revenues generated by the tax shall be deposited into a special fund, known as the Health Care Trust Fund, once it is approved through a referendum. Until then the revenues will be part of the general fund. The bill allows all localities to impose a local option tobacco products tax at a rate not to exceed 25 cents per pack or package and three cents per cigar. Localities that imposed a cigarette tax at a higher rate as of January 1, 2004, may maintain that rate but shall not increase it. The cap on the local option tobacco products tax rate shall remain in effect until January 1, 2009.

*Patron - Hamilton*

: **HB60 Motor fuel tax.** Increases the tax on gasoline, diesel fuel, and alternative fuel by six and one-half cents per gallon, increases the motor carrier road tax by an equivalent of six and one-half cents per gallon of fuel used in the Commonwealth, and increases the alternative use fee for certain motor carriers from \$100 to \$150 (the fee is an alternative to paying the motor carrier road tax). The revenue generated is used for transportation purposes as required by existing law.

*Patron - Parrish*

: **HB72 Cigarette tax; rate increase.** Increases the state cigarette tax from two and one-half cents per pack to 50 cents per pack, and dedicates all additional revenue to the Standards of Quality.

*Patron - Reese*

: **HB74 Cigarette tax; counties.** Authorizes any county to impose a local cigarette tax not to exceed 50 cents per pack. All revenue collected from such tax must be used as an offset to the county's real estate tax rate.

*Patron - Reese*

: **HB91 Business, Professional and Occupational Licensing Tax (BPOL); license fees, rates and requirements.** Requires localities that impose the BPOL tax to (i) eliminate license fees by January 1, 2006, (ii) exempt the first \$100,000 of gross receipts from taxation by January 1, 2006, and (iii) reduce the several different rates currently in the Code to a flat rate of 20 cents per \$100 of gross receipts for license years beginning on and after January 1, 2006. This bill is incorporated into HB 461.

*Patron - Shuler*

: **HB95 Real property tax exemption; elderly and disabled.** Increases from \$5,000 to \$10,000 the maximum



amount of assets that an elderly or disabled person needing live-in assistance from a relative and enjoying a real estate tax exemption may transfer without adequate consideration, and still exclude the relative's income for purposes of determining maximum income for the tax exemption. This bill is incorporated into HB 94.

*Patron - Cole*

: **HB96 Real property tax exemption; elderly and disabled.** Increases from \$100,000 to \$200,000 the maximum financial worth cap a locality may impose in providing real estate tax exemptions to the elderly or disabled. This bill is incorporated into HB 94.

*Patron - Cole*

: **HB98 Real property tax exemption; elderly and disabled.** Increases from \$7,500 to \$10,000 the maximum amount a locality may exclude from the income of a totally disabled person in calculating maximum income allowed to provide real estate tax exemptions for the elderly or disabled. This bill is incorporated into HB 94.

*Patron - Cole*

: **HB103 Cigarette tax.** Increases the state cigarette tax rate from two and one-half cents per pack to 60 cents per pack. One-half of the additional revenue generated by the increase is to be used solely to fund the Virginia Medicaid Program. The remaining one-half of such revenues is to be distributed to all of the counties and cities of the Commonwealth based upon the number of school-aged children in each locality.

*Patron - Van Yahres*

: **HB107 Income tax; the Commonwealth's system of taxation and conformity of terms.** Changes the date that Virginia conforms with the provisions of the Internal Revenue Code from December 31, 2002, to December 31, 2003. The bill also contains an emergency clause. This bill is identical to SB 526 and SB 466.

*Patron - Parrish*

: **HB146 Motor vehicle fuel tax; in certain transportation districts.** Imposes a two percent sales tax on motor fuels in all the cities and counties within any transportation district created pursuant to § 15.2-4504 of which the City of Fredericksburg and (i) Caroline County, (ii) King George County, (iii) Spotsylvania County, or (iv) Stafford County are part of the membership. The additional revenues shall be used for any transportation project within such district. The bill is effective the later of July 1, 2004, or 60 days after creation of the district.

*Patron - Orrock*

: **HB175 Estate tax.** Removes the estate tax from those estates (i) valued at \$10 million or less, or (ii) of which a majority of the assets are an interest in a closely held business or working farm.

*Patron - Baskerville*

: **HB297 Individual income tax; subtraction for certain local school board employees.** Allows a subtraction when calculating taxable income of the first \$15,000 of salary for each local school board employee whose annual salary is \$15,000 or less, for taxable years beginning on and after January 1, 2005.

*Patron - Ware, R.L.*

: **HB341 State Lottery Board; powers.** Requires the State Lottery Board through regulation to express the prize amounts for winning tickets or shares in all advertisements of

the lottery as the estimated present value of such winnings if the prize is not payable in one single payment.

*Patron - Pollard*

: **HB385 Real estate tax; limitation on tax rate.** Provides that an annual assessment, biennial assessment or general reassessment of real property may not result in more than a five percent increase in the total real estate tax levies for a county, city or town, with one exception. The bill also provides that a county, city or town may not set its real property tax for any tax year at a rate that would produce more than 105 percent of the previous year's total real property tax levies for such county, city or town, with one exception. The exception would allow a locality to set its property tax rate at a rate not to exceed the rate of population growth plus the rate of inflation in the locality for the immediately preceding year. The average tax increase on individuals would not exceed five percent. However, some taxpayers could be above the average while others could fall below the average. Under current law, (i) the annual growth rate in a locality's total real estate taxes from an annual assessment, biennial assessment or general reassessment is not capped, provided the locality holds a public hearing in regard to its real property tax rate; and (ii) there is no cap on real property tax rates.

*Patron - Lingamfelter*

: **HB412 Meals tax and transient occupancy tax; cities and towns.** Restricts the imposition in any city or town of (i) a new (i.e., not in effect on January 1, 2004) meals tax or an increase in the rate as of January 1, 2004, without approval by referendum, and (ii) transient occupancy taxes in excess of two percent, (or five percent when the excess over two percent is spent on tourism promotion under certain conditions), unless the city or town had a higher rate as of January 1, 2004.

*Patron - Welch*

: **HB428 Motor fuel tax.** Increases the tax on gasoline, diesel fuel, and alternative fuel by six and one-half cents per gallon, increases the motor carrier road tax by an equivalent of six and one-half cents per gallon of fuel used in the Commonwealth, and increases the alternative use fee for certain motor carriers from \$100 to \$150 (the fee is an alternative to paying the motor carrier road tax). All motor fuels taxes will be indexed annually beginning January 1, 2005, by an amount equal to the percentage change in the U.S. Department of Labor's Producer Price Index for Highway and Street Construction. The revenue generated is used for transportation purposes as required by existing law.

*Patron - Watts*

: **HB461 Business, Professional and Occupational Licensing Tax (BPOL).** Phases in lower rates based on growth for each of the four BPOL categories by five cents and allows only a \$25 fee rather than \$50, for businesses that start up in the last six months of a taxable year. These changes are effective for taxable years beginning on or after January 1, 2005.

*Patron - Drake*

: **HB473 Property tax exemptions; charitable organizations.** Modifies the "grandfathering" of property tax exemptions for certain charitable organizations that were granted through classification by the General Assembly (prior to the Constitutional amendment, effective January 1, 2003, that gave such exemption authority solely to localities) to include property (i) that was owned by such an exempt organization as of January 1, 2003, and (ii) that, as determined by a court of competent jurisdiction, was taxed by the locality but should not have been. Current law grandfathers only such

property that actually was not being taxed by the locality as of January 1, 2003. This bill is incorporated into HB 1076.

*Patron - Nixon*

: **HB531 Sales and use tax; increase for education and transportation.** Increases the state portion of the sales and use tax from 3.5 percent to 5.5 percent with (i) one-half of the additional revenues generated to be used solely to fund the Standards of Quality for public education, and (ii) the remaining one-half of such revenues to be deposited into the Transportation Trust Fund and used solely for transportation purposes.

*Patron - Stump*

: **HB582 Sales tax on food for human consumption.** Reduces the state portion of the sales tax on food for human consumption from three percent to 1.5 percent with the revenue from the tax to be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed to the Transportation Trust Fund, and (ii) the revenue from the tax at the rate of one percent shall be distributed to localities based on school-aged population.

*Patron - Hamilton*

: **HB662 Individual income tax; tax credit for certain parents.** Grants a tax credit equal to \$50 against the income tax liability of certain parents who stay home to take care of at least one child under the age of 16, provided certain requirements are satisfied. The credit would be available for taxable years beginning on and after January 1, 2005.

*Patron - Bell*

: **HB730 Local license fees and taxes.** Requires localities to impose the flat license fees now authorized by current law on all businesses or no businesses, and if such fees are imposed then, in calculating any license tax that is imposed on gross receipts the locality must deduct from such gross receipts the threshold amount of gross receipts on which it imposes the tax. This bill is incorporated into HB 461.

*Patron - Joannou*

: **HB757 Income tax; Virginia Tiered Incentive Program.** Establishes a program for providing corporate income tax credits for creation of jobs in economically distressed localities, which are divided into three tiers. The amount of the credit will be based on factors such as median household income and rates of unemployment within the three tiers. The Tax Commissioner shall promulgate regulations that are necessary or desirable to carry out the provisions of the act. This bill is a recommendation of the Rural Virginia Prosperity Commission.

*Patron - Hurt*

: **HB793 State and local cigarette tax.** Increases the state cigarette tax from two and one-half cents per pack to 25 cents per pack, and authorizes all counties, cities, and towns to impose a cigarette tax not to exceed the greater of 50 cents per pack or the rate that was in effect in the locality on January 1, 2004.

*Patron - Watts*

: **HB802 Local cigarette tax.** Gives counties the same authority as cities and towns to impose a cigarette tax.

*Patron - Petersen*

: **HB839 Income tax; day-care facility investment tax credit.** Adds expenditures for contracting out on-site child day-care services to the list of items and activities for which the day-care facility investment tax credit is allowed. There is language that removes certain restrictions regarding the

approval of credit applications, including the one limiting the credit to \$100,000 per year per taxpayer. The new provisions are effective for taxable years beginning on and after January 1, 2005.

*Patron - Baskerville*

: **HB859 Taxation; reform package.** Makes several changes to the state tax code as follows: (i) increases the income tax personal exemption amount from \$800 to \$2,500, (ii) increases the income tax standard deduction amount to \$3,500 for singles and married filing separately and to \$7,000 for married filing jointly, (iii) adds and expands the income tax rates, with a top rate of seven and one-half percent on income greater than \$100,000, (iv) eliminates the low-income tax credit and the age deduction; (v) provides an income tax credit for sales taxes paid that is income-based; (vi) eliminates the sales tax on food and expands the sales tax to include consumer services; and (vii) tightens certain corporate income tax provisions, and increases the rate from six percent to seven and one-half percent.

*Patron - Watts*

: **HB885 Motor fuel tax.** Increases the tax on gasoline, diesel fuel, and alternative fuel by six cents per gallon; increases the motor carrier road tax by an equivalent of six cents per gallon of fuel used in the Commonwealth; and increases the alternative use fee for certain motor carriers from \$100 to \$150 (the fee is an alternative to paying the motor carrier road tax). The revenue generated is used for transportation purposes as required by existing law.

*Patron - Plum*

: **HB886 Cigarette tax.** Increases the state cigarette tax rate from two and one-half cents per pack to 50 cents per pack, and caps local cigarette taxes at the rates in effect on January 1, 2004. The additional revenue generated by the increase in the state tax rate is to be used solely to fund the Virginia Medicaid Program.

*Patron - Plum*

: **HB913 Sales and use tax exemption; little league baseball and softball.** Exempts nonprofit little league organizations from collecting the sales tax when they sell tangible personal property for fund-raising. Such organizations already are exempt from paying sales tax when purchasing tangible personal property. This bill is incorporated into HB 515.

*Patron - Phillips*

: **HB940 Admissions tax; Caroline County.** Authorizes Caroline County to impose a local admissions tax.

*Patron - Pollard*

: **HB972 State and local cigarette tax.** Authorizes all counties to impose a cigarette tax not to exceed 50 cents per pack.

*Patron - Barlow*

: **HB1051 Taxation; individual income tax rates and brackets.** Changes the income levels and adds an additional top rate to the Virginia individual income tax rate structure as follows:

<u>Taxable Income</u>	<u>Rate</u>
Up to \$6,000	2%
\$6,001 - \$10,000	3%
\$10,001 - \$35,000	5%
\$35,001 - \$200,000	5.75%
\$200,001 and above	6%

*Patron - Hamilton*

: **HB1052 Sales and use tax; increase for education.** Increases the state portion of the sales and use tax from 3.5 percent to four percent and requires that the additional revenue generated thereby be used solely (i) to increase public school teachers' salaries to the 2003 national average, (ii) to fully fund the total cost of all preschool programs for at-risk four-year-olds, and (iii) to fund full-time instructional positions in the areas of art, music, and physical education.

*Patron - Hamilton*

: **HB1064 Estate tax.** Exempts from the estate tax (i) all estates where the majority of assets are an interest in a closely held business, including working farms, and (ii) all estates where the gross estate is worth \$10 million or less.

*Patron - Armstrong*

: **HB1065 Estate tax.** Exempts from the estate tax all estates where the majority of assets are an interest in a closely held business, including working farms.

*Patron - Armstrong*

: **HB1068 Sales tax on food; reduction.** Reduces the state portion of the sales tax on food for human consumption (i) to two percent from July 1, 2004, through June 30, 2005; and (ii) to one and one-half percent on and after July 1, 2005, and holds harmless the portion of the state sales tax currently dedicated to the Transportation Trust Fund and to localities based on school-age population.

*Patron - Armstrong*

: **HB1072 Machinery and tools tax; date to file returns.** Changes from May 1 to March 1 the date by which machinery and tools tax returns must be filed each year.

*Patron - Armstrong*

: **HB1078 Local taxes; appeals.** Permits any taxpayer who is aggrieved by the assessment of any local tax to appeal such assessment to the Tax Commissioner for a determination of the issue. Either party may appeal the determination of the Tax Commissioner to the circuit court, and the locality must suspend all collection activity on the tax as long as the court has jurisdiction of the matter, unless the locality shows to the satisfaction of the court that: collection would be seriously jeopardized by delay; or that the locality is likely to prevail on the merits of the case because the taxpayer's application is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the collection of the revenue, or to create needless cost to the locality from the litigation; or (iv) otherwise frivolous. This bill is incorporated into HB 464.

*Patron - Parrish*

: **HB1079 Corporate income taxation; closing loopholes.** Closes two corporate income tax loopholes that allowed corporations to avoid paying taxes on "nowhere income" and money paid to passive investment companies in the form of royalties, interest and other intangible income. The "throwback rule" closes the first loophole by allowing the Commonwealth to tax the income when the property is shipped from an office, store, warehouse, factory, or other place of storage in the Commonwealth and the corporation is not taxable in the state of the purchaser. The second loophole is closed by requiring the corporation to add back any otherwise deductible interest expenses and costs and intangible expenses and costs paid, accrued or incurred to one or more related members. This bill is incorporated into HB 1361.

*Patron - Parrish*

: **HB1081 Taxation; A Commonwealth of Opportunity Plan.** Sets the governor's tax plan, which would (i) lower the income tax for most Virginians by increasing the personal exemption amount from \$800 to \$1,000, increasing the standard deduction amount to \$4,000 for singles and married filing separately and to \$8,000 for married filing jointly, and raising the filing thresholds to \$7,000 and \$14,000, (ii) reduce the food tax by 1.5 cents and add one cent to the sales and use tax, (iii) tighten certain corporate income tax provisions, (iv) increase Virginia's state cigarette tax to 25 cents per pack to pay for health care needs while giving counties the authority to levy the tax up to a cap, (v) complete the plan to end the car tax on personal vehicles valued at \$20,000 or less, (vi) eliminate the estate tax for certain working farms and family-owned businesses, (vii) end the accelerated sales tax collection for retailers, (viii) provide incentives for small and mid-size businesses to invest, and (ix) streamline collection of the state sales tax. The bill also amends § 58.1-3833 by authorizing a local meals tax of up to four percent in counties. This section already reads that the local meals tax in counties shall not exceed four percent. However, the section, as published, is incorrect. It includes language setting the local meals tax rate, which amendatory language was dependent upon passage of the 2002 transportation referendums (See Chapter 853 of the Acts of Assembly of 2002). As the referendums did not pass, such amendatory language never became law. The change to § 58.1-3833 is technical in nature. It sets out the Code section as it should have been published and amends the section to clarify current law that authorizes counties to impose a local meals tax up to four percent.

*Patron - Parrish*

: **HB1087 Sales and use tax exemption; Literacy Volunteers of the New River Valley.** Exempts from the retail sales and use tax beginning July 1, 2004, and ending July 1, 2008, tangible personal property purchased for use or consumption by a charitable nonprofit organization established to increase literacy for adults who function at or below the fifth grade reading level, and for those seeking to learn English as a second language.

*Patron - Nutter*

: **HB1089 Virginia Tiered Incentive Program.** Establishes a program for providing corporate income tax credits for creation of jobs in economically distressed localities. The amount of the credit will be based on factors such as median household income and rates of unemployment. The Tax Commissioner shall promulgate regulations that are necessary or desirable to carry out the provisions of the act. This bill is a recommendation of the Rural Virginia Prosperity Commission.

*Patron - Nutter*

: **HB1090 Sales and use tax; optional local tax for mass transit.** Authorizes any county or city embraced within the Washington Metropolitan Area Transit Authority to levy an additional local sales and use tax at a rate of one-half of one percent with the revenues generated from such tax to be used solely for mass transit purposes. The county or city imposing such a tax must reduce its real estate tax rate so that total real estate tax revenues are reduced by 40 percent of the additional sales tax revenues. The tax shall be adopted by local ordinance which shall become effective on the later of the first day of a month at least 60 days after its adoption, or the first day of the month after which at least one other such city or county shall have adopted such an ordinance and the total population within the counties or cities having adopted such an ordinance comprises at least 50 percent of the total population of the counties

and cities embraced within the Washington Metropolitan Area Transit Authority.

*Patron - Scott, J.M.*

: **HB1122 Local business taxes; appeals to court.** Provides that when any taxpayer appeals to court an adverse decision of the State Tax Commissioner regarding the assessment of a local business tax, the assessing official shall suspend collection activity while the court retains jurisdiction unless the court determines that collection would be jeopardized by delay, or that suspension of collection would cause substantial economic hardship.

*Patron - Lingamfelter*

: **HB1134 Estate tax.** Conforms the amount of Virginia estate tax due from an estate to the maximum amount of the federal estate tax credit for state estate taxes, as permitted under federal estate tax law, as such law shall be amended from time to time. Under current law the amount of Virginia estate tax cannot be less than the federal credit under federal law as such law existed on January 1, 1978. This bill is incorporated into HB 4 and is identical to SB 392.

*Patron - McDonnell*

: **HB1160 Income tax; teacher expenses tax credit.** Provides an income tax credit of up to \$500 for costs incurred by teachers for materials they use teaching children in grades kindergarten through 12, for taxable years beginning on or after January 1, 2005.

*Patron - Frederick*

: **HB1164 Income tax; teleworking tax credit.** Grants a tax credit to certain qualified employers for eligible costs incurred to provide an employee with the ability to telework, for taxable years beginning on or after January 1, 2005. The credit equals 75 percent of the cost of the initial set-up to enable teleworking for an employee who works five or more days weekly. The credit per employee is limited to \$1,000 annually.

*Patron - Frederick*

: **HB1188 Sales and use tax; Internet.** Exempts from the sales and use tax any tangible personal property or service acquired through the use of the Internet.

*Patron - Frederick*

: **HB1270 Sales and use tax; increase for education.** Increases the state portion of the sales and use tax from 3.5 percent to four percent for public school education, with one-half of the additional revenues generated thereby deposited into the At-Risk Student Academic Achievement Fund created by the bill, and the remaining one-half distributed to localities based on a set per pupil amount, based on the latest actual adjusted average daily membership, and used solely for public school capital projects. The At-Risk Student Academic Achievement Fund is to be used to provide noncompetitive grants to public school divisions to implement programs designed to (i) improve the academic achievement of at-risk public school students on the Standards of Learning assessments; (ii) decrease the rate of dropout among at-risk public school students; and (iii) increase the number of such students obtaining the advanced studies diploma.

*Patron - Dillard*

: **HB1286 Sales and use tax; increase for education.** Increases the state portion of the sales and use tax from 3.5 percent to 4.5 percent with (i) one-half of the additional revenues generated to be distributed among all counties and cities based upon point of sale and used solely for public school purposes and (ii) the remaining one-half of such reve-

nues to be appropriated by the General Assembly for higher education.

*Patron - Shuler*

: **HB1287 Car tax relief; prerequisites to increases.** Establishes the following two additional prerequisites to increasing the percentage of the reimbursable amount for each qualifying vehicle under the Personal Property Tax Relief Act of 1998: (i) funding the Commonwealth's portion of the Standards of Quality for public education in an amount equivalent to at least 55 percent of the total statewide associated costs, and such total statewide associated costs shall include, but not be limited to, the prevailing costs of the prevailing practices as determined pursuant to §§ 22.1-18.01 and 22.1-253.13:1; and (ii) funding higher education in the Commonwealth according to the funding guidelines established by the Joint Subcommittee on Higher Education Funding Policies pursuant to Item 1 E of Chapter 1073 of the Acts of Assembly of 2000.

*Patron - Shuler*

: **HB1301 Local business license.** Prohibits localities from issuing a local business license without first determining that the applicant's place of business satisfies all local zoning regulations.

*Patron - Cosgrove*

: **HB1361 Corporate income tax; add back for related companies.** Describes permissible and impermissible transactions between interrelated companies for purposes of calculating their Virginia corporate income tax liability. In general, a company is required to add back interest expenses and costs and intangible expenses and costs relating to transactions with one or more related entities, but several exceptions or "safe harbors" are provided to protect most interrelated company transactions.

*Patron - Nixon*

: **HB1366 Sales and use tax increase for higher education.** Increases the state sales and use tax from 3.5 percent to 3.75 percent and dedicates the additional revenue for higher education according to the following formula: (i) 25 percent of the additional revenue shall be distributed to the Virginia Community College System to support operating costs, and (ii) the remaining 75 percent of the additional revenue shall be distributed to various four-year public institutions of higher education in accordance with the recommendations and findings of the Joint Subcommittee for Higher Education Funding Policies, and with priority given to those institutions (a) demonstrating the highest rate of increase in in-state enrollments and (b) having the portion of out-of-state enrollments in each incoming freshman class not exceeding 25 percent, as set forth in the appropriation act. However, such restriction on out-of-state enrollments shall not apply to Norfolk State University, Virginia Military Institute, and Virginia State University.

*Patron - Scott, J.M.*

: **HB1381 Business, professional and occupational license (BPOL) tax; newspapers' exemption.** Repeals the BPOL tax exemption for newspapers, magazines, newsletters or other publications issued daily or regularly at average intervals not exceeding three months.

*Patron - Wardrup*

: **HB1390 Virginia Cultural Economic Development Revolving Fund.** Creates the Virginia Cultural Economic Development Revolving Fund ("Fund") for the purposes of improving the cultural institutions and organizations and economic development prospects and interests of the Commonwealth through collaboration with Virginia's local govern-

ments. An Advisory Board is created to assist the Virginia Resources Authority in managing the Fund. The Fund shall be used to make grants or loans to local governments for projects within the purposes of the Fund.

*Patron - Callahan*

: **HB1395 Local recordation fee.** Allows cities and counties to impose a fee not to exceed \$250 on all recorded instruments that are subject to the state recordation tax. The revenues generated by the fee are to be used by the locality for public school capital projects.

*Patron - Cosgrove*

: **HB1399 Local income tax and tax on food.** Allows localities to impose a local income tax at a rate of one-tenth of one percent on Virginia taxable income in excess of \$17,000 in order to replace the revenues they would receive from the sales tax on food, which is eliminated in this bill.

*Patron - Ebbin*

: **HB1409 Personal Property Tax Relief Act of 1998; repeal.** Repeals the Personal Property Tax Relief Act of 1998 effective January 1, 2005.

*Patron - Armstrong*

: **HB1428 Cigarette tax; nonparticipating manufacturers' fee on cigarettes.** Imposes a fee of 15 mills per cigarette (\$0.30 per pack) on cigarette manufacturers that are not participating in the Master Settlement Agreement. Nonparticipating manufacturers whose cigarettes are being offered for sale in the Commonwealth must pay the fee within 30 days after the effective date of the legislation while those whose cigarettes are not being offered for sale in the Commonwealth at the time the legislation take effect must prepay the fee, which will be not less than \$50,000. The legislation is effective on January 1, 2005.

*Patron - Louderback*

: **HB1431 Real estate tax; collection proceedings for delinquent taxes.** Provides that after suit is filed and lis pendens is recorded regarding the sale of real estate for delinquent taxes, any party that acquires an interest thereafter in the real estate is not a necessary party but may intervene to file a claim. The purpose is to prevent last minute sham transfers of title to property as a tax payment avoidance measure. This bill is incorporated into HB 1453.

*Patron - Kilgore*

: **HB1469 Individual income tax; indexing the age deduction.** Provides for the age deduction amounts of \$12,000 and \$6,000 to be indexed annually beginning in 2005 based on the Consumer Price Index for All Urban Consumers (CPI-U).

*Patron - Shannon*

: **HB1470 Individual income tax credit for certain real property tax increases.** Provides a state income tax credit for real property tax increases in excess of four percent for certain taxpayers on property located in localities that have a composite index of 0.7 or greater.

*Patron - Shannon*

: **HB1473 Virginia Fuels Tax Act.** Imposes an additional tax on each gallon of fuel currently taxed under the Virginia Fuels Tax Act at the rate of four percent of the state-wide average retail price per gallon of gasoline, increases the motor carrier road tax by the same rate, and increases the alternative use fee for certain motor carriers from \$100 to \$150. The additional revenues generated shall be distributed among the nine highway construction districts to be used for new road

construction within each district according to the following formula: 60 percent based on the percentage of the Commonwealth's total population residing within each district, and the remaining 40 percent based on the ratio of vehicle-miles traveled on the primary system in each district divided by the number of primary system lane miles in each district.

*Patron - Hull*

: **HB1488 Sales and use tax exemptions; commercial and industrial.** Eliminates numerous commercial and industrial sales and use tax exemptions.

*Patron - Hamilton*

: **SB74 State and local cigarette taxes.** Increases the state cigarette tax from 2.5 cents per pack to 65 cents per pack (based on 20 cigarettes in a pack). An amount equivalent to 40 cents per pack shall be deposited in a special fund titled "Local Government School Construction Fund." All such moneys deposited shall be distributed quarterly to counties and cities within 30 days after the end of each calendar quarter. Moneys in the Fund shall be distributed on a set per pupil amount, based on the latest actual adjusted average daily membership as determined by the Department of Education. All moneys distributed shall be used solely for public school construction, public school additions and renovations, including retrofitting and enlarging public school buildings; public school infrastructure, including technology infrastructure; site acquisition for public school buildings and public school facilities; or debt service payments on such projects completed subsequent to December 31, 1993. An amount equivalent to 25 cents per pack shall be deposited in a special fund titled "Virginia Health Care Fund." All such moneys deposited shall be used solely for the provision of health care services. The bill also authorizes all counties, cities, and towns to impose local cigarette taxes. The maximum local cigarette tax that may be imposed (i) between July 1, 2004, and July 1, 2005, is 20 cents per pack; (ii) between July 1, 2005, and July 1, 2006, is 35 cents per pack; and (iii) on or after July 1, 2006, is 50 cents per pack. Any county, city, or town imposing a local cigarette tax at a rate higher than these rates prior to December 1, 2003, may continue to impose the tax at such higher rate but no higher. This bill is incorporated into SB 465.

*Patron - Howell*

: **SB84 Sales and use tax exemption; Citizens United for Rehabilitation of Errants-Virginia, Inc.** Exempts from the retail sales and use tax beginning July 1, 2004, and ending July 1, 2008, tangible personal property purchased for use or consumption by a § 501 (c) (3) nonprofit corporation organized to improve the condition of prisoners and families affected by crime; reduce crime by promoting the creation and preservation of programs and policies directed at the rehabilitation of errants; and promote family and community ties during a person's incarceration.

*Patron - Puller*

: **SB85 Individual income tax; distributions from qualified tuition programs.** Provides that distributions from a qualified tuition program established under § 529 of the Internal Revenue Code, other than distributions from the Virginia College Savings Plan, shall be subject to Virginia's individual income tax.

*Patron - Puller*

: **SB91 Sales and use tax; exemption for certain contractors.** Exempts from paying the sales and use tax any person who contracts to perform services for and provides tangible personal property for consumption or use by the Commonwealth, any political subdivision of the Commonwealth, or the United States, if the Commonwealth, political subdivision,

or the United States certifies that title to such tangible personal property will pass to such governmental entity.

*Patron - Devolites*

: **SB111 Recordation tax; leases.** Provides that the tax on the recordation of leases of oil and gas rights and of outdoor advertising signs owned by a person in the business of outdoor advertising shall equal \$25. The bill sets a tax of \$50 on the recordation of leases of coal and other mineral rights. Under current law, the tax on the recordation of leases of oil and gas rights and of outdoor advertising signs may not exceed \$25, and the tax on the recordation of leases of coal and other mineral rights may not exceed \$50. The bill also provides that the tax on the recordation of a lease of a communications tower or a communications tower site shall be \$75. The tax on the recordation of each lease to affix communications equipment or antenna to any such tower or other structure shall be at a rate of \$15 for each tower or structure to which equipment or antenna is to be affixed. This bill is incorporated into SB 399.

*Patron - Williams*

: **SB121 Taxation of public service corporations real and personal property.** Limits the rate imposed by localities on generating equipment reported to the State Corporation Commission by electric suppliers to the local real estate tax rate.

*Patron - Watkins*

: **SB140 Real estate tax; limitation on tax rate.** Provides that an annual assessment, biennial assessment or general reassessment of real property may not result in more than a five percent increase in the total real estate tax levies for a county, city or town, with one exception. The bill also provides that a county, city or town may not set its real property tax for any tax year at a rate that would produce more than 105 percent of the previous year's total real property tax levies for such county, city or town, with one exception. The exception would allow a locality to multiply its current rate by the sum of (i) the rate of the population growth, plus (ii) the rate of inflation in the locality for the immediately preceding year. The average tax increase on individuals would not exceed five percent. However, some taxpayers could be above the average while others could fall below the average. Under current law, (a) the annual growth rate in a locality's total real estate taxes from an annual assessment, biennial assessment or general reassessment is not capped, provided the locality holds a public hearing in regard to its real property tax rate; and (b) there is no cap on real property tax rates.

*Patron - Cuccinelli*

: **SB147 Local taxes.** Authorizes all counties to impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds beginning January 1, 2005, with no cap on the rate of tax, provided that any county increasing or first imposing any of these taxes on or after January 1, 2004, shall be subject to limits on the amount of annual revenue that may be generated from the county's real estate tax. For each of the first three tax years of such increase or initial imposition of such tax, the county shall set its rate of tax on real estate so as to produce total real estate tax revenues not to exceed the prior year's total real estate tax revenues adjusted for inflation and population minus the additional revenue estimated to be generated from any increase in county tax or new county tax that is to become effective in the tax year.

In no event, however, for any of the three years, may the county's total real estate tax revenues increase by more than five percent when compared to the previous year.

For every tax year following the initial three-year period, the county's revenues from real estate tax may not increase by more than five percent each year.

*Patron - Cuccinelli*

: **SB188 Real estate tax on leasehold interests.** Provides that no local real estate tax may be imposed on a leasehold interest where (i) the property being leased is a qualifying facility under the Public-Private Education Facilities and Infrastructure Act of 2002, (ii) the leasehold interest is held by the operator of the qualifying facility, and (iii) the operator is carrying on a trade or business at the location of the qualifying facility.

*Patron - Puller*

: **SB213 Food and beverage tax imposed without referendum; Giles County.** Permits Giles County to impose a food and beverage tax by adoption of local ordinance, not by referendum.

*Patron - Edwards*

: **SB247 Real estate tax; credit for permanent easements.** Allows localities to provide by ordinance for a credit against the real estate tax for permanent easements granted by taxpayers on property used for public purposes within the locality.

*Patron - Deeds*

: **SB253 Sales and use tax exemption; Clinch Independent Living Services Inc.** Exempts from the retail sales and use tax beginning July 1, 2004, and ending July 1, 2008, tangible personal property purchased for use or consumption by a § 501 (c) (3) nonprofit corporation operated by and for people with disabilities and that provides information and referral, peer counseling, independent living skills, and advocacy services to and on behalf of people with disabilities.

*Patron - Puckett*

: **SB269 State and local cigarette taxes.** Increases the state cigarette tax from 2.5 cents per pack to \$1 per pack and appropriates the revenues collected from such increase for state police officers' salaries, deputy sheriffs' salaries, K through 12 teachers' salaries, and Medicaid funding. The bill also caps local cigarette taxes at the rates in effect on January 1, 2004. This bill is incorporated into SB 269.

*Patron - Potts*

: **SB281 Taxation; personal exemption.** Increases the individual income tax personal exemption amount from \$800 to \$1,200 beginning with the 2004 taxable year. This bill is incorporated into SB 635.

*Patron - Wampler*

: **SB305 Taxation; secrecy of information; right of subject of tax records.** Clarifies that the prohibition against the release of any information acquired by any state or local tax or revenue officer or employee with respect to the transactions, property, including personal property, income or business of any person, firm or corporation shall not be construed to prohibit the disclosure of a tax return to any person who is the subject thereof.

*Patron - O'Brien*

: **SB356 Transportation authorities of the Commonwealth.** Creates a transportation authority for each of the nine current construction districts. The transportation authorities are to be funded from increases in the motor vehicle sales and use tax. The tax is increased from three to five percent for sales of motor vehicles and from four to six percent for the rental of motor vehicles. The transportation authorities are

given the responsibility for planning and providing for the transportation needs of the counties and cities embraced by the authority. The transportation authorities may use their share of motor vehicle sales and use tax revenues to acquire or construct transportation facilities, and may issue bonds for such purposes and provide security for bonds with their allocable share of motor vehicle sales and use tax revenues. The provisions of the bill are effective January 1, 2005.

*Patron - Colgan*

: **SB357 Transportation authorities of the Commonwealth.** Creates a transportation authority for each of the nine current construction districts. The transportation authorities shall be funded from a seven cent increase in the fuels tax on gasoline, diesel fuel, and alternative fuels. Under the bill the tax on gasoline would increase from 17.5 cents per gallon to 24.5 cents per gallon, and the tax on diesel fuel and alternative fuels would increase from 16 cents per gallon to 23 cents per gallon. Each Transportation Authority's share of such revenues shall be determined on a pro rata basis according to the population of the counties and cities embraced by each Authority as compared to the total population of the Commonwealth. The transportation authorities are given the responsibility for planning and providing for the transportation needs of the counties and cities embraced by the authority. The transportation authorities may use their share of fuels tax revenues to acquire or construct transportation facilities, and may issue bonds for such purposes and provide security for bonds with their allocable share of fuels tax revenues. The provisions of the bill are effective January 1, 2005. This bill is incorporated into SB 635.

*Patron - Colgan*

: **SB367 Transient occupancy tax; certain regions.** Provides for an additional one percent transient occupancy tax for any two or more contiguous counties or cities if the revenues are used for debt service for a performing arts center and to advertise, promote or provide incentives to attract convention business to the region.

*Patron - Watkins*

: **SB378 Virginia estate tax.** Exempts estates from the Virginia estate tax if the majority of the total estate is comprised of agricultural property, a closely held business or a non-corporate business. This bill is incorporated into SB 635.

*Patron - Deeds*

: **SB392 Estate tax.** Conforms the amount of Virginia estate tax due from an estate to the maximum amount of the federal estate tax credit for state estate taxes, as permitted under federal estate tax law, as such law shall be amended from time to time. Under current law the amount of Virginia estate tax cannot be less than the federal credit under federal law as such law existed on January 1, 1978. This bill is incorporated into SB 635 and is identical to HB 4 and HB 1134.

*Patron - Norment*

: **SB411 Virginia Tiered Incentive Program.** Establishes a program for providing corporate income tax credits for creation of jobs in economically distressed localities. The amount of the credit will be based on factors such as median household income and rates of unemployment. The Tax Commissioner shall promulgate regulations that are necessary or desirable to carry out the provisions of the act. This bill is a recommendation of the Rural Virginia Prosperity Commission.

*Patron - Ruff*

: **SB424 Local license tax; contractors engaged in the business of storing, maintaining, or repairing vessels.**

Provides that any contractor who is primarily engaged in the business of storing, maintaining, or repairing vessels for use on water may elect to be classified for local license taxation purposes as a manufacturer. Contractors making the election shall be deemed to be manufacturers for local license tax purposes. Currently, manufacturers are exempt from local license taxes and fees.

*Patron - Norment*

: **SB439 Sales and use taxes; City of Hampton.** Dedicates to the City of Hampton two percent of the 3.5 percent state general sales tax and all of the watercraft sales tax from sales of boats taking place in the City and from sales made by boating businesses located in the City. The City shall use such revenues for enhancing and improving recreation opportunities for boaters and anglers and to fund or implement environmental conservation initiatives.

*Patron - Locke*

: **SB446 Income tax; personal exemption amount.** Increases, beginning with the January 1, 2004, taxable year, the personal exemption for Virginia taxable income purposes from \$800 to \$1,200 for each personal exemption allowable to the taxpayer for federal income tax purposes. For taxable years beginning on or after January 1, 2005, the \$1,200 personal exemption will increase based upon annual increases in the Consumer Price Index. This bill is incorporated into SB 635.

*Patron - Rerras*

: **SB455 Taxation; cigarettes and tobacco products.** Increases the excise tax on cigarettes from two and one-half cents to 75 cents per pack. Also imposes an excise tax of three percent on noncigarette tobacco products, such as cigars, snuff and chewing tobacco. The tax on noncigarette tobacco products is to be implemented in a manner similar to the present taxation of cigarettes. This bill is incorporated into SB 465.

*Patron - Whipple*

: **SB458 Sales tax on motor fuels.** Increases from two to four percent the sales tax on fuels in every county or city situated in the Northern Virginia Transportation District.

*Patron - Whipple*

: **SB465 Taxation; cigarettes and tobacco products.** Increases the state excise tax on cigarettes from two and one-half cents to 20 cents per pack on July 1, 2004, and 35 cents per pack beginning July 1, 2005. The bill also provides for a 10 percent tax on other tobacco products at the wholesale level. The tax on other tobacco products is paid monthly through the filing of returns. All revenue from cigarette and other tobacco products taxes would be deposited into a special fund known as the Virginia Health Care Fund. Moneys deposited to the fund would be used solely for the provision of health care services including, but not limited to Medicaid payments, disease diagnosis, prevention and control, and community health services.

*Patron - Chichester*

: **SB466 Income tax; the Commonwealth's system of taxation and conformity of terms.** Changes the date that Virginia conforms with the provisions of the Internal Revenue Code from December 31, 2002, to December 31, 2003. The bill also contains an emergency clause and is identical to SB 526 and HB 107.

*Patron - Chichester*

: **SB467 Taxation; A Commonwealth of Opportunity Plan.** Sets out the governor's tax plan which would (i) lower the income tax for most Virginians by increasing the per-

sonal exemption amount from \$800 to \$1,000, increasing the standard deduction amount to \$4,000 for singles and married filing separately and to \$8,000 for married filing jointly, and raising the filing thresholds to \$7,000 and \$14,000, (ii) reduce the food tax by 1.5 cents and add 1 cent to the sales and use tax, (iii) tighten certain corporate income tax provisions, (iv) increase Virginia's state cigarette tax to 25 cents per pack to pay for health care needs while giving counties the authority to levy the tax up to a cap, (v) complete the plan to end the car tax on personal vehicles valued at \$20,000 or less, (vi) eliminate the estate tax for certain working farms and family-owned businesses, (vii) end the accelerated sales tax collection for retailers, (viii) provide incentives for small and mid-size businesses to invest, and (ix) streamline collection of the state sales tax. The bill also amends § 58.1-3833 by authorizing a local meals tax of up to four percent in counties. This section already reads that the local meals tax in counties shall not exceed four percent. However, the section, as published, is incorrect. It includes language setting the local meals tax rate, which amendatory language was dependent upon passage of the 2002 transportation referendums (See Chapter 853 of the Acts of Assembly of 2002). As the referendums did not pass, such amendatory language never became law. The change to § 58.1-3833 is technical in nature. It sets out the Code section as it should have been published and amends the section to clarify current law that authorizes counties to impose a local meals tax up to four percent. This bill is incorporated into SB 635.

*Patron - Chichester*

: **SB502 Local property taxes; motor homes.** Caps the tangible personal property tax rate on motor homes at the rate of tax and rate of assessment applicable to real estate in the county, city, or town.

*Patron - Mims*

: **SB512 Transient occupancy tax; Fairfax County.** Provides for an additional two percent transient occupancy tax in Fairfax County beginning July 1, 2004, subject to the board of supervisors of the county appropriating the revenues from such tax to a nonprofit convention and visitor's bureau and for tourism promotion in the County. No more than 75 percent of the revenues from such tax shall be designated and appropriated for tourism promotion; the remaining portion of such revenues shall be designated for and appropriated to a nonprofit convention and visitor's bureau located in Fairfax County.

*Patron - Mims*

: **SB515 Individual income tax.** Provides a subtraction from taxable income for the first \$15,000 of salary of local public school board employees whose annual salary is \$15,000 or less. Under current law, federal and state employees whose annual salary is \$15,000 or less may subtract their salary income in computing taxable income for individual income tax purposes. The subtraction may be taken for taxable years beginning on or after January 1, 2005.

*Patron - Hanger*

: **SB530 Taxation; omnibus tax plan.** Sets out the tax plan which would (i) increase the personal exemption amount from \$800 to \$2,500, and increase the standard deduction amount to \$3,500 for singles and married filing separately and to \$7,000 for married filing jointly, and raise the filing thresholds to \$7,000 and \$13,000, (ii) make food fully subject to sales and use tax but provide a refundable tax credit for the sales tax paid on food equal to \$40 per person, (iii) tighten certain corporate income tax provisions, (iv) increase Virginia's state cigarette tax to 30 cents per pack, distribute all state cigarette tax revenues to local governments, and repeal all local cigarette taxes, (v) beginning January 1, 2005, provide per-

sonal property tax relief at 100 percent on personal use vehicles, regardless of vehicle value, (vi) conform the amount of Virginia estate tax due from an estate to the maximum amount of the federal estate tax credit for state estate taxes, (vii) end the accelerated sales tax collection for retailers, (viii) increase the retail sales and use tax by one-half percent to five percent, (ix) change Virginia's individual income tax brackets and add a six percent and 6.5 percent income tax bracket, (x) make the age deduction dependent upon federal adjusted gross income, and (xi) increase the tax on motor fuels by an additional five cents per gallon. The bill also amends § 58.1-3833 by authorizing a local meals tax of up to four percent in counties. This section already reads that the local meals tax in counties shall not exceed four percent. However, the section, as published, is incorrect. It includes language setting the local meals tax rate, which amendatory language was dependent upon passage of the 2002 transportation referendums (See Chapter 853 of the Acts of Assembly of 2002). As the referendums did not pass, such amendatory language never became law. The change to § 58.1-3833 is technical in nature. It sets out the Code section as it should have been published and amends the section to clarify current law that authorizes counties to impose a local meals tax up to four percent. This bill is incorporated into SB 635.

*Patron - Hanger*

: **SB589 Taxation; reform package.** Makes several changes to the state tax code as follows: (i) increases the income tax personal exemption amount from \$800 to \$2,500, (ii) increases the income tax standard deduction amount to \$3,500 for singles and married filing separately and to \$7,000 for married filing jointly; (iii) adds and expands the income tax rates, with a top rate of seven and one-half percent on income greater than \$100,000; (iv) eliminates the low-income tax credit and the age deduction; (v) provides an income tax credit for sales taxes paid that is income-based; (vi) eliminates the sales tax on food and expands the sales tax to include consumer services; and (vii) tightens certain corporate income tax provisions, and increases the rate from six percent to seven and one-half percent. This bill is incorporated into SB 635.

*Patron - Lucas*

: **SB635 Omnibus tax bill.** Makes several changes to the taxes and fees of the Commonwealth as follows: Corporate income tax: the bill tightens certain corporate income tax provisions.

Sales and use tax: the bill increases the state sales tax from 3.5 percent to 4.5 percent and dedicates a portion of the revenues generated to the Virginia Water Quality Improvement Fund and the Virginia Land Conservation Fund; reduces the state sales tax on food to one percent; eliminates the current sales tax exemption benefiting certain trucking companies; and eliminates provisions requiring vendors to make accelerated sales and use tax payments.

Individual income tax: the bill adds new tax brackets of 6.25 percent for income between \$100,000 and \$150,000 and 6.5 percent for income above \$150,000; increases the standard deduction for single taxpayers to \$3,500 and to \$7,000 for married taxpayers; increases the personal exemption amount to \$1,000; increases the filing threshold for married taxpayers to conform to the new level of standard deduction and personal exemption; applies a means test to the age deduction tax preference, but includes conditional grandfathering provisions for taxpayers at least age 62 as of December 31, 2003; and in tax year 2004, eliminates eligibility for the \$6,000 age deduction for those born after December 31, 1941.

Estate tax: Eliminates the estate tax on estates (i) of \$10 million or less and (ii) where the majority of the assets of the total estate are an interest in a closely held business or a working farm.



Insurance license tax: The bill repeals current law dedicating one-third of all insurance license taxes to the Priority Transportation Fund.

Recordation tax, titling tax, fuels tax, and motor vehicle registration fees: Increases the recordation tax from 15 cents to 30 cents per \$100 and dedicates \$80 million of the revenues from the increase, in both Fiscal Year 2005 and Fiscal Year 2006, to the Rainy Day Fund; and beginning in Fiscal Year 2007, all revenues from the increase are dedicated to the General Fund. The bill increases the daily rental tax on motor vehicles from four percent to six percent and dedicates the revenues from the increase to the General Fund.

The bill also increases the titling tax on motor vehicles from three percent to 4.5 percent; increases motor vehicle registration fees by \$10 annually; increases the gasoline tax by three cents per gallon and the tax on diesel fuel by 4.5 cents per gallon; and imposes an additional 5.5 percent wholesale tax on gasoline and diesel fuel. The revenues from these increases are dedicated to the Transportation Trust Fund.

*Patron - Chichester*

: **SB643 Local food and beverage tax.** Adds Fairfax County to the counties authorized to impose a local food and beverage tax at a rate not exceeding four percent by adoption of a local ordinance, rather than after a referendum vote.

*Patron - Saslaw*

: **SB675 Nonparticipating manufacturers; monthly fee.** Imposes a fee of 15 mills on each cigarette sold or distributed in the Commonwealth by a nonparticipating manufacturer. The fee shall be collected monthly by the Department of Taxation from nonparticipating manufacturers. Nonparticipating manufacturers are required to remit the fee in conjunction with filing a monthly return by the twentieth of each month stating the number of cigarettes it sold or distributed in the Commonwealth in the immediately preceding month.

*Patron - Puckett*

: **SB676 Virginia Cultural Economic Development Revolving Fund.** Creates the Virginia Cultural Economic Development Revolving Fund ("Fund") for the purposes of improving the cultural institutions and organizations and economic development prospects and interests of the Commonwealth through collaboration with Virginia's local governments. An advisory board is created to assist the Virginia Resources Authority in managing the Fund. The Fund shall be used to make grants or loans to local governments for projects within the purposes of the Fund. The state vehicle rental tax is increased from four percent to six percent, with the additional revenues from such increase to be deposited into the Fund.

*Patron - Wampler*

: **SB682 Sales tax exemptions; commercial and industrial exemptions.** Repeals the sales and use tax exemption benefiting certain public service corporations and clarifies that the industrial manufacturing exemption does not apply to tangible personal property where the preponderance of its use is in distributing gas, electricity, power, any other source of energy or power, or water to customers. This bill is incorporated into SB 635.

*Patron - Watkins*

: **SB683 Corporate income tax; add back for related companies.** Describes permissible and impermissible transactions between interrelated companies for purposes of calculating their Virginia corporate income tax liability. In general, a company is required to add back interest expenses and costs and intangible expenses and costs relating to transactions with one or more related entities, but several exceptions are

provided to protect legitimate interrelated company transactions that have economic substance and reflect valid arm's length standards. This bill is incorporated into SB 635.

*Patron - Watkins*

: **SB692 Sales and use tax exemption; Pilot Club International Luncheon Pilot Club of Chesapeake.** Exempts from the retail sales and use tax beginning July 1, 2004, and ending July 1, 2008, tangible personal property purchased for use or consumption by a § 501 (c) (4) nonprofit organization that provides services to persons with brain-related disabilities and disorders.

*Patron - Blevins*

## Carried Over

**7 HB50 Virginia Baseball Stadium Authority.** Extends the Authority's entitlement to certain income and sales and use taxes through January 1, 2008. The Authority would be entitled to income and sales and use tax revenues generated from (i) activities conducted on the premises or within a major league baseball stadium; and (ii) transactions made in connection with the development and construction of a major league baseball stadium. The entitlement to these revenues will expire on January 1, 2008, unless, before that time, the Authority executes a lease with a major league baseball team.

*Patron - Callahan*

**7 HB88 Corporate income tax; Virginia Entrepreneurial Encouragement Program.** Creates the Virginia Entrepreneurial Encouragement Program, which provides tax incentives to start-up businesses during the first three years of their existence. The incentives are the exemption from income tax for the first two years and a reduced income tax rate (one-half of the corporate income tax rate) for the third year. The program applies to businesses created on or after January 1, 2004, but no later than December 31, 2006.

*Patron - Purkey*

**7 HB101 Individual income tax; indexing tax brackets and personal exemptions.** Requires that the individual income tax brackets and personal exemption amounts be indexed annually by the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U), for taxable years beginning on and after January 1, 2005.

*Patron - Cole*

**7 HB108 Tax reform; income tax, sales and use tax, estate tax, and local license taxes.** Makes numerous changes to the income tax and sales and use tax, repeals local license taxes, essentially repeals the estate tax over a two-year period, and eliminates the accelerated sales tax payments by certain vendors. Regarding sales and use taxes, the bill reduces the total state rate from 3.5 percent to three percent, repeals most exemptions, exempts food from the tax, and extends imposition of the tax to most services. Regarding income taxes, the bill creates a new set of individual income tax rates and eliminates almost all exemptions, deductions, subtractions and credits for calculating taxable income. The only remaining deductions are for social security income and income earned on obligations of the federal government included in federal adjusted gross income. The changes are effective for taxable

years beginning on or after January 1, 2005. The new rates are as follows:

Virginia Taxable Income Level	Single Taxpayer	Married Taxpayer
\$0 - \$15,000	0%	0%
\$15,001 - \$25,000	3.5%	0%
\$25,001 - \$30,000	4%	0%
\$30,001 - \$50,000	5.5%	5.5%
\$50,001 and above	6.25%	6.25%

*Patron - Louderback*

**7 HB117 Commonwealth Private Investment Inducement Act of 2004.** Dedicates one-third of the annual insurance license tax revenue to transportation projects in highway construction districts based on the percentage of the population of the Commonwealth residing in each such district. The portion of such revenues that otherwise would be distributed to: (i) the Northern Virginia Construction District is instead deposited into the Northern Virginia Investment Fund, created under the bill, and used to finance bonds in an amount not to exceed \$350 million for specific transportation projects; (ii) the Hampton Roads Construction District is instead deposited into the Hampton Roads Investment Fund, created under the bill, and used to finance bonds in an amount not to exceed \$350 million for specific transportation projects in that area; and (iii) the Bristol, Salem, and Staunton Construction District is instead deposited into the Western Virginia Investment Fund, created under the bill, and used to finance bonds in an amount not to exceed \$350 million for specific transportation projects in that area. The amount of such bond proceeds utilized must be matched by equal or greater funds from private entities, localities, or both, unless certain conditions exist.

*Patron - Marshall, R.G.*

**7 HB149 Taxation; information returns filed by pass-through entities; penalty.** Requires pass-through entities (limited partnerships, limited liability partnerships, general partnerships, limited liability companies, professional limited liability companies, business trusts and Subchapter S corporations) doing business in Virginia or having income from Virginia sources to file an information return with the Tax Commissioner by the fifteenth of the fourth month after the end of the entity's taxable year. The pass-through entity is not liable for any tax, but its owners as individuals may be. Any officer or owner of a pass-through entity who makes a fraudulent return or statement with the intent of assisting or facilitating the evasion of taxes shall be guilty of a Class 6 felony and subject to a \$1,000 maximum penalty.

*Patron - Albo*

**7 HB174 State recordation tax; additional distribution to localities.** Provides that 50 percent of the amount of state recordation tax collected in excess of \$80 million shall be distributed, beginning June 30, 2005, and each year thereafter, to the counties and cities based on the percentage of recordation taxes collected in each county and city. The remaining 50 percent would be deposited in the state's general fund. The additional amount above \$80 million distributed to counties and cities would be used for land preservation.

*Patron - Lewis*

**7 HB218 Virginia Baseball Stadium Authority.** Changes the Authority's entitlement to certain income and sales and use taxes from January 1, 2005, to July 1, 2004. The Authority would be entitled to income and sales and use tax revenues generated from (i) activities conducted on the pre-

mises or within a major league baseball stadium; and (ii) transactions made in connection with the development and construction of a major league baseball stadium. The entitlement to these revenues will expire on July 1, 2004, unless, before that time, the Authority executes a lease with a major league baseball team.

*Patron - Brink*

**7 HB284 Income tax; tax credit for certain health care practitioners.** Provides an income tax credit to health care practitioners who provide free medical services to indigent persons who cannot pay for the services themselves. The amount of the credit is equal to 25 percent of the fee the practitioner would charge for the service, not to exceed \$1,000 annually for any practitioner. The credit would be available for taxable years beginning on or after January 1, 2005.

*Patron - Cosgrove*

**7 HB299 Income tax; indexing the personal exemption amount.** Requires the \$800 personal exemption to be indexed annually according to the federal government's prior fiscal year CPI-U for taxable years beginning January 1, 2005.

*Patron - Ware, R.L.*

**7 HB311 Tax exemptions for nonprofit entities.** Adds items to the list of administrative costs, which may not exceed 40 percent of annual gross revenues.

*Patron - Purkey*

**7 HB361 Admissions tax; Charles City County.** Permits Charles City County to impose an admissions tax.

*Patron - Miles*

**7 HB367 Income tax; voluntary contribution checkoff for Virginia First Responders Fund.** Allows taxpayers who are entitled to an income tax refund to contribute such refund to the Virginia First Responders Fund for taxable years beginning on or after January 1, 2005. The Fund shall be used to purchase protective gear and other materials needed by Virginia's first responders, who respond to various terrorist-related situations, and shall be administered by the Department of Fire Programs.

*Patron - Rust*

**7 HB458 Taxation; individual income and sales and use taxes.** Repeals the individual income tax and increases the sales and use tax from 4.5 percent to 9.5 percent. The provisions of the bill will be effective for taxable years beginning on or after January 1, 2006, if reenacted by the 2005 General Assembly Session.

*Patron - Athey*

**7 HB587 Income tax; refund of surplus revenues.** Requires the refund of surplus revenues to taxpayers when such surplus revenues exceed the amount required to be deposited in the Revenue Stabilization Fund by at least \$50 million. The Department of Taxation shall make refunds based on each taxpayer's pro rata share of excess revenues collected in the calendar year in which the fiscal year surplus is determined. The taxpayer must have filed an income tax return for such calendar year.

*Patron - Janis*

**7 HB720 Sales and use tax; exemption for certain contractors.** Exempts from paying the sales and use tax any person who contracts to perform services for and provides tangible personal property for consumption or use by the Commonwealth, any political subdivision of the Commonwealth, or the United States, if the Commonwealth, political subdivision,

or the United States certifies that title to such tangible personal property will pass to such governmental entity.

*Patron - Shannon*

**7 HB748 Residential development impact fee assessments; adequate public facilities.** Allows localities to adopt ordinances for the assessment of impact fees when certain public facilities are inadequate to support a proposed residential development. If the proposed development is for senior residents only, then impact fees may be assessed in relation to the adequacy of public safety, or public sewer or water facilities. For all other proposed residential developments, the impact fees may be assessed in relation to the adequacy of education, transportation, or public water or sewer needs. Such fees shall be a pro rata share of the costs of reasonable and necessary capital improvements attributable to the proposed development. Prior to any impact fee assessment, the locality must identify the particular public facility needs in its comprehensive plan, and must have in place a capital improvement program that provides a reasonable basis for determining the extent or level of inadequacy of such facilities in the area of the proposed development. If the locality does not apply impact fees paid by a developer to the capital project that served as the basis for such assessment within six years of collection, then the developer may seek a writ of mandamus to compel the locality to do so. Any impact fee ordinances shall expire after six years, and may then be adopted for consecutive six-year periods.

*Patron - Marshall, R.G.*

**7 HB788 Streamlined Sales and Use Tax Agreement.** Conforms the Commonwealth's sales and use tax laws to the provisions of the Streamlined Sales and Use Tax Agreement.

*Patron - Watts*

**7 HB791 Corporate income taxation; closing loophole.** Closes a corporate income tax loophole that allowed corporations to avoid paying taxes on money paid to passive investment companies in the form of royalties, interest and other intangible income. The loophole is closed by requiring the corporation to add back any otherwise deductible interest expenses and costs and intangible expenses and costs paid, accrued or incurred to one or more related members.

*Patron - Watts*

**7 HB794 Local piggyback income tax and personal property tax.** Allows localities to impose a local income tax at a rate of either one-half or one percent upon the Virginia taxable income of individuals, trusts, estates, and corporations; provided the personal property tax rate does not exceed \$0.01 per \$100 of value on personally owned motor vehicles. The Tax Commissioner collects the tax and returns it to localities based on taxpayers' residences. A new classification for personal property tax purposes is created for motor vehicles used for nonbusiness purposes. The provisions of the act will take effect January 1, 2005.

*Patron - Watts*

**7 HB811 Taxation of individuals and corporations.** Provides a flat rate of 5.5 percent for both the individual and corporate income taxes. The bill also increases the standard deduction for individual income tax purposes to \$24,000 for couples and \$12,000 for individuals. The sales and use tax rate would be increased to 5.5 percent. The bill has a reenactment clause so it will be effective in 2006 if it passes during this session and is reenacted in 2005.

*Patron - Athey*

**7 HB843 Income tax; voluntary contribution of refund to Pre-Release and Post-Incarceration Services Fund.** Allows individuals entitled to an income tax refund to contribute a portion, at least \$1, or all of the refund to the Department of Criminal Justice Services for the Pre-Release and Post-Incarceration Services program, for taxable years beginning on and after January 1, 2005, but before January 1, 2010. The program provides support by means of grants to public or private nonprofit organizations for pre-release and post-incarceration professional services and guidance that increase the opportunity for successful reentry and reintegration into local society by incarcerated adult offenders.

*Patron - Baskerville*

**7 HB892 Income tax; distribution of revenues to localities.** Requires the transfer of one percent of individual income tax revenues to localities in 2004, and the amount increases one percent each year until it reaches a maximum of five percent for 2008 and thereafter. The revenues are distributed to counties and cities as follows: (i) 50 percent based on the relative share of the total state income tax paid by taxpayers filing returns in each locality, (ii) 40 percent based on where wages are earned, and (iii) 10 percent divided equally among all counties and cities.

*Patron - Sickles*

**7 HB939 Income tax; qualified agricultural contributions deduction expiration.** Eliminates the sunset date for the income tax deduction for qualified agricultural contributions, which expires January 1, 2004, and makes the deduction for such contributions retroactive to January 1, 2004.

*Patron - Pollard*

**7 HB1004 Localities may forgive certain back taxes.** Allows localities, to the extent not prohibited by the Virginia Constitution, to develop a procedure to forgive back taxes on real property that is transferred to a 501(c)(3) organization that is primarily engaged in the construction of affordable single-family dwelling units.

*Patron - Orrock*

**7 HB1036 Children At Risk in Education Tax Credit.** Creates a tax credit to promote educational opportunities for children who are at risk of educational failure. Tax credits will be awarded to business entities for eligible contributions made to eligible nonprofit tuition assistance grant funding organizations. The amount of the credit is 25 percent of the eligible contribution, but may not exceed 75 percent of the tax liability of the business entity. The contributions may be awarded as grants for students' tuition in public and nonpublic schools. There is a \$6 million cap on total tax credits awarded annually. The credit would be effective for taxable years beginning on and after January 1, 2005.

*Patron - Saxman*

**7 HB1045 Agricultural Enterprise Zone Act.** Allows the Governor to establish agricultural enterprise zones upon application by localities with established agricultural or forestal districts, or purchase of development rights programs. "Qualified farm businesses" located in such zones may apply to the Department of Agriculture and Consumer Services for certain state business tax credits and sales tax exemptions. "Qualified farm businesses" are businesses establishing agricultural or forestal operations and making a net investment of at least \$250,000 and creating at least five new full-time jobs, or such operations already established if they have increased the number of full-time employees by at least 10 percent over the preceding two years. This bill is identical to SB 482.

*Patron - Saxman*

**7 HB1050 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 for each taxable year shall equal 10 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. The credit would be available beginning with the 2004 taxable year. Any unused credit may be carried over in the next five taxable years. To claim the credit, the individual shall attach to his individual income tax return proof of payment for such premiums, as determined by guidelines established by the Tax Commissioner. The credit would replace the current deduction for long-term care insurance.

*Patron - Hamilton*

**7 HB1092 Sales and use tax; optional local tax for transportation and education.** Authorizes any county or city located within the Eighth Planning District to levy an additional local sales and use tax at a rate of one percent with at least one-half of the revenues generated from such tax to be used for transportation purposes and the remaining revenue to be used for education purposes. The county or city imposing such a tax must reduce its real estate tax rate so that total real estate tax revenues are reduced by 40 percent of the additional sales tax revenues. The tax shall be adopted by local ordinance, which shall become effective on the later of the first day of a month at least 60 days after its adoption, or the first day of the month after which at least one other such city or county shall have adopted such an ordinance and the total population within the counties or cities having adopted such an ordinance comprises at least 50 percent of the total population of the counties and cities located within the Eighth Planning District.

*Patron - Scott, J.M.*

**7 HB1175 Voluntary contribution to the Dr. Martin Luther King, Jr. Commission Fund.** Allows individuals entitled to an income tax refund to contribute a portion, at least \$1, or all of the refund to the Dr. Martin Luther King, Jr. Commission Fund for taxable years beginning on and after January 1, 2004. The Fund provides support for the work of and generates nonstate funds to maintain the Martin Luther King, Jr. Living History and Public Policy Center. The Center was created pursuant to State law that required a permanent memorial to be established to honor Dr. King in the Commonwealth. The Living History and Public Policy Center, a component of the Dr. Martin Luther King, Jr. Memorial Commission, is a virtual center composed, initially, of a consortia of nine public and private institutions of higher education in Virginia that, among other things, provides educational and cultural programs throughout the Commonwealth, conducts and produces scholarly research and publications, interfaces with public and private undergraduate and graduate programs, supports the academic programs in grades K-12 in public and private schools, offers doctoral fellowship programs, and produces policy analyses of issues specific to Virginia and contemporary issues relative to the principles of Dr. King. The programs and resources of the Center are made available to all citizens via the Commonwealth's vast technological infrastructure. This bill is a recommendation of the Dr. Martin Luther King, Jr. Memorial Commission. This bill is identical to SB 221.

*Patron - Bryant*

**7 HB1184 Individual income tax; voluntary checkoff for Virginia Association of Centers for Independent Living.** Provides a checkoff on the individual income tax return for refunds to be designated, for taxable years beginning January 1, 2004, but before January 1, 2009, for the Virginia

Association of Centers for Independent Living, an organization that advocates for the integration and inclusion of people with disabilities into all aspects of society.

*Patron - Bryant*

**7 HB1210 Income tax; voluntary contribution of tax refund for cancer research.** Creates an additional income tax checkoff beginning January 1, 2004, for individuals to contribute all or part of their income tax refunds, or to make payments to the Department of Taxation, to be divided equally among all entities in the Commonwealth that have been officially designated as a cancer center by the National Cancer Institute, to be used for research into the prevention and cure of cancer.

*Patron - Hall*

**7 HB1214 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 individuals during the taxable year and sunsets the current individual income tax deduction for long-term care insurance premiums. An individual at least 55 years old, or an individual purchasing long-term care insurance for a Virginia resident at least 55 years old, is eligible for an individual income tax credit for insurance premiums paid by the individual for long-term care insurance coverage of Virginia residents at least 55 years old. If the long-term care insurance coverage is for a person at least 65 years old, the tax credit is the lesser of the individual's income tax liability or the actual premiums paid in the taxable year. If the long-term care insurance coverage is for a person at least 55 but less than 65 years old, the tax credit is the lesser of (i) the actual premiums paid in the taxable year, (ii) \$1,000, or (iii) the individual's income tax liability for the taxable year. The credit would be available beginning with the 2004 taxable year. To claim the credit, the individual shall attach to his individual income tax return proof of payment for such premiums, as determined by guidelines established by the Tax Commissioner. The bill amends sunsets the current tax deduction for long-term care insurance effective January 1, 2004. Individuals itemizing long-term care insurance premiums for insurance coverage on a resident individual of the Commonwealth at least 55 years old are not eligible for the tax credit.

*Patron - Landes*

**7 HB1260 Voluntary contribution to the Petersburg Public Education Foundation Fund.** Allows individuals entitled to an income tax refund to contribute a portion, at least \$1, or all of the refund to the Petersburg Public Education Foundation Fund for taxable years beginning on and after January 1, 2004. The Fund provides support for the Petersburg City Public Schools.

*Patron - Bland*

**7 HB1279 Sales and use tax exemptions; governmental and commodities exemptions for certain energy efficient products.** Grants a sales and use tax exemption, beginning July 1, 2004, for certain energy efficient products that have been awarded the energy star certification mark based on requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of Energy.

*Patron - McDougle*

**7 HB1375 Sales and use tax; exemption.** Provides that any person who contracts to perform services for and furnishes tangible personal property for use or consumption by the Commonwealth, any political subdivision of the Commonwealth, or the United States, shall be exempt from sales and use tax, provided that the Commonwealth, the political subdi-

vision, or the United States certifies that title to such tangible personal property will pass to such governmental entity.

*Patron - Hugo*

### **7 HB1378** Income tax; toll payments tax credit.

Provides a tax credit against income tax for taxpayers owning and operating commercial vehicles in an amount equal to 25 percent of the total for tolls paid on Virginia highways.

*Patron - Fralin*

### **7 HB1382** Newspaper tax. Creates a tax to be imposed on newspaper publishers at the rate of one cent on every newspaper published and delivered daily in the Commonwealth. The revenue generated shall be used for environmental activities throughout the Commonwealth.

*Patron - Wardrup*

### **7 HB1401** Income tax; voluntary contribution of refund to Office of Commonwealth Preparedness Fund.

Allows individuals entitled to an income tax refund to contribute a portion, at least \$5, or all of the refund to the Department of Emergency Management for the Office of Commonwealth Preparedness, for taxable years beginning on and after January 1, 2005, but before January 1, 2010. The purpose of the Office of Commonwealth Preparedness is to develop plans and procedures to be followed throughout the Commonwealth in the event of terrorists' activities and attacks.

*Patron - Reid*

### **7 HB1464** Personal property tax exemption; farm property and products. Requires localities to exempt farm property and products from the personal property tax. Current law makes such exemption optional. Any locality that taxed such property in 2003 shall receive an annual appropriation from the Commonwealth in an amount equivalent to the total revenue collected by the locality pursuant to such tax in 2003. The bill has a delayed effective date of January 1, 2005.

*Patron - Lewis*

### **7 SB221** Voluntary contribution to the Dr. Martin Luther King, Jr. Commission Fund.

Allows individuals entitled to an income tax refund to contribute a portion, at least \$1, or all of the refund to the Dr. Martin Luther King, Jr. Commission Fund for taxable years beginning on and after January 1, 2004. The Fund provides support for the work of and generates nonstate funds to maintain the Martin Luther King, Jr. Living History and Public Policy Center. The Center was created pursuant to State law that required a permanent memorial to be established to honor Dr. King in the Commonwealth. The Living History and Public Policy Center, a component of the Dr. Martin Luther King, Jr. Memorial Commission, is a virtual center composed, initially, of a consortia of nine public and private institutions of higher education in Virginia that, among other things, provides educational and cultural programs throughout the Commonwealth, conducts and produces scholarly research and publications, interfaces with public and private undergraduate and graduate programs, supports the academic programs in grades K-12 in public and private schools, offers doctoral fellowship programs, and produces policy analyses of issues specific to Virginia and contemporary issues relative to the principles of Dr. King. The programs and resources of the Center are made available to all citizens via the Commonwealth's vast technological infrastructure. This bill is a recommendation of the Dr. Martin Luther King, Jr. Memorial Commission. This bill is identical to HB 1175.

*Patron - Marsh*

### **7 SB248** Real estate tax; deferral of taxes for certain disabled individuals. Provides that disability benefits received by wounded or disabled military veterans may be

excluded by a locality when determining eligibility for its tax deferral programs.

*Patron - Deeds*

### **7 SB263** 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 for each taxable year shall equal 10 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. The credit would be available beginning with the 2004 taxable year. Any unused credit may be carried over in the next five taxable years. To claim the credit, the individual shall attach to his individual income tax return proof of payment for such premiums, as determined by guidelines established by the Tax Commissioner. The credit would replace the current deduction for long-term care insurance.

*Patron - Lambert*

### **7 SB374** Admissions tax; Nelson County. Authorizes Nelson County to levy admissions tax on all classes of events, thereby removing existing limitations. Removes reference to Nelson County by population bracket and identifies the county by name.

*Patron - Deeds*

### **7 SB375** Transient occupancy tax; Nelson County. Authorizes Nelson County to impose a transient occupancy tax not to exceed five percent.

*Patron - Deeds*

### **7 SB482** Agricultural Enterprise Zone Act. Allows the Governor to establish agricultural enterprise zones upon application by localities with established agricultural or forestal districts, or purchase of development rights programs. "Qualified farm businesses" located in such zones may apply to the Department of Agriculture and Consumer Services for certain state business tax credits and sales tax exemptions. "Qualified farm businesses" are businesses establishing agricultural or forestal operations and making a net investment of at least \$250,000 and creating at least five new full-time jobs, or such operations already established if they have increased the number of full-time employees by at least 10 percent over the preceding two years. This bill is identical to HB 1045.

*Patron - Obenshain*

### **7 SB500** Sales and use tax exemption, Loudoun Healthcare Foundation. Provides a sales and use tax exemption beginning July 1, 2004, and ending July 1, 2008, to a 501 (c) (3) corporation organized to monitor, assess, and advise a health care company on all fundraising and donor-related matters, and to attain the fundraising goals established by the Loudoun Healthcare, Inc., Board of Directors.

*Patron - Mims*

### **7 SB501** Sales and use tax exemption; Farmwell Hunt Homeowners Association, Inc. Exempts from the retail sales and use tax beginning July 1, 2004, and ending July 1, 2008, tangible personal property purchased for use or consumption by a corporation organized as a homeowners association and operated to perform the functions of a homeowners association.

*Patron - Mims*

### **7 SB514** Streamlined Sales and Use Tax Agreement. Conforms the Commonwealth's sales and use tax laws

to the provisions of the Streamlined Sales and Use Tax Agreement.

*Patron - Hanger*

**7 SB537 Corporate income tax; credit for cigarettes manufactured and exported.** Provides a credit against corporate income taxes for the number of cigarettes manufactured by a corporation, which are also exported by the corporation to a foreign country. The bill establishes taxable year 2004 as a base year for the number of cigarettes exported. In future taxable years, the credit is computed by comparing the actual number of cigarettes exported by the manufacturer in the relevant taxable year with the number of cigarettes it exported in taxable year 2004. The credit per cigarette will vary based upon this comparison. No credit will be granted if the number of cigarettes exported is less than 50 percent of the number exported in taxable year 2004. In cases where the number of cigarettes exported in a taxable year is 50 percent or more of the number exported in 2004, the credit for the relevant taxable year will range from \$.20 per 1,000 cigarettes exported up to \$.40 per 1,000 cigarettes exported. The maximum allowable credit to any corporation in a taxable year is the lesser of \$6 million or 50 percent of the corporation's income tax liability. The total amount of credit that may be taken by all eligible corporations for any fiscal year is capped at \$6 million.

*Patron - Stosch*

**7 SB655 Business license tax phase-out.** Requires localities that impose the business license tax to eliminate it in 25 percent increments annually beginning no later than July 1, 2005. It also repeals the business license tax provisions effective July 1, 2008.

*Patron - Norment*

**7 SB667 Taxation; confirmation of receipt of tax returns.** Effective July 1, 2005, requires the Tax Commissioner to provide an electronic method for business taxpayers to verify receipt by the Department of Taxation of the taxpayer's tax return and payment.

*Patron - Mims*

**7 SB678 Land preservation tax credit.** Provides an annual limit of \$50,000 in tax credit for tax credits that are obtained through a transfer. The bill also provides that only taxpayers conveying a working farm for which the taxpayer is the sole proprietor or has at least a 50 percent ownership interest may transfer the land preservation tax credit.

*Patron - Hanger*

## Trade and Commerce

### Passed

**D HB148 Public-Private Education Facilities and Infrastructure Act of 2002.** Amends the Public-Private Education Facilities and Infrastructure Act of 2002 by requiring local public entities to have independent design professionals or other professionals to provide independent analysis of the project prior to proceeding under the Act.

*Patron - Hargrove*

**D HB231 Virginia Consumer Protection Act; admissibility of cure offers.** Permits a supplier to introduce a cure offer into evidence in a proceeding for damages under the Consumer Protection Act if the cure offer is delivered prior to the filing of the supplier's initial responsive pleading. If the damages awarded in the proceeding do not exceed the value of

the cure offer, the supplier will not be liable for the person's attorneys' fees and court costs. A cure offer is an offer to remedy a loss claimed to be suffered as a result of a consumer transaction, which includes an additional amount of at least 10 percent or \$500, whichever is greater; however, the minimum additional amount need not exceed \$4,000. This bill is identical to SB 324.

*Patron - Athey*

**D HB390 Virginia Health Spa Act; requirement for bond or letter of credit.** Provides that a health spa contract with a term that exceeds one year is to be counted as multiple contracts for purposes of determining the required amount of bond or letter of credit, with each full and any partial year of the term of a contract being counted as a separate contract. This bill applies only to health spa contracts entered into on or after January 1, 2005. This provision does not apply if the number of multi-year contracts that a health spa has in effect is fewer than 10 percent of all of its contracts.

*Patron - Amundson*

**D HB503 Firearms; purchase of handguns of certain officers.** Permits the Department of Conservation and Recreation and the Department of Forestry to allow its retiring officers to purchase their handguns.

*Patron - Keister*

**D HB548 Uniform Computer Information Transactions Act (UCITA).** Amends UCITA to incorporate changes adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL). The bill clarifies that (i) insurance services transactions are not covered by UCITA even if computers are used; (ii) the consumer protection law that would have governed in the absence of UCITA still governs; (iii) end-user licenses cannot prohibit or limit lawful public discussion; and (iv) the laws of fraud, misrepresentation, and unfair and deceptive trade practices, as they deal with failure to disclose defects, still apply. The bill also (a) deletes the default rules for license duration and the number of permitted users when the contract is silent and returns the defaults to the common law; (b) provides that there is no implied warranty with respect to subjective characteristics; and (c) provides that the implied warranties and obligations concerning noninterference, noninfringement and merchantability do not apply to free software. Finally, the bill makes certain technical amendments that reorganize a few sections of UCITA to make it easier to read and more consistent with NCCUSL's final version of the uniform law. This bill is a recommendation of the Joint Commission on Technology and Science.

*Patron - May*

**D HB686 Price gouging.** Prohibits suppliers from selling, leasing, or licensing necessary goods and services during times of disaster at an unconscionable price. To determine whether a price increase is unconscionable, the court must consider, among other factors, whether the price charged by the supplier during the time of disaster grossly exceeded the price at which the same or similar goods or services were readily obtainable in the trade area during the 10 days prior to the time of disaster. A violation constitutes a prohibited practice under the Virginia Consumer Protection Act, though aggrieved persons will not be able to bring a private cause of action. This bill incorporates HB 971 and is identical to SB 242.

*Patron - Rapp*

**D HB689 Virginia Telephone Privacy Protection Act; telephone solicitation.** Expands the definition of a "telephone solicitation call" to include solicitation calls made to any wireless telephone with a Virginia area code. A telephone solicitor is prohibited from calling a telephone number that has

been placed on the federal Do Not Call Registry. The bill provides that the use of a version of the federal Do Not Call Registry obtained no more than three months prior to the date of the telephone solicitation is an affirmative defense to an action alleging a violation of the Telephone Privacy Protection Act. The bill requires telephone solicitors to play a prerecorded identification message that states the name and telephone number of the person on whose behalf the telephone solicitation call was being made, whenever a live person is not available within two seconds of completing the greeting. This bill is identical to SB 344.

*Patron - Morgan*

**D HB1302 Sales and purchases of firearms in contiguous states.** Repeals provisions regulating sales of firearms to residents of contiguous states and purchase of firearms by Virginia residents in contiguous states. This bill incorporates HB 353 and HB 1086.

*Patron - Lingamfelter*

**D HB1424 Personal Information Privacy Act; date of birth on checks.** Prohibits a person who accepts checks in the transaction of business from recording, or requesting or requiring a person to record, a date of birth upon the check as a condition of accepting the check. The section does not affect collection of a birth date for reasons unrelated to accepting the check, nor does it block a requirement that the payor provide his year of birth.

*Patron - Dudley*

**D SB167 Virginia Racing Commission; satellite facilities.** Increases the number of satellite facilities that the Virginia Racing Commission may authorize from six to 10.

*Patron - Stolle*

**D SB242 Price gouging.** Prohibits suppliers from selling, leasing, or licensing necessary goods and services during times of disaster at an unconscionable price. To determine whether a price increase is unconscionable, the court must consider, among other factors, whether the price charged by the supplier during the time of disaster grossly exceeded the price at which the same or similar goods or services were readily obtainable in the trade area during the 10 days prior to the time of disaster. A violation constitutes a prohibited practice under the Virginia Consumer Protection Act, though aggrieved persons will not be able to bring a private cause of action. This bill is identical to HB 686.

*Patron - Norment*

**D SB324 Virginia Consumer Protection Act; admissibility of cure offers.** Permits a supplier to introduce a cure offer into evidence in a proceeding for damages under the Consumer Protection Act if the cure offer is delivered prior to the filing of the supplier's initial responsive pleading. If the damages awarded in the proceeding do not exceed the value of the cure offer, the supplier will not be liable for the person's attorneys' fees and court costs. A cure offer is an offer to remedy a loss claimed to be suffered as a result of a consumer transaction, which includes an additional amount of at least 10 percent or \$500, whichever is greater; however, the minimum additional amount need not exceed \$4,000. This bill is identical to HB 231.

*Patron - Stolle*

**D SB344 Virginia Telephone Privacy Protection Act; telephone solicitation.** Expands the definition of a "telephone solicitation call" to include solicitation calls made to any wireless telephone with a Virginia area code. A telephone solicitor is prohibited from calling a telephone number that has been placed on the federal Do Not Call Registry. The bill pro-

vides that the use of a version of the federal Do Not Call Registry obtained no more than three months prior to the date of the telephone solicitation is an affirmative defense to an action alleging a violation of the Telephone Privacy Protection Act. The bill requires telephone solicitors to play a prerecorded identification message that states the name and telephone number of the person on whose behalf the telephone solicitation call was being made, whenever a live person is not available within two seconds of completing the greeting. This bill is identical to HB 689.

*Patron - Williams*

## Failed

**: HB256 Gift cards and gift certificates; Virginia Consumer Protection Act.** Requires a supplier that sells gift cards or gift certificates to consumers to provide a disclosure of its policies related thereto to consumers. The disclosure may be furnished to the consumer in writing at the time of purchase, be made by means of a sign placed in a conspicuous public area of the premises of the supplier so as to be readily noticeable and readable by the consumer, be on the bill of sale, or be on the back of the gift card. The disclosure shall include the conditions, charges, or fees relating to the gift card or gift certificate, including but not limited to any expiration date, diminution in value over time, or up-front fees. Charitable organizations are not required to provide such disclosures. Failure to provide the disclosure is a prohibited practice under the Virginia Consumer Protection Act.

*Patron - Jones, D.C.*

**: HB353 Sale and purchase of firearms.** Provides that any resident of the Commonwealth who may lawfully purchase a rifle or shotgun in the Commonwealth may purchase a rifle or shotgun in another state provided the sale meets the lawful requirements of each such state, meets all lawful requirements of any federal statute, and is made by a licensed importer, licensed manufacturer, licensed dealer, or licensed collector. The bill also provides that any importer, manufacturer, dealer or collector licensed to sell rifles or shotguns in this Commonwealth may sell such firearms to a resident of another state provided the sale meets the lawful requirements of each state as well as the requirements of any federal statute pertaining thereto. Currently such sales and purchases are limited to contiguous states. This bill is incorporated into HB 1302.

*Patron - Bryant*

**: HB586 Virginia Consumer Protection Act; cure offers for consumer disputes involving motor vehicle purchases.** Defines "cure offer" as a written offer of one or more things of value made by a supplier who is a licensed motor vehicle dealer, and the offer is delivered to a person, or the person's attorney, claiming to have suffered a loss as a result of a consumer transaction for the purchase of a motor vehicle from the supplier. A cure offer must be reasonably calculated to remedy a loss claimed by the person, and it must include a minimum additional amount equaling 10 percent of the value of the cure offer or \$500, whichever is greater, as compensation for inconvenience, fees, expenses, or other costs that such person may incur in relation to such loss. However, the minimum additional amount need not exceed \$2,500. The bill prohibits the admission of a cure offer in any proceeding initiated under the Virginia Consumer Protection Act unless the cure offer is delivered by a supplier to the person, or the person's attorney, claiming loss prior to the filing of the supplier's initial responsive pleading in such proceeding. If a verdict is rendered in favor of the claimant, the cure offer shall be admissible for the purpose of the court's determination as to whether the supplier

is liable for the claimant's attorney's fees and court costs. The supplier shall not be liable for such person's attorney's fees and court costs unless the actual damages found to have been sustained and awarded, without consideration of attorney's fees and court costs, exceed the value of the last cure offer that was not accepted by the person claiming the loss. This bill is incorporated into HB 231.

*Patron - Janis*

: **HB971 Price gouging.** Prohibits suppliers from selling, leasing, or licensing necessary goods and services during times of disaster at an unconscionable price. To determine whether a price increase is unconscionable, the court must consider, among other factors, whether the price charged by the supplier during the time of disaster grossly exceeded the price at which the same or similar goods or services were readily obtainable in the trade area during the 10 days prior to the time of disaster. A violation constitutes a prohibited practice under the Virginia Consumer Protection Act, though aggrieved persons will not be able to bring a private cause of action. This bill is incorporated into HB 686.

*Patron - Barlow*

: **HB1046 Virginia Consumer Protection Act; admissibility of cure offers.** Permits a supplier to introduce a cure offer into evidence in a proceeding for damages under the Consumer Protection Act if the cure offer is delivered prior to the filing of the supplier's initial responsive pleading. If the damages awarded in the proceeding do not exceed the value of the cure offer, the supplier will not be liable for the person's attorneys' fees and court costs. A cure offer is an offer to remedy a loss claimed to be suffered as a result of a consumer transaction, which includes an additional amount of at least 10 percent or \$500, whichever is greater; however, the minimum additional amount need not exceed \$2,500.

*Patron - Athey*

: **HB1070 Enterprise zones; sub-zones.** Authorizes enterprise zones to include sub-zones as deemed appropriate by the county, city, or town in which the enterprise zone is located. The bill also permits each of the three enterprise zone designations to contain one noncontiguous sub-zone; however, a joint enterprise zone may consist of the joint zone area and one additional noncontiguous zone area in each of the adjacent jurisdictions that submitted the application for the joint enterprise zone.

*Patron - Armstrong*

: **HB1235 Motor Vehicle Warranty Enforcement Act; civil actions; standards for reasonable attorney's fees.** Provides factors that a court must take into account in determining whether attorney's fees are reasonable in an action brought for violation of the Motor Vehicle Warranty Enforcement Act.

*Patron - Griffith*

## Carried Over

**7 HB599 Enterprise zone designations.** Adds five enterprise zones to the number the Governor may designate, for a total of 65. The bill also requires the new zones to be designated in localities that have no enterprise zones as of July 1, 2004. The bill also increases the \$16 million cap to \$18 million, effective July 1, 2006.

*Patron - Dudley*

**7 HB694 Biodiesel fuel; minimum content.** Requires all diesel fuel sold or offered for sale in the Commonwealth for use in internal combustion engines to contain 2.0

percent biodiesel fuel by volume. "Biodiesel fuel" is a combustible liquid fluid fuel from agricultural plant oils or animal fats. The mandate becomes effective when the annual capacity in the Commonwealth for the production of biodiesel fuel exceeds five million gallons, but in no event before June 30, 2006. The requirement shall not apply to fuel used in motors located at a nuclear electric generating plant unless approved by the Nuclear Regulatory Commission.

*Patron - Morgan*

**7 HB753 Personal Information Privacy Act; restricting the use of social security numbers.** Amends the Personal Information Privacy Act to prohibit (i) intentionally communicating or otherwise making available, in any manner, an individual's social security number to the general public; (ii) printing an individual's social security number on any card required for the individual to access or receive products or services provided by the person or entity; (iii) requiring an individual to transmit his social security number over the Internet unless the connection is secure or the social security number is encrypted; (iv) requiring an individual to use his social security number to access an Internet website, unless a password or unique personal identification number or other authentication device is also required to access the site; (v) requiring an individual to provide his social security number to access or receive goods or services, unless required by state or federal law; and (vi) printing an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires the social security number to be on the document to be mailed. The bill provides an exemption for those situations in which a social security number has been and is being continuously used if the user provides an annual disclosure and a cost-free opportunity to discontinue use to the number holder. The bill allows using the social security number if its use is required by law or for internal verification or administrative purposes. Health insurance companies have until January 1, 2005, to comply for renewing subscribers. The bill also requires that insurance plans for state employees assign an identification number that is not a covered employee's social security number. Finally, the bill amends the Virginia Consumer Protection Act to prohibit a supplier from using a consumer's social security number when the consumer requests that his driver's license number be used. Current law requires that a supplier only provide an alternate number if the consumer so requests in writing. This bill provides consumers with another option other than providing their social security numbers and writing to the supplier for a new number.

*Patron - May*

**7 HB1067 Enterprise zone designations.** Allows any enterprise zone to consist of three noncontiguous zones while a joint enterprise zone between localities may consist of the joint zone plus two noncontiguous areas.

*Patron - Armstrong*

**7 SB64 Enterprise zone tax credits.** Allows enterprise zone tax credits to be used for mixed-use real property. The bill also permits owners who rehabilitate or expand real property to treat a tenant of such property as having incurred the expenses of rehabilitation or expansion, and amends the definition of a permanent full-time position.

*Patron - Martin*

**7 SB65 Enterprise Zone Act.** Increases the maximum real property investment tax credit from \$125,000 per small qualified zone resident in any five-year period to \$125,000 per zone resident per facility placed in service. The new maximum credit amount only applies to expanded, rehabilitated, or newly



constructed real property that is placed in service in taxable years beginning on or after January 1, 2003.

*Patron - Martin*

## Unemployment Compensation

### Passed

**D HB288 Unemployment compensation; disqualification for benefits.** Provides that misconduct, for purposes of disqualification for unemployment compensation benefits, includes a willful and deliberate violation of a standard or regulation of the Commonwealth, by an employee of an employer licensed by the Commonwealth, which violation would cause the employer to be sanctioned or have its license suspended by the Commonwealth. The Unemployment Compensation Commission may consider mitigating circumstances in determining whether misconduct occurred.

*Patron - Griffith*

**D HB529 Unemployment compensation; definition of employment services.** Excludes from the definition of "employment services," for the purposes of unemployment compensation benefits, work performed by an inmate of a custodial or penal institution for the institution or while in the Diversion Center Incarceration Program. In a conforming amendment, the bill eliminates the exemption of employers with regard to such inmates from responsibility for benefit charging.

*Patron - Hogan*

**D SB9 Virginia Employment Commission workforce plan.** Eliminates the Virginia Employment Commission's requirement to develop a workforce plan to be implemented during times of economic recession, natural disaster or military mobilization whereby necessary workers can be provided. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities.

*Patron - Ruff*

**D SB130 Unemployment compensation; penalties for late filing.** Increases the penalty assessed against employers for filing a late report from \$30 to \$75. The penalty may be avoided by a showing of good cause for the employer's failure to file.

*Patron - Watkins*

**D SB179 Unemployment compensation; benefit charges.** Provides that an employer shall not be responsible for benefit charges due to unemployment resulting from a temporary work closure forced by a disaster for which the Governor has declared a state of emergency. The benefit charges, not to exceed four weeks, will be pool costs.

*Patron - Blevins*

**D SB194 Unemployment compensation benefits; termination before resignation.** Provides that where an employee gives notice of resignation, and the employer subsequently terminates him effective prior to the date specified in the resignation notice, the employer shall be liable for a maximum of two weeks of benefits (absent a finding of good cause for the employee's resignation or misconduct). Under current law, if an employer does not terminate an employee immediately after the employee gives notice of his resignation, but eventually terminates him prior to the specified resignation

date, the employer is fully liable for payment of unemployment compensation benefits. The bill permits an employee to obtain up to two weeks of benefits if he gives a two-week notice of resignation, is terminated on that basis, and faces a two-week delay in starting his new employment.

*Patron - Reynolds*

### Failed

**: HB177 Unemployment compensation; benefits disqualification.** Eliminates the provision permitting disqualification for unemployment compensation benefits on the basis that the individual voluntarily left his employment to accompany his spouse to, or join his spouse in, a new locality. An individual who left his employment to accommodate a spouse's move, could, if otherwise eligible, qualify for unemployment compensation. This bill is incorporated into HB 1288.

*Patron - Baskerville*

**: HB329 Unemployment compensation; disqualification for benefits.** Provides that misconduct, for purposes of disqualification for unemployment compensation benefits, includes an action by an employee of an employer licensed by the Department of Social Services (DSS) that violates a DSS standard or regulation, which violation would cause the employer to be sanctioned or have its license suspended by DSS.

*Patron - Griffith*

**: HB505 Unemployment compensation; allowable earnings.** Increases the amount of wages that a recipient of unemployment benefits can earn, without having such benefits offset by the amount of wages, from \$25 to \$100.

*Patron - Keister*

**: HB840 Unemployment compensation for victims of domestic violence or sexual assault.** Provides that a claimant's voluntary departure from work as a direct result of domestic violence or sexual assault constitutes "good cause" for leaving employment and will not disqualify the claimant from receiving unemployment benefits. Benefits paid to qualifying claimants shall be charged against the pool rather than against the claimant's employer.

*Patron - Baskerville*

**: SB129 Unemployment compensation; representation by Attorney General.** Provides that the Office of the Attorney General will represent the Commonwealth at hearings to determine whether an employing unit is an employer and whether services performed constitute employment, if requested by the Virginia Employment Commission and agreed to by the Attorney General. Under current law, the Attorney General is required to represent the Commonwealth at such hearings.

*Patron - Watkins*

### Carried Over

**7 HB1288 Unemployment compensation; quit to follow military spouse.** Provides that good cause for leaving employment exists if an employee voluntarily leaves a job to accompany his spouse to a new military assignment from which the employee's place of employment is not reasonably accessible. Benefits paid to qualifying claimants shall be charged against the pool rather than against the claimant's employer. This bill incorporates HB 177.

*Patron - Tata*

**7 SB128 Unemployment compensation; offset for retirement benefits.** Eliminates the offset for Social Security or Railroad Retirement Act benefits during periods when the unemployment trust fund has a solvency level of 50 percent or more. When the trust fund's solvency level is below 50 percent, weekly unemployment benefits will continue to be reduced by 50 percent of the amount of such retirement benefits.

*Patron - Watkins*

**7 SB621 Unemployment compensation; minimum qualifying earnings.** Increases from \$2,500 to \$3,500 the amount that an employee must have earned in the two highest earnings quarters of his base period (the first four of the preceding five calendar quarters) in order to be eligible for unemployment compensation benefits.

*Patron - Wagner*

## Waters of the State, Ports and Harbors

### Passed

**D HB440 Oil discharge plans.** Provides operators of tank vessels with options regarding the types of oil discharge contingency plans and financial responsibility mechanisms that have to be submitted to operate in Virginia waters. Under current law, an oil discharge contingency plan has to be filed and approved by the State Water Control Board and the operator of the tank vessel has to also deposit, with the Board, cash or its equivalent in the amount of \$500 per gross ton of such vessel to assure against any environmental damage. This bill would allow the operator the option of submitting a U.S. Coast Guard-approved vessel response plan in place of the state-required contingency plan, and meet the financial assurance requirement by having a U.S. Coast Guard-approved Certificate of Financial Responsibility.

*Patron - Suit*

**D HB535 Big Sandy River watershed.** Allows localities within the Big Sandy River watershed to bring enforcement actions against any person obstructing or dumping refuse in any tributary of the Big Sandy River; allows localities to remove obstructions that might endanger the public health or safety and to recover such costs; and provides for recovery of court costs and attorneys' fees to the prevailing party authorized to bring an action. This bill allows localities within the Big Sandy River watershed to adopt an ordinance to require any person to notify the locality before constructing, placing, or putting a bridge, culvert, or drainpipe across the Big Sandy River or its tributaries. This bill exempts activities conducted pursuant to a permit issued by a state agency and authorized silvicultural activities from its provisions.

*Patron - Stump*

**D HB603 No discharge zones.** Directs the State Water Control Board to adopt certain regulations for no discharge zones to control the discharge of sewage from boats and vessels and to require marinas to notify boat patrons of the no discharge restrictions.

*Patron - Dudley*

**D HB639 Siting of landfills.** Authorizes Appomattox County to construct a landfill closer to an existing public water supply intake or reservoir than is allowed by law, if the Director of the Department of Environmental Quality finds that

the distance would not be detrimental to human health and the environment. The bill provides that a new landfill in Appomattox can be sited in a wetland. Under current law, a landfill cannot be within five miles upgradient of any water supply intake or reservoir and cannot impact 1.25 acres or more of wetlands. The bill also prohibits any further exemptions from the landfill siting requirements unless an environmental impact statement has been submitted to the Virginia Waste Management Board. The report is required, as a minimum, to address the environmental impacts related to the exemption that is being requested. The Board is also required to hold a public hearing on the environmental impact report before it makes any recommendations to the General Assembly regarding specific exemptions.

*Patron - Abbitt*

**D HB685 Virginia Water Protection Permit.** Requires the State Water Control Board to review the application for a Virginia Water Protection general permit for completeness within 15 days of receiving the application. It is stipulated in the bill that certifying the completeness of the application does not mean the Board will issue the permit, only that it contain sufficient information to process the application.

*Patron - Rapp*

**D HB955 Confined animal feeding operations.** Clarifies that any civil penalty imposed for violating a confined animal feeding operation permit shall not exceed \$2,500 for any confined animal feeding operation that is covered by a Virginia Pollution Abatement permit.

*Patron - Barlow*

**D HB1227 Rappahannock River Basin Commission.** Provides that the Rappahannock River Basin Commission is created as an independent local entity without political subdivision status. This bill provides further that the membership of the Commission shall be based on House and Senatorial Districts with representation from certain local governing bodies. To facilitate the conduct of business, 12 or one-third of the members of the Commission constitutes a quorum. Reducing the number of members required for a quorum addresses the problem of obtaining a sufficient number of members at meetings due to the vast size of the Commission. Members of the Commission are not eligible to receive compensation or reimbursement for their expenses incurred in the performance of their duties. The bill also contains several technical amendments to streamline and conform the relevant sections pertaining to the Commission to the Joint Rules Committee's legislative guidelines for collegial bodies. This bill is a recommendation of the Joint Rules Committee.

*Patron - Wardrup*

**D HB1450 Petroleum Storage Tank Fund.** Limits the exposure of the Virginia Petroleum Storage Tank Fund to third-party claims against the Fund. The Fund is used to reimburse owners of petroleum storage tanks for the costs of cleaning up oil releases from the tanks. It is also used to meet federal requirements that owners of underground storage tanks have insurance or the financial capacity to clean up any release. This bill would clarify that the Fund can be used to reimburse tank owners for costs they incur relating to third party damages only in the amount that is reasonable and necessary based upon the actual damage caused by the release.

*Patron - Oder*

**D SB110 Water supply plan regulations.** Delays the effective date of water supply plan regulations one year. Under the bill passed in 2003, the State Water Control Board was prohibited from finalizing the water supply plan regulations prior to July 1, 2004. Because the Technical Advisory Committee

has not completed its drafting of these regulations, the date on which the regulations can become effective has been delayed until after July 1, 2005.

*Patron - Williams*

**D SB267 The Rivanna River Basin Commission.** Establishes the Rivanna River Basin Commission to provide guidance for the stewardship and enhancement of the water and natural resources of the Rivanna River Basin. The Commission is to provide a forum in which local governments and citizens can discuss issues affecting the Basin's water quality and quantity and other natural resources. The Commission shall consist of 14 members, including eight officials from local governing bodies, two members from soil and water conservation districts, and four citizens at large.

*Patron - Deeds*

**D SB406 Roanoke River Basin Advisory Commission membership.** Changes the method for appointing nonlegislative citizen members and adds two nonlegislative citizens at large, one appointed by the Senate Committee on Rules and one appointed by the Speaker of the House of Delegates. As originally introduced, the legislation establishing the Commission empowered the six legislative members to appoint the citizen members from nominations submitted by the planning district commissions (PDCs) within the basin. During the 2003 session, the power to appoint the citizen members nominated by PDCs was given to the Speaker of the House of Delegates and the Senate Committee on Privileges and Elections. This bill returns appointive power to the legislative members of the Commission.

*Patron - Ruff*

**D SB629 Wetlands mitigation.** Allows an island in the Potomac adjacent to Virginia to be used as a mitigation bank. The bill also authorizes the State Water Control Board to inspect the property that is to be used as part of a mitigation bank.

*Patron - Mims*

## Failed

**: HB496 Obstructing or contaminating state waters.** Includes floodways and 100-year floodplains in the prohibition of obstructing or contaminating state waters. This bill also expands venue to include similar courts in contiguous localities and allows the court to award costs, including the costs of expert testimony, and reasonable attorney's fees up to \$25,000, to the prevailing party authorized to bring the action.

*Patron - Kilgore*

**: SB549 Big Sandy River.** Allows any locality located within the Big Sandy River watershed to remove any obstructions dumped, placed, or put in tributaries of the Big Sandy River that might endanger public health or safety, provided that the owner of the property is given reasonable notice and a reasonable time to remove the obstruction. The locality may recover the costs for the removal of the obstruction from the owner of the property. This bill allows localities located within the Big Sandy River watershed to enforce the provisions of the bill and allows courts to award costs and expenses, including reasonable attorneys' fees, to the prevailing party. The bill contains an exemption for those activities that are conducted pursuant to a permit issued by a state agency.

*Patron - Puckett*

## Carried Over

**7 SB603 Duration of discharge permits.** Requires that the duration of a Virginia Pollutant Discharge Elimination System permit be no less than five years. Currently, such permits are for terms not to exceed five years.

*Patron - Bolling*

**7 SB639 Nitrogen and phosphorous loadings.** Requires the State Water Control Board to adopt numeric pollutant loading allocations for nitrogen and phosphorous for each of the major Chesapeake Bay tributaries. The legislation establishes initial loading allocations, which will remain in place until the Board adopts its loading requirements. The Board is also authorized to establish, by guidance or policy, a point source pollutant trading program for nitrogen and phosphorous. The bill provides the specific elements the program must contain as a minimum.

*Patron - Whipple*

## Welfare (Social Services)

### Passed

**D HB237 Income tax; Neighborhood Assistance Act tax credit.** Extends the sunset date for the tax credits allowed under the Neighborhood Assistance Act from the close of fiscal year 2004 to the close of fiscal year 2009.

*Patron - Nutter*

**D HB239 Neighborhood Assistance Act; donation of professional services; tax credit.** Stipulates that the tax credit available to certain health care professionals who donate services shall be available if the organization that operates the clinic where the services are donated has received an allocation of tax credits from the Commissioner of the Department of Social Services. Currently, the law provides such credit only if the clinic itself has received such allocation.

*Patron - Nutter*

**D HB285 Donations of health care services by certain professionals; tax credit.** Stipulates that physicians, dentists, nurses, nurse practitioners, physician assistants, optometrists, dental hygienists, professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, physical therapists, and pharmacists licensed pursuant to Title 54.1 who provide health care services within the scope of their licensure, without charge, to patients of certain free and not-for-profit clinics, shall be eligible for the income tax credit under the Neighborhood Assistance Act, regardless of where the services are delivered. Currently, the Act requires that such services be provided at the free or not-for-profit clinic in order for these health care professionals to be eligible for the tax credit.

*Patron - Cosgrove*

**D HB420 Child abuse and neglect; multidisciplinary investigation teams.** Enables local social services departments to develop multidisciplinary teams to provide consultation to the local department during the investigation of selected cases involving child abuse or neglect and make recommendations regarding the prosecution of such cases. The teams may include members of the medical, mental health, legal and law-enforcement professions, including the attorney for the Commonwealth or his designee, a local child-protective services representative, and the guardian ad litem or other

court-appointed advocate for the child. The bill also contains provisions regarding the confidentiality of information exchanged during such consultation. This bill is identical to SB 429.

*Patron - Watts*

**D HB635 Exception to regulation for assisted living facilities.** Authorizes an exception to the regulatory requirement for assisted living facilities with special Alzheimer's care units that at least two direct care staff members be awake and on duty at all times who shall be responsible for the care and supervision of the residents under very limited circumstances. The exception will only be granted when the facility (i) offers a safe, secure environment in a freestanding self-contained unit for residents who have been assessed by an independent clinical psychologist or a licensed physician as having a serious cognitive impairment due to a primary psychiatric diagnosis of dementia; (ii) has an individual facility capacity that does not exceed five residents; (iii) is located in a converted single-family dwelling where the bedrooms, living space and common areas are located on the first level of the dwelling and such facility is located in an established residential neighborhood in any county having a population of no less than 259,000 and no greater than 263,000; (iv) has at least one direct care staff member in such facility at all times that residents are present who shall be responsible for the care and supervision of the residents; (v) has established written emergency procedures that provide for prompt assistance to the direct caregiver by other staff members who may be located at locations other than the facility where the assistance is requested, including a requirement that the direct caregiver have on his person a mobile electronic device that may be used to signal for emergency assistance; (vi) has established written criteria and procedures, in consultation with a licensed physician, to periodically review the appropriateness of each resident's continued residence in such facility and to provide for the transfer of any resident to another facility that has staffing of two or more direct care staff members whenever warranted by a change in a resident's condition; (vii) is operated by a limited liability company initially organized or authorized to transact business in Virginia before January 1, 1997, that operates at least three but no more than nine such facilities; (viii) has provided written notice to any current resident and his legally authorized representative within 30 days after the effective date of this act and, thereafter, to any new resident and his legally authorized resident at the time of admission that one direct care staff member rather than two is present at all times.

*Patron - O'Bannon*

**D HB907 Medical assistance services; application.** Provides that an application for medical assistance services for a person admitted to a State Veteran's Care Center located in the Commonwealth may be filed and processed in the jurisdiction where such Care Center is located.

*Patron - Watts*

**D HB1109 Independent living services.** Provides local departments of social services with statutory authorization to provide independent living services to persons between 18 and 21 years of age in order to help them transition from foster care to self-sufficiency. Currently, there is no state or federal law against providing such services, and this bill serves to codify the existing policy of allowing local departments to do so, if they choose. Consistent with this intent, the bill adds the provision of independent living services to persons between 18 and 21 years of age who are transitioning out of foster care to the services that may be provided by a children's residential facility.

*Patron - Moran*

**D HB1135 Child protective services; training and investigation procedures.** Requires the Department of Social Services Child Protective Services Unit to include standards of training regarding the legal duties of child protective services workers in order to protect the constitutional and statutory rights and safety of children and families from the initial time of contact during investigation through treatment. The bill also requires local departments of social services, at the initial time of contact with the person subject to a child abuse and neglect investigation, to advise the person of the complaints or allegations made against the person, in a manner that is consistent with laws protecting the rights of the person making the report or complaint. This bill is identical to SB 584.

*Patron - McDonnell*

**D SB1 Out-of-Family Investigations Advisory Committee.** Establishes a set membership of 15 members for Out-Of-Family Investigations Advisory Committee. Currently, the membership has no limit, but the committee must consist of at least nine members. Other changes to the makeup and operations of the committee conform to the Joint Rules Committee legislative guidelines for collegial bodies. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Martin*

**D SB35 Subsidized custody of children living with relative caregivers.** Directs the Department of Social Services to establish a subsidized custody program for the benefit of children in the custody of a local board of social services on or after July 1, 2004, who are living with relative caregivers and for whom reunification with their natural parents and adoption by relatives are ruled out as placement options. A relative caregiver means a person, other than a natural parent, to whom the child is related by blood, marriage, or adoption. A relative caregiver shall obtain legal custody over such child. Within the limitations of federal funding and the subsidized custody appropriation to the Department, the subsidized custody program shall include (i) a one-time special-need payment, which shall be a lump sum payment for expenses resulting from the assumption of care of the child, (ii) services for the child, including but not limited to, short-term casework, information and referral, and crisis intervention, and (iii) a maintenance subsidy that shall be payable monthly to the relative caregiver equal to the prevailing foster care rate. The Department may establish an asset test for eligibility under the program. The subsidized custody payment shall be made pursuant to a subsidized custody agreement entered into between the local board and the relative caregiver. The relative caregiver receiving a custody subsidy shall submit annually to the local department a sworn statement that the child is still living with and receiving support from the relative. The parent of any child receiving assistance through the subsidized custody program shall remain liable for the support of the child. The bill requires the State Board of Social Services to promulgate emergency regulations and the Department to seek all federal waivers. The final enactment clause states the act shall not become effective unless federal funds are made available through a federal Title IV-E waiver and an appropriation of funds effectuating the purposes of the act is included in the biennial budget passed by the 2004 General Assembly and signed into law by the Governor.

*Patron - Miller*

**D SB50 Duties of the Advisory Board on Child Abuse and Neglect.** Adds to the general duties of the advisory board the duty of providing advice on child abuse and neglect issues identified by the Commissioner of the Department of

Social Services. The additional duty will give the advisory board specific direction in fulfilling its broad mandate of providing advice on all programs concerning programs for the prevention and treatment of abused and neglected children and their families. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

*Patron - Martin*

**D SB62 Adoption; child-placing agencies outside the Commonwealth.** Requires any child-placing agency outside the Commonwealth, or its agent, that executes an entrustment agreement in the Commonwealth with a birth parent for the termination of all parental rights and responsibilities with respect to a child to comply with the Commonwealth's laws regarding entrustment agreements, revocations of entrustment agreements and birth parent counseling. Any entrustment agreement that fails to follow such requirements shall be void. The bill adds the requirement that an entrustment agreement for the termination of all parental rights and responsibilities shall be executed in writing and notarized.

*Patron - Edwards*

**D SB78 Kinship care.** Defines the practice of kinship care as the full-time care, nurturing, and protection of children by relatives. The bill requires a local board of social services to seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care, if it is in the child's best interest.

*Patron - Miller*

**D SB81 Donations of health care services by certain professionals; tax credit.** Stipulates that physicians, chiropractors, dentists, nurses, nurse practitioners, physician assistants, optometrists, dental hygienists, professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, physical therapists, and pharmacists licensed pursuant to Title 54.1 who provide health care services within the scope of their licensure, without charge, to patients of certain free and not-for-profit clinics, shall be eligible for the income tax credit under the Neighborhood Assistance Act, regardless of where the services are delivered. Currently, the Act requires that such services be provided at the free or not-for-profit clinic in order for these health care professionals to be eligible for the tax credit.

*Patron - Obenshain*

**D SB181 Emergency electrical systems.** Directs the State Board of Social Services to promulgate regulations for assisted living facilities with six or more residents to be able to connect by July 1, 2007, to a temporary emergency electrical power source for the provision of electricity during an interruption of the normal electric power supply. The installation shall be in compliance with the Uniform Statewide Building Code. This bill incorporates SB 292.

*Patron - Blevins*

**D SB185 Central registry of founded complaints; checks for certain volunteer organizations.** Adds any Virginia affiliate of Childhelp USA® to the list of organizations whose volunteer applicants shall be subject to a search of the central registry of founded complaints by the Department of Social Services for no cost. The central registry contains information obtained by the Department regarding a founded case of child abuse or neglect. Childhelp USA® is a not-for-profit entity organized to meet the physical, emotional, educational, and spiritual needs of abused and neglected children, primarily through treatment, prevention, and research. Other organiza-

tions that receive free central registry checks include Virginia affiliates of Big Brother/Big Sisters of America and Compeer, volunteer fire companies or rescue squads, and court-appointed special advocates.

*Patron - Howell*

**D SB409 Child protective services; notification of parent.** Requires the local department of social services to notify the custodial parent and make reasonable efforts to notify the noncustodial parent of a report of suspected abuse or neglect concerning a child who is the subject of an investigation or receiving family assessment, in those cases in which such custodial or noncustodial parent is not the subject of the investigation.

*Patron - Ruff*

**D SB417 Child day centers; religious exemption from licensure.** Clarifies that a child day center, including a child day center that is a child welfare agency, operated or conducted under the auspices of a religious institution shall be exempt from licensure requirements.

*Patron - Newman*

**D SB429 Child abuse and neglect; multidisciplinary investigation teams.** Enables local social services departments to develop multidisciplinary teams to provide consultation to the local department during the investigation of selected cases involving child abuse or neglect and make recommendations regarding the prosecution of such cases. The teams may include members of the medical, mental health, legal and law-enforcement professions, including the attorney for the Commonwealth or his designee, a local child-protective services representative, and the guardian ad litem or other court-appointed advocate for the child. The bill also contains provisions regarding the confidentiality of information exchanged during such consultation. This bill is identical to HB 420.

*Patron - Wagner*

**D SB436 Neighborhood Assistance Act; sunset extension and tax credit increase.** Extends the sunset for the Neighborhood Assistance Act from 2004 to 2009.

*Patron - Locke*

**D SB584 Child protective services; training and investigation procedures.** Requires the Department of Social Services Child Protective Services Unit to include standards of training regarding the legal duties of child protective services workers in order to protect the constitutional and statutory rights and safety of children and families from the initial time of contact during investigation through treatment. The bill also requires local departments of social services, at the initial time of contact with the person subject to a child abuse and neglect investigation, to advise the person of the complaints or allegations made against the person, in a manner that is consistent with laws protecting the rights of the person making the report or complaint. This bill is identical to HB 1135.

*Patron - Bolling*

**D SB595 Grievance procedures of state and local social services employees.** Changes the law by requiring the application of locally adopted grievance procedures to local social services employees. Currently, the state grievance procedures apply to state and local social services employees, unless a locality chooses to apply local procedures.

*Patron - Howell*

**D SB612 Criminal background check; foster parents.** Provides that a child-placing agency may approve as a foster parent an applicant convicted of statutory burglary for

breaking and entering to commit larceny, who has had his civil rights restored by the Governor, provided 25 years have elapsed following the conviction.

*Patron - Ticer*

## Failed

**: HB236 Faith-based and community initiatives; non-U.S. citizens.** Requires the Virginia Department of Social Services to provide information and referral services to noncitizen residents of the Commonwealth who wish to become United States citizens, including guidance on the requirements of attaining citizenship, the benefits derived from citizenship, and a directory of public and private resources available for citizenship preparation. The bill also requires the Department to provide information to faith-based, private, volunteer, and community organizations, as well as local government and other state agencies, regarding federal naturalization laws and state and federal laws and regulations related to immigrants' access to federal and state programs. Such information shall be made available through the Department's website, among other methods.

*Patron - Cox*

**: HB558 Child protective services; notification of criminal matters and child removal.** Requires the local department of social services to notify within 24 hours of receipt of a complaint the attorney for the Commonwealth and the local law-enforcement agency and make available to them the records of the local department involving criminal child abuse or neglect. The bill also mandates that physicians, child protective workers or law-enforcement officials take children into custody without prior approval of parents or guardians for up to 72 hours when certain conditions are met rather than use discretion.

*Patron - Keister*

**: HB861 Permanency planning for children in foster care.** Changes the definition of independent living, as it relates to permanency planning for children in foster care, to mean a program of services and activities for children in foster care aged 14 years and older. Under current law, the definition applies to children aged 16 years and older.

*Patron - Ingram*

**: HB1252 Social services; Virginia Caregivers Grant.** Increases the grant available to a caregiver of a mentally or physically impaired relative from \$500 to \$3,000 if the caregiver can provide appropriate documentation that without such care, the relative would be domiciled in a nursing facility. Grants from this fund shall not exceed the amount appropriated by the General Assembly to the Virginia Caregivers Grant Fund.

*Patron - Baskerville*

**: SB66 Exemption from licensure as day care centers for certain martial arts programs.** Provides an exemption from licensure as day care centers for programs of instruction that focus solely on the martial arts and operate as drop-in programs where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision and parents are clearly notified that the facilities are not licensed as child day centers, regardless of (i) such programs' locations or the number of days per week of operation; (ii) the provision of transportation services, including drop-off and pick-up times; (iii) the initiation of measures designed to protect the health and safety of the enrolled children, such as requiring the child to obtain the permission of the instructor to leave a class, requir-

ing verbal or written permission from the parent for the child to leave a facility during a class, or operating a "hot line" to enable the parent to notify the facility when a child will not be in attendance, or maintaining a mechanism by which the bus driver can check on the whereabouts of any child who does not board the bus as scheduled; (iv) the scheduling of breaks for snacks, homework or other activities approved by the parent; or (v) the advertising of the martial arts program as an alternative to child day centers for children of school age who are at least six years old.

*Patron - Martin*

**: SB108 Parental placement adoption; how consent executed.** Eliminates the requirement that the birth parent or parents execute consent to a parental placement adoption before the juvenile and domestic relations district court in person and in the presence of the prospective adoptive parents. Instead, the consent of the birth parents shall be in writing that has been signed and acknowledged before an officer authorized by law to take acknowledgement. The juvenile and domestic relations district court shall accept the consent of the birth parents at a hearing in the presence of the prospective adoptive parents and transfer custody of the child to the prospective adoptive parents, pending notification to any nonconsenting birth parent.

*Patron - Williams*

**: SB314 Mandatory reporting of child abuse and neglect.** Requires any regular minister, priest, rabbi, or accredited practitioner to report suspected child abuse or neglect to a local department of social services or the Department of Social Services' toll-free child abuse and neglect hotline. The bill excepts 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.

*Patron - Howell*

**: SB440 Virginia Targeted Jobs Grant Program; creation.** Establishes the Virginia Targeted Jobs Grant Program to provide incentives to employers who hire persons who have been receiving Temporary Assistance to Needy Families for nine consecutive months. The program will run through taxable year 2008 and will provide employers with grants of up to \$1,000 per "qualified employee" who was hired and worked at least 1,000 hours in the preceding taxable year.

*Patron - Locke*

## Carried Over

**7 HB90 Social services; Virginia Caregivers Grant.** Increases the grant available to a caregiver of a mentally or physically impaired relative from \$500 to \$3,000 if the caregiver can provide appropriate documentation that without such care, the relative would be domiciled in a nursing facility. Grants from this fund shall not exceed the amount appropriated by the General Assembly to the Virginia Caregivers Grant Fund.

*Patron - Purkey*

**7 HB424 Assisted living facilities; special regulations for serving residents with serious mental illness, mental retardation or substance abuse problems.** Requires assisted living facilities that choose to serve residents with serious mental illness, mental retardation or substance abuse problems to comply with the State Board of Social Service's regulations governing such placement. The Board's regulations shall require any assisted living facility serving residents with

serious mental illness, mental retardation or substance abuse problems to arrange, prior to admission, for the provision of necessary clinical treatment or habilitation by either the assisted living facility or qualified providers such as community services boards or private providers licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The regulations shall also require assisted living facilities serving more than a stipulated proportion of individuals with serious mental illness, mental retardation or substance abuse problems to be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services, using a special module in its licensing regulations, to provide appropriate clinical treatment or habilitation directly or through contracts with other qualified providers, to those individuals. The Board's regulations shall establish the threshold for assisted living facilities serving a stipulated proportion of individuals with serious mental illness, mental retardation or substance abuse problems to be subject to the special module licensing regulation of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

*Patron - Watts*

**7 HB732 Adult protective services; reports made in bad faith.** Establishes a circuit court procedure for a person who is alleged to have committed abuse, neglect or exploitation of an adult to access adult protective services records when the allegation against the person is believed to be made in bad faith or with malicious intent. If the circuit court determines that there is a reasonable question of fact as to whether the report was made in bad faith or with malicious intent and that disclosure of the identity of the complainant would not be likely to endanger the life or safety of the complainant, it shall provide to the person a copy of the records of the investigation. The original records shall be subject to discovery in any subsequent civil action regarding the making of a complaint or report in bad faith or with malicious intent.

*Patron - Joannou*

**7 HB868 Hearsay by child in sexual abuse or neglect proceeding.** Provides that hearsay statements by a child aged seven years or younger, made to a law-enforcement officer, a mental health professional, social worker, physician or nurse or other medical professional, or foster parent, are admissible in civil abuse and neglect proceedings. The statements are to be placed under seal in the case record and are not admissible in any other civil proceeding maintained for purposes other than adjudication of the question of neglect or abuse.

*Patron - Byron*

**7 SB616 Parental placement adoptions.** Provides that when a licensed child-placing agency or a local board of social services accepts custody of a child for the purpose of placing the child with adoptive parents designated by the birth parents or a person other than a licensed child-placing agency or local board, either the parental placement adoption provisions or the agency adoption provisions will apply to the placement at the election of the birth parent. The agency or local board shall provide information to the birth parents regarding the parental placement adoption and the agency adoption provisions in order to give the birth parents the opportunity to make an informed choice. Current parental placement adoption law requires the simultaneous meeting of the birth and adoptive parents during the home study and the presence of both parties at the consent hearing in juvenile and domestic relations court. This bill will provide for nondisclosed agency adoptions where the birth parent or a person other than a licensed child-placing agency or local board designates the adoptive parents.

*Patron - O'Brien*

## Wills and Decedents' Estates

### Failed

**: HB339 Qualification as administrator on intestate estate.** Provides that if the court or clerk has any reason to question the descendency of a person seeking to qualify as administrator on an intestate estate based on his status as a sole distributee, the court or clerk may delay the grant of administration by no more than 30 days after application to make additional investigation of the applicant's credentials or to provide a period of public notice of the proposed qualification. No clerk shall be liable for deciding to exercise or not to exercise this authority.

*Patron - Pollard*

## Workers' Compensation

### Passed

**D HB474 Workers' Compensation Insurance; self-insurers; deposit to secure payment.** Authorizes the Workers' Compensation Commission to accept certificates of deposit, U.S. government bonds, letters of credit, and cash as instruments that will secure the payment of workers' compensation liabilities of self-insured employers. Currently, such employers may be required to deposit an acceptable security, indemnity, or bond. This bill is identical to SB 323.

*Patron - Nixon*

**D HB864 Workers' compensation; lien by employer on settlement or verdict.** Provides that an employer's payment of workers' compensation benefits creates not only a subrogation interest, but an actual lien against any proceeds obtained by verdict or settlement from a third party or recovered pursuant to the uninsured or underinsured motorist provisions of a motor vehicle insurance policy carried by the employer. Under current law, the employer has a subrogation interest in a recovery by the employee against a third party that it must enforce independently or perfect prior to verdict. The bill also provides that where the employer must sue to recover on its lien, it is not required to bear any share of the reasonable expenses and reasonable attorney's fees associated with that portion of its lien that is not preserved. This bill is identical to SB 588.

*Patron - Byron*

**D HB1267 Workers' compensation; electoral board members.** Clarifies that electoral board members are considered county and city employees who are defined as "employees" for purposes of eligibility for workers' compensation benefits. The bill is stated to be declaratory of existing law.

*Patron - Byron*

**D SB323 Workers' Compensation Insurance; self-insurers; deposit to secure payment.** Authorizes the Workers' Compensation Commission to accept certificates of deposit, U.S. government bonds, letters of credit, and cash as instruments that will secure the payment of workers' compensation liabilities of self-insured employers. Currently, such employers may be required to deposit an acceptable security, indemnity, or bond. This bill is identical to HB 474.

*Patron - Stolle*

**D SB547 Workers' compensation; AmeriCorps members and Food Stamp Employment and Training Program participants.** Provides that members of AmeriCorps and food stamp recipients participating in the work experience component of the Food Stamp Employment and Training Program shall be deemed to be employees of the Commonwealth for purposes of the Workers' Compensation Act. Such persons shall be eligible for reimbursement for medical costs from covered injuries, but shall not be eligible to receive weekly compensation. An emergency clause makes the bill effective upon passage.

*Patron - Puckett*

**D SB558 Workers' compensation; lien by employer on settlement or verdict.** Provides that an employer's payment of workers' compensation benefits creates not only a subrogation interest, but an actual lien against any proceeds obtained by verdict or settlement from a third party or recovered pursuant to the uninsured or underinsured motorist provisions of a motor vehicle insurance policy carried by the employer. Under current law, the employer has a subrogation interest in a recovery by the employee against a third party that it must enforce independently or perfect prior to verdict. The bill also provides that where the employer must sue to recover on its lien, it is not required to pay any share of the reasonable expenses and reasonable attorney's fees associated with that portion of its lien that is not preserved. This bill is identical to HB 864.

*Patron - Norment*

**D SB597 Workers' Compensation Commission; powers.** Provides that with respect to all matters within its jurisdiction, the Commission shall have the power of a court of record to administer oaths, to compel the attendance of witnesses and the production of documents, to punish for contempt, to appoint guardians and to enforce compliance with its lawful orders and awards.

*Patron - Wagner*

## Failed

**: SB56 Workers' compensation; choice of physician.** Eliminates the requirement that an employer offer an employee a choice of three physicians. The employer will be required to provide to the injured employee medical attention from a physician chosen by the employee.

*Patron - Miller*

## Carried Over

**7 HB957 Workers' compensation; definition of injury.** Provides that "injury" for volunteer or salaried firefighters includes an injury incurred during travel to or from their place of employment for the purposes of beginning or ceasing work.

*Patron - Barlow*

**7 SB582 Workers' compensation; presumption as to death or disability.** Adds volunteer or salaried emergency medical service providers to those employees for whom there exists a presumption that a (i) respiratory disease, (ii) hypertension or heart disease, or (iii) cancer, which causes death or disability, is an occupational disease, suffered in the line of duty.

*Patron - Colgan*

## Constitutional Amendment Resolutions

### Passed

**D HB37 Constitutional amendment (voter referendum); succession to the office of Governor.** Provides for a referendum at the November 2004 election on approval of an amendment to revise provisions concerning succession to the office of Governor. The amendment expands the list of successors to the office of Governor that presently includes the Lieutenant Governor, Attorney General, and Speaker of the House of Delegates, in case of an emergency or enemy attack that prevents the House of Delegates from meeting to elect a governor. The additional successors would include successor speakers, the President pro tempore of the Senate, and the majority leader of the Senate. The successor would be Acting Governor until the House of Delegates convened to elect a Governor. The amendment also includes authority for the General Assembly, by law, to provide for a waiver of certain eligibility requirements for the Attorney General and Speaker to succeed to the office of Governor in the event of an emergency or enemy attack upon the soil of Virginia. See also HJR 9, companion resolution.

*Patron - Putney*

**D HJ9 Constitutional amendment (second resolution); succession to the office of Governor.** Expands the list of successors to the office of Governor that presently includes the Lieutenant Governor, Attorney General, and Speaker of the House of Delegates, in case of an emergency or enemy attack that prevents the House of Delegates from meeting to elect a governor. The additional successors would include successor speakers, the President pro tempore of the Senate, and the majority leader of the Senate. The successor would be Acting Governor until the House of Delegates convened to elect a Governor. The amendment also includes authority for the General Assembly, by law, to provide for a waiver of certain eligibility requirements for the Attorney General and Speaker to succeed to the office of Governor in the event of an emergency or enemy attack upon the soil of Virginia. See also HB 37, companion referendum bill.

*Patron - Putney*

**D HJ187 Memorializing Congress; defense of marriage.** Urges Congress to propose a constitutional amendment to protect the fundamental institution of marriage as a union between a man and woman and to declare that the uniting of persons of the same or opposite-sex in a civil union, domestic partnership, or other similar relationship as a substitution for such marriage shall not be valid or recognized in the United States. Recent court decisions, including the November 18, 2003, Massachusetts decision, have overturned many state laws that ban same-sex marriages. The Massachusetts ruling has been deemed the most far-reaching because it also defines marriage as the voluntary union of two persons as spouses, to the exclusion of all others. This resolution is identical to SJR 91.

*Patron - McDonnell*

**D HJ194 Constitutional convention to amend the Constitution of the United States.** Rescinds all past resolutions of the General Assembly applying to the Congress to call a convention to amend the Constitution. Past resolutions



include applications for conventions to consider presidential item veto powers and balanced budget requirements.

*Patron - Landes*

**D HR4 Memorializing the Congress of the United States.** Memorializes Congress to propose for ratification an amendment to the Constitution of the United States to prohibit federal courts from ordering or instructing any state or local unit of government to levy or increase taxes.

*Patron - Lingamfelter*

**D SB18 Constitutional amendment (voter referendum); effective dates of decennial redistricting measures; vacancies.** Provides for a referendum at the November 2004 election on approval of a proposed constitutional amendment to revise provisions concerning the effective date and implementation of decennial redistricting measures. The proposed amendment continues the requirement that decennial reapportionment or redistricting measures shall be enacted in the first year after the decennial census (2011, etc.). It spells out that the new lines will be implemented for the first November general election held just prior to the expiration of the term being served in the year of the redistricting. The new language, in effect, continues the existing practice and understanding that there will be regular November elections from new districts in 2011 for the House of Delegates and Senate, in 2012 for the United States House of Representatives, in 2021 for the House of Delegates, in 2022 for the House of Representatives, in 2023 for the Senate, and so forth. It further provides explicitly that the members in office when a decennial reapportionment law is enacted shall complete their terms of office and continue to represent the districts from which they were elected for the duration of those terms of office. Another new provision specifies that any vacancy occurring during such terms will be filled from the preexisting district, i.e., the same district that elected the member whose vacancy is being filled. The proposed amendment continues the present provision that reapportionment laws take effect "immediately" without being subject to the usual requirement for a four-fifths vote in each house of the General Assembly to approve an emergency measure. This exception to the emergency vote requirement remains necessary. There is usually only a short time available to draw new lines after the release of census redistricting data early in the year following the census, and before the nomination and election timetable begins for that year's November election. If approved by the voters, the amendment will take effect January 1, 2005. See also SJR 6, companion resolution.

*Patron - O'Brien*

**D SJ6 Constitutional amendment (second resolution); effective dates of decennial redistricting measures; vacancies.** Continues the requirement that decennial reapportionment or redistricting measures shall be enacted in the first year after the decennial census (2011, etc.). The proposed amendment spells out that the new lines will be implemented for the first November general election held just prior to the expiration of the term being served in the year of the redistricting. The new language, in effect, continues the existing practice and understanding that there will be regular November elections from new districts in 2011 for the House of Delegates and Senate, in 2012 for the United States House of Representatives, in 2021 for the House of Delegates, in 2022 for the House of Representatives, in 2023 for the Senate, and so forth. The proposed amendment further provides explicitly that the members in office when a decennial reapportionment law is enacted shall complete their terms of office and continue to represent the districts from which they were elected for the duration of those terms of office. Another new provision specifies that any vacancy occurring during such terms will be filled from the preexisting district, i.e., the same district that elected

the member whose vacancy is being filled. The proposed amendment continues the present provision that reapportionment laws take effect "immediately" without being subject to the usual requirement for a four-fifths vote in each house of the General Assembly to approve an emergency measure. This exception to the emergency vote requirement remains necessary. There is usually only a short time available to draw new lines after the release of census redistricting data early in the year following the census, and before the nomination and election timetable begins for that year's November election. See also SB 18, companion referendum bill.

*Patron - O'Brien*

**D SJ91 Memorializing Congress; defense of marriage.** Urges Congress to propose a constitutional amendment to protect the fundamental institution of marriage as a union between a man and woman and to declare that the uniting of persons of the same or opposite-sex in a civil union, domestic partnership, or other similar relationship as a substitution for such marriage shall not be valid or recognized in the United States. Recent court decisions, including the November 18, 2003, Massachusetts decision, have overturned many state laws that ban same-sex marriages. The Massachusetts ruling has been deemed the most far-reaching because it also defines marriage as the voluntary union of two persons as spouses, to the exclusion of all others. This resolution is identical to HJR 187.

*Patron - Cuccinelli*

## Failed

: **HB1104 Constitutional amendment (voter referendum); restoration of civil rights for certain felons.** Provides for a referendum at the November 2004 election on approval of an amendment to revise provisions concerning restoration of civil rights. The amendment authorizes the General Assembly to provide by general law for the restoration of civil rights for persons convicted of nonviolent felonies who meet the conditions prescribed by law. The present Constitution provides for restoration of rights by the Governor. The bill retains the right of the Governor to restore civil rights and adds the alternative for restoration of rights pursuant to general law for persons convicted of nonviolent felonies. This bill is identical to SB 17. See also HJR 204, companion resolution

*Patron - Moran*

: **HJ204 Constitutional amendment (second resolution); restoration of civil rights for certain felons.** Authorizes the General Assembly to provide by general law for the restoration of civil rights for persons convicted of nonviolent felonies who meet the conditions prescribed by law. The present Constitution provides for restoration of rights by the Governor. The amendment retains the right of the Governor to restore civil rights and adds the alternative for restoration of rights pursuant to general law for persons convicted of nonviolent felonies. See also HB 1104, companion referendum bill.

*Patron - Moran*

: **SB17 Constitutional amendment (voter referendum); restoration of civil rights for certain felons.** Provides for a referendum at the November 2004 election on approval of an amendment to revise provisions concerning restoration of civil rights. The amendment authorizes the General Assembly to provide by general law for the restoration of civil rights for persons convicted of nonviolent felonies who meet the conditions prescribed by law. The present Constitution provides for restoration of rights by the Governor. The bill retains the right of the Governor to restore civil rights and adds the alternative for restoration of rights pursuant to general law for persons

convicted of nonviolent felonies. This bill is identical to HB 1104. See also SJR 4, companion resolution

*Patron - Miller*

: **SJ3 Constitutional amendment (first resolution); Virginia Redistricting Commission.** Establishes the Virginia Redistricting Commission to redraw Congressional and General Assembly district boundaries after each decennial census. Appointments to the 13-member Commission are to be made in the census year as follows: two each by the President pro tempore of the Senate, Speaker of the House of Delegates, minority leader in each house, and the state chairman of each of the two political parties receiving the most votes in the prior gubernatorial election. The 12 partisan members then select the thirteenth member by a majority vote; or, if they cannot agree on a selection, they certify the two names receiving the most votes to the Supreme Court, which will name the thirteenth member. The Commission is directed to certify district plans for the General Assembly within one month of receipt of the new census data or by March 1 of the year following the census, whichever is later, and for the House of Representatives within three months of receipt or by June 1 of the year following the census, whichever is later. The plans shall be effective for the next regular general election for the Senate, House of Delegates, or House of Representatives. Members in office when a new plan is certified complete their terms and continue to represent the district as constituted when they were elected. Vacancies occurring before the next general election for the office are to be filled, if filled, from the district as constituted when the member, whose vacancy is being filled, was elected to office. The standards to govern redistricting plans include the current Constitution's standards on population equality, compactness, and contiguity and additional standards to minimize splits of localities and to prohibit consideration of incumbency and political data.

*Patron - Deeds*

: **SJ4 Constitutional amendment (second resolution); restoration of civil rights for certain felons.** Authorizes the General Assembly to provide by general law for the restoration of civil rights for persons convicted of nonviolent felonies who meet the conditions prescribed by law. The present Constitution provides for restoration of rights by the Governor. The amendment retains the right of the Governor to restore civil rights and adds the alternative for restoration of rights pursuant to general law for persons convicted of nonviolent felonies. See also SB 17, companion referendum bill.

*Patron - Miller*

: **SJ18 Constitutional amendment (first resolution); Highway Maintenance and Operating Fund and Transportation Trust Fund.** Provides that the Highway Maintenance and Operating Fund and the Transportation Trust Fund shall be permanent funds. Starting with the Commonwealth's fiscal year beginning July 1, 2007, the General Assembly shall appropriate to each Fund an amount no less than the amount appropriated to the respective Fund in the immediately preceding fiscal year. The amendment limits the use of Trust Fund moneys to highway construction, maintenance, and improvements, public transportation, railways, seaports, and airports. The General Assembly may use Fund proceeds for other purposes only by a two-thirds vote of the members in each house. However, Fund proceeds used for other purposes must be repaid to the Fund within four years. A substitute for this resolution was reported by the Senate Committee on Privileges and Elections that incorporated SJRs 54 and 60 and was identical to HJR 136 as introduced.

*Patron - Howell*

: **SJ33 Constitutional amendment (first resolution); limit on appropriations.** Limits total appropriations in any fiscal year to the preceding year's total appropriations plus a percentage increase equal to the rate of inflation plus a factor for population increases. The amendment also provides that any revenues collected in excess of such limitation less than or equal to one percent of such limitation shall be deposited in the Revenue Stabilization Fund. Any excess revenues greater than such one percent, less mandatory deposits to the Revenue Stabilization Fund, shall be returned to individual income taxpayers. "Total appropriations" is defined as not to include moneys appropriated that are received from the federal government or an agency or unit thereof. The General Assembly may make appropriations in excess of such limitation only by a vote equal to or greater than 60 percent of the members voting in each house, including a majority of the members elected to that house.

*Patron - Cuccinelli*

: **SJ54 Constitutional amendment (first resolution); Transportation Trust Fund.** Provides that the Transportation Trust Fund established in 1986 will be a permanent fund and be funded annually by the General Assembly by appropriations equivalent to the revenues generated by the 1986 package of tax and fee increases or the appropriation for the fiscal year ending June 30, 2004, whichever is greater. The amendment limits the use of Trust Fund moneys to highway construction, reconstruction, maintenance, and improvements, public transportation, railways, seaports, and airports. The General Assembly may borrow from the Fund for other purposes or reduce the level of required appropriations to the Fund only by a two-thirds-plus-one vote of members in each house and the loan or reduction must be repaid within four years. This resolution was incorporated into a substitute for SJR 18 that was reported by the Senate Committee on Privileges and Elections. This resolution is incorporated into SJR 18.

*Patron - O'Brien*

: **SJ59 Constitutional amendment (first resolution); Virginia Redistricting Commission.** Establishes the Virginia Redistricting Commission to redraw congressional and General Assembly district boundaries after each decennial census. Appointments to the five-member Commission are to be made in the census year as follows: one each by the majority and minority party leaders of the Senate and House of Delegates and a fifth member appointed by the Supreme Court. The Commission is directed to file preliminary district plans for the House of Representatives, Senate, and House of Delegates within 30 days of receipt of the federal census data. Then there is a 30-day period for filing corrections and exceptions. The Commission next files a revised plan within 20 days and a final plan 20 days thereafter. The plans shall be effective for the next regular general election for the Senate, House of Delegates, or House of Representatives. Members in office when a new plan becomes law complete their terms and continue to represent the district as constituted when they were elected. Vacancies occurring before the next general election for the office are to be filled from the district as constituted when the member, whose vacancy is being filled, was elected to office. The standards to govern redistricting plans include the current Constitution's standards on population equality, compactness, and contiguity and an additional standard to minimize splits of localities. The Commission is patterned after the Pennsylvania Legislative Reapportionment Commission.

*Patron - Whipple*

: **SJ60 Constitutional amendment (first resolution); Transportation Trust Fund.** Provides that the Transportation Trust Fund established in 1986 will be a permanent

fund and be funded annually by the General Assembly by appropriations equivalent to 78 percent of the revenues generated by the 1986 package of tax and fee increases. The remaining 22 percent may be appropriated to the Commonwealth Port, Airport, and Mass Transit Funds. The amendment limits the use of Trust Fund moneys to current highway construction, reconstruction, maintenance, and improvements. This resolution was incorporated into a substitute for SJR 18 that was reported by the Senate Committee on Privileges and Elections. This resolution is incorporated into SJR 18.

*Patron - Williams*

**: SJ94 United States Constitution; Equal Rights Amendment.** Ratifies the Equal Rights Amendment to the United States Constitution that was proposed by Congress in 1972. This joint resolution advocates the position that the 1972 Equal Rights Amendment remains viable and may be ratified notwithstanding the expiration of the 10-year ratification period set out in the resolving clause, as amended, in the proposal adopted by Congress.

*Patron - Ticer*

## Carried Over

**7 HJ3 Constitutional amendment (first resolution); 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. The amendment allows Governors elected in 2005 and thereafter to serve two successive terms.

*Patron - Purkey*

**7 HJ4 Constitutional amendment (first resolution); Board of Education.** Provides for the appointment of the members of the Board as follows: four members, including a member designated as president, by the Governor; and three members appointed by the House of Delegates and two members appointed by the Senate, in accordance with the rules of each house. Members are to be appointed for four-year terms. Terms are staggered. No person may be appointed to more than two consecutive full terms. Members in office when the amendment takes effect will serve until their successors are appointed. Presently, the Constitution provides that all nine members are appointed by the Governor.

*Patron - Purkey*

**7 HJ5 Constitutional amendments (first resolution); Governor's term of office; Board of Education.** One amendment 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. The amendment allows Governors elected in 2005 and thereafter to serve two successive terms. A second amendment provides for the appointment of the members of the Board of Education as follows: four members, including a member designated as president, by the Governor; and three members appointed by the House of Delegates and two members appointed by the Senate, in accordance with the rules of each house. Members are to be appointed for four-year terms. Terms are staggered. No person may be appointed to more than two consecutive full terms. Members in office when the amendment takes effect will serve until their successors are appointed. Presently, the Constitution provides that all nine members are appointed by the Governor.

*Patron - Purkey*

**7 HJ7 Constitutional amendment (first resolution); Virginia Redistricting Commission.** Establishes the Virginia Redistricting Commission to redraw congressional and General Assembly district boundaries after each decennial census.

Appointments to the 13-member Commission are to be made in the census year as follows: two each by the President pro tempore of the Senate, Speaker of the House of Delegates, minority leader in each house, and the state chairman of each of the two political parties receiving the most votes in the prior gubernatorial election. The 12 partisan members then select the thirteenth member by a majority vote; or, if they cannot agree on a selection, they certify the two names receiving the most votes to the Supreme Court, which will name the thirteenth member. The Commission is directed to certify district plans for the General Assembly within one month of receipt of the new census data or by March 1 of the year following the census, whichever is later, and for the House of Representatives within three months of receipt or by June 1 of the year following the census, whichever is later. The plans shall be effective for the next regular general election for the Senate, House of Delegates, or House of Representatives. Members in office when a new plan is certified complete their terms and continue to represent the district as constituted when they were elected. Vacancies occurring before the next general election for the office are to be filled, if filled, from the district as constituted when the member, whose vacancy is being filled, was elected to office.

*Patron - Morgan*

**7 HJ21 Constitutional amendment (first resolution); Transportation Trust Fund.** Provides that the Transportation Trust Fund established in 1986 will be a permanent fund and be funded annually by the General Assembly by appropriations equivalent to the revenues generated by the 1986 package of tax and fee increases. The amendment limits the use of Trust Fund moneys to current highway construction, reconstruction, maintenance, and improvements. The General Assembly may borrow or transfer monies from the Fund for other purposes only by a four-fifths vote of members in each house and the monies must be repaid within four years.

*Patron - Albo*

**7 HJ80 Constitutional amendment (first resolution); limitation on appropriations; exceptions.** Prohibits any appropriation or expenditure by the General Assembly, for any fiscal year, of revenues in excess of the total revenue provided by law, including tax increases. An exception is provided for times of insurrection or in the defense of the Commonwealth or United States.

*Patron - Purkey*

**7 HJ129 Constitutional amendment (first resolution); limits on taxes and revenues; 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.

*Patron - Janis*

**7 HJ136 Constitutional amendment (first resolution); Transportation Trust Fund.** Provides that the Transportation Trust Fund established in 1986 will be a permanent fund and receive all revenues generated by the 1986 package of tax and fee increases and any later enactments dedicating additional revenues to the Fund. The amendment limits the use of Trust Fund moneys to purposes of highway construction, maintenance, and improvements, public transportation, railways, seaports, and airports. This resolution is identical to a substitute for SJR 18 that was reported by the Senate Committee on Privileges and Elections.

*Patron - Plum*

**7 HJ145 Constitutional amendment (first resolution); limit on appropriations.** Limits total appropriations in

any fiscal year to the preceding year's total appropriations plus a percentage increase equal to the rate of inflation plus a factor for population increases. The amendment also provides that any revenues collected in excess of such limitation, after any requisite payments are made to the Revenue Stabilization Fund, shall be distributed by returning 50 percent to individual taxpayers and distributing 50 percent to counties and cities for special projects. "Total appropriations" is defined to include moneys appropriated to the general fund and special funds.

*Patron - McDougle*

**7 HJ148 Constitutional amendment (first resolution); state and local funding for public education.** Requires the General Assembly, in apportioning the state and local share for supporting an educational program meeting the Standards of Quality (SOQ), to ensure that the state share is no less than one-third of the total costs of providing such educational program in each school division. Currently, each locality's share of SOQ costs is apportioned pursuant to the composite index of local ability to pay. This weighted formula compares three local measures of wealth--real property values, adjusted gross income, and local option sales taxes--to statewide averages and adjusts these indicators by student population and total population. The sum of two-thirds of the student population (Average Daily Membership or ADM) component and one-third of the population component is then multiplied by a local nominal share of the SOQ designated by the appropriation act. The product of this formula--the local composite index (LCI)--is then applied to the established SOQ costs, less the estimated sales and use tax revenues returned to the locality on the basis of its school-age population, to determine required local expenditures to meet the SOQ. The 2003 Appropriation Act sets a composite index of .8000 as the maximum index that will be used to compute local shares, thereby guaranteeing a minimum state contribution of 20 percent in those localities with a high fiscal capacity. The Commonwealth provides 55 percent of SOQ costs statewide; localities provide the remaining 45 percent (2003 Acts of Assembly, c. 1042, § 1-54, Item 147 A 4).

*Patron - Petersen*

**7 HJ171 Constitutional amendment (first resolution); unfunded state mandates.** Provides that the Commonwealth is prohibited from (i) reducing the state-financed proportion of the costs of any existing activity or service required of localities or (ii) mandating new activities or services without full funding.

*Patron - Pollard*

**7 HJ173 Constitutional amendment (first resolution); Virginia Redistricting Commission.** Establishes the Virginia Redistricting Commission to redraw congressional and General Assembly district boundaries after each decennial census. Appointments to the 11-member Commission are to be made in the census year by the most recently retired living Chief Justice of the Virginia Supreme Court. Appointments are to be made to represent each congressional district. Persons to be appointed to the Commission shall be retired justices or judges of the Supreme Court, Court of Appeals, or circuit courts. The Commission is directed to certify district plans for the General Assembly within one month of receipt of the new census data or by March 1 of the year following the census, whichever is later, and for the House of Representatives within three months of receipt or by June 1 of the year following the census, whichever is later. The plans shall be effective for the next general election for the Senate, House of Delegates, or House of Representatives. Members in office when a new plan is certified complete their terms and continue to represent the district as constituted when they were elected. Vacancies occurring before the next general election for the office are to be filled, if filled, from the district as constituted when the

member, whose vacancy is being filled, was elected to that office. The amendment also provides for 40 senators and 100 delegates rather than the present ranges of 33 to 40 senators and 90 to 100 delegates.

*Patron - Barlow*

**7 HJ175 Constitutional amendment (first resolution); highway and transportation trust funds.** Provides that the Highway Maintenance and Operating Fund and the Transportation Trust Fund established in 1986 will be permanent and separate funds and be funded annually by the General Assembly by appropriations equivalent to the revenues generated by the 1986 package of tax and fee increases and other revenues dedicated to the funds. The amendment limits the use of Trust Fund moneys to transportation and related purposes. The General Assembly may borrow from the Fund for other purposes or reduce the level of required appropriations to the Fund only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction must be repaid within four years. This resolution is identical to HJR 188 and 277.

*Patron - Hugo*

**7 HJ188 Constitutional amendment (first resolution); highway and transportation trust funds.** Provides that the Highway Maintenance and Operating Fund and the Transportation Trust Fund established in 1986 will be permanent and separate funds and will be funded annually by the General Assembly by appropriations equivalent to the revenues generated by the 1986 package of tax and fee increases and other revenues dedicated to the Funds. The amendment limits the use of Fund moneys to transportation and related purposes. The General Assembly may borrow from the Funds for other purposes or reduce the level of required appropriations to the Funds only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction must be repaid with reasonable interest within four years. This resolution is identical to HJR 175 and 277.

*Patron - McDonnell*

**7 HJ189 Constitutional amendment (first resolution); limit on appropriations.** Limits total appropriations in any fiscal year to the preceding year's total appropriations plus the greater of (i) five percent, or (ii) a percentage increase equal to the rate of inflation plus the rate of population increase, except additional appropriations may be made (a) for tax relief, (b) for deposits to the Revenue Stabilization Fund, and (c) nonrecurring capital projects. "Total appropriations" is defined as not to include moneys appropriated that are received from the federal government or an agency or unit thereof.

*Patron - Frederick*

**7 HJ190 Constitution of Virginia (first resolution); enactment of laws and ordinances.** Requires a two-thirds vote of the members voting in each house of the General Assembly to impose, continue, increase, or revive a tax and at the local level of government requires a two-thirds vote of all members elected to any local governing body to adopt an ordinance that imposes or increases a tax.

*Patron - Frederick*

**7 HJ191 Constitutional amendment (first resolution); Highway Maintenance and Operating Fund and Transportation Trust Fund.** Provides that the Highway Maintenance and Operating Fund and the Transportation Trust Fund shall be permanent funds. Starting with the Commonwealth's fiscal year beginning July 1, 2006, the General Assembly shall appropriate to each Fund an amount no less than the amount appropriated to the respective Fund in the immediately preceding fiscal year. The amendment limits the use of Trust Fund moneys to highway construction, mainte-

nance, and improvements, public transportation, railways, sea-ports, and airports. The General Assembly may use Fund proceeds for other purposes only by a four-fifths vote of the members in each house. However, Fund proceeds used for other purposes must be repaid to the Fund within four years.

*Patron - Frederick*

**7 HJ200 Constitutional amendment (first resolution); state and local funding for public education.** Requires the General Assembly, in apportioning the state and local share for supporting an educational program meeting the Standards of Quality, to ensure that the state share is no less than 55 percent of the total statewide costs, that disparity among school divisions in the ability to pay is taken into account, and that no school division receives less state funding per pupil than it received in 2004.

*Patron - Scott, J.M.*

**7 HJ202 Constitutional amendment (first resolution); Virginia Redistricting Commission.** Establishes the Virginia Redistricting Commission to redraw congressional and General Assembly district boundaries after each decennial census. Appointments to the five-member Commission are to be made in the year 2010 and each tenth year thereafter as follows: one each by the majority and minority party leaders of the Senate and House of Delegates from a pool of nominees provided by the Supreme Court and a fifth independent member appointed by the four partisan members from a pool of nominees provided by the Supreme Court. The Commission is directed to file district plans for the Senate and House of Delegates within 30 days of receipt of the federal census data and for congressional districts within 90 days of receipt of the federal census data. There is a 30-day public comment period. The standards to govern redistricting plans include population equality, compactness, contiguity, respect for communities of interest, use of geographic features and locality boundaries in drawing lines, and creation of competitive districts. Use of political data is limited to testing the effects of a plan. Information on incumbent and candidate residence is not to be used. The Commission is patterned after the Arizona Independent Redistricting Commission.

*Patron - Moran*

**7 HJ206 Constitutional amendments (first resolution); privacy rights.** Proposes amendments to Sections 1 and 10 of Article I, relating to protection against governmental intrusion and invasion of privacy and against unreasonable searches and seizures, including unreasonable interception of private communications of any kind.

*Patron - Baskerville*

**7 HJ246 Constitutional amendments (first resolution); Virginia Redistricting Commission.** Establishes the Virginia Redistricting Commission to redraw Congressional and General Assembly district boundaries after each decennial census. Appointments to the 13-member Commission are to be made in the census year as follows: two each by the President pro tempore of the Senate, Speaker of the House of Delegates, minority leader in each house, and the state chairman of each of the two political parties receiving the most votes in the prior gubernatorial election. The 12 partisan members then select the thirteenth member by a majority vote; or, if they cannot agree on a selection, they certify the two names receiving the most votes to the Supreme Court, which will name the thirteenth member. The Commission is directed to certify district plans for the General Assembly within one month of receipt of the new census data or by March 1 of the year following the census, whichever is later, and for the House of Representatives within three months of receipt or by June 1 of the year following the census, whichever is later. The plans shall be effective

for the next regular general election for the Senate, House of Delegates, or House of Representatives. Members in office when a new plan is certified complete their terms and continue to represent the district as constituted when they were elected. Vacancies occurring before the next general election for the office are to be filled, if filled, from the district as constituted when the member, whose vacancy is being filled, was elected to office. The standards to govern redistricting plans include the current Constitution's standards on population equality, compactness, and contiguity and additional standards to minimize splits of localities and to prohibit consideration of incumbency and political data. The amendments also provide for 40 senators and 100 delegates rather than the present ranges of 33 to 40 senators and 90 to 100 delegates.

*Patron - Shuler*

**7 HJ277 Constitutional amendment (first resolution); highway and transportation trust funds.** Provides that the Highway Maintenance and Operating Fund and the Transportation Trust Fund established in 1986 will be permanent and separate funds and be funded annually by the General Assembly by appropriations equivalent to the revenues generated by the 1986 package of tax and fee increases and other revenues dedicated to the Funds. The amendment limits the use of Trust Fund moneys to transportation and related purposes. The General Assembly may borrow from the Fund for other purposes or reduce the level of required appropriations to the Fund only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction must be repaid within four years. This resolution is identical to HJR 175 and 188.

*Patron - Marshall, R.G.*

**7 HJ293 Constitutional amendment (first resolution); property exempt from taxation.** Provides that the General Assembly may give local governments the option of exempting or partially exempting real property affected by resource protection areas and buffers.

*Patron - Rapp*

**7 SJ17 Constitutional amendment (first resolution); property exempt from taxation.** Authorizes the General Assembly to enact legislation that will permit localities to provide a partial exemption from real property taxation for real estate and associated new structures and improvements in conservation, redevelopment, or rehabilitation areas.

*Patron - Edwards*

**7 SJ84 Constitutional amendment (first resolution); property exempt from taxation.** Amends the Constitution of Virginia to exempt privately owned motor vehicles used for nonbusiness purposes from state and local taxation. If this resolution is enacted by either the 2004 or 2005 General Assembly a second resolution must be introduced and enacted by the 2006, General Assembly in order for this amendment to be on the November 2006 general election ballot.

*Patron - Hanger*

**7 SJ85 Constitutional amendment (first resolution); assessment of real property.** Provides that beginning with the 2008 tax year, real property shall be assessed for tax purposes at no more than 102 percent of the assessed value of such property in the preceding tax year. However, if real property is sold, transferred, improved, or rezoned at the owner's request, it shall be assessed at fair market value for the tax year in which such event occurs. Such fair market value assessment shall then be subject to the two percent limitation in subsequent tax years until such time as the property is again sold, transferred, improved, or rezoned at the owner's request.

*Patron - Hanger*

## Other Resolutions

### Passed

**D HJ78 Commending the Brown v. Board of Education 50th Anniversary Commission.** Commends the Brown v. Board of Education 50th Anniversary Commission on leading the national commemoration of the 50th anniversary of the desegregation of the nation's public schools. Congress, on September 18, 2001, enacted Public Law 107-41, establishing the Brown v. Board of Education 50th Anniversary Commission to encourage and provide for the commemoration of the 50th anniversary of this landmark Supreme Court decision. The President of the United States, the U.S. Department of Education, the U.S. Department of Justice, and the Chief Justice of the United States Supreme Court appointed the Commission members. The commissioners represent the Brown Foundation for Education Equity, Excellence and Research; the National Association for the Advancement of Colored People; the National Association for the Advancement of Colored People Legal Defense and Education Fund; the Brown v. Board of Education National Historic Site; various federal agencies; each of the five states which were party to the Brown decision; and Massachusetts, the site of the first legal challenge to segregated schools in *Roberts v. City of Boston* (1849). The Commission has held its meetings in the party states, one each in Columbia, South Carolina; Wilmington, Delaware; Topeka, Kansas; Richmond and Farmville, Virginia; and the District of Columbia. A meeting was also held in Boston, Massachusetts. Under the leadership of the Dr. Martin Luther King, Jr. Memorial Commission, which has been directed to plan, coordinate, and implement Virginia's commemoration of the decision, Virginia launched its official 18-month long commemoration of Brown v. Board of Education with the three-day State visit of the Brown v. Board of Education 50th Anniversary Commission. This resolution is a recommendation of the Dr. Martin Luther King, Jr. Memorial Commission. This resolution is identical to SJR 26.

*Patron - Bryant*

**D HJ126 Leadership and contributions of the local career and technical education advisory councils to the quality of career and technical education in Virginia.** Recognizes the value of the local career and technical education advisory councils across Virginia in providing the essential link between employers and instructional personnel and programs. The resolution notes that the local advisory councils continue to work tirelessly and determinedly to improve career and technical curricula and opportunities for career and technical education students by supporting projects to advance career and technical education, developing mechanisms for ensuring program continuity and meeting employers' needs, and encouraging modernization of programs, curriculum and equipment. The member of the local advisory councils are volunteers whose work, without pay and usually without recognition, benefits the communities in which they live, the public school career and technical education programs, and the many students whose lives they touch. In addition to the recognition provided in this resolution, the legislative Advisory Council on Career and Technical Education commits to recognizing the members of the local career and technical education advisory councils through a 2004 recognition ceremony and certificates of appreciation for their diligent and essential work in supporting and promoting career and technical education in Virginia.

*Patron - Hamilton*

**D HJ168 Great Virginia Teach-In.** Designates March 27 and 28, 2004, as the Great Virginia Teach-In in the Commonwealth. These dates coincide with the days that a job fair featuring teacher preparation programs, educational financing options, job recruiters and other exhibitors will be held in the Commonwealth to attract a wider and more diverse pool of teaching applicants.

*Patron - Ward*

**D HJ180 Designating Adoption Day in Virginia.** Designates the third Saturday in November 2004 and in each succeeding year, as Celebrate Adoption Day in Virginia.

*Patron - Saxman*

**D HJ259 State History Museum.** Designates the Virginia Historical Society as the Official State Historical Society in Virginia.

*Patron - Howell, W.J.*

**D HJ261 Virginia Strategy for Growth and Manufacturing Renewal.** Expresses the General Assembly's support for the Virginia Manufacturers Association's Virginia Strategy for Growth and Manufacturing Renewal.

*Patron - Hogan*

**D HJ278 Recognizing and supporting members of the National Guard and Reserve.** Expresses the General Assembly's support for the National Guard and Reserve by encouraging local governments and private employers to conduct awareness programs and by holding Military Appreciation Day and other ceremonies.

*Patron - Johnson*

**D HJ287 Dahlgren Navy Base.** Expresses the General Assembly's support of Naval District Washington West Area (Dahlgren) Base.

*Patron - Pollard*

**D HJ292 Take Your Kids to Vote Day in Virginia.** Designates November 2, 2004, and each election day thereafter, as Take Your Kids to Vote Day in Virginia.

*Patron - Saxman*

**D HR14 Pledge of Allegiance.** Encourages the United States Supreme Court to uphold in *Elk Grove Unified School District v. Newdow* a public school district policy that allows willing students to recite the Pledge of Allegiance. The Supreme Court agreed to hear this case on October 14, 2003.

*Patron - Cole*

**D HR17 Values and ideals of Western civilization.** Encourages Virginia's local school boards to ensure that the values and ideals of Western civilization are taught effectively in the Commonwealth's classrooms.

**D SJ26 Commending the Brown v. Board of Education 50th Anniversary Commission.** Commends the Brown v. Board of Education 50th Anniversary Commission on leading the national commemoration of the 50th anniversary of the desegregation of the nation's public schools. Congress, on September 18, 2001, enacted Public Law 107-41, establishing the Brown v. Board of Education 50th Anniversary Commission to encourage and provide for the commemoration of the 50th anniversary of this landmark Supreme Court decision. The President of the United States, the U.S. Department of Education, the U.S. Department of Justice, and the Chief Justice of the United States Supreme Court appointed the Commission members. The commissioners represent the Brown Foundation

for Education Equity, Excellence and Research; the National Association for the Advancement of Colored People; the National Association for the Advancement of Colored People Legal Defense and Education Fund; the Brown v. Board of Education National Historic Site; various federal agencies; each of the five states which were party to the Brown decision; and Massachusetts, the site of the first legal challenge to segregated schools in *Roberts v. City of Boston* (1849). The Commission has held its meetings in the party states, one each in Columbia, South Carolina; Wilmington, Delaware; Topeka, Kansas; Richmond and Farmville, Virginia; and the District of Columbia. A meeting was also held in Boston, Massachusetts. Under the leadership of the Dr. Martin Luther King, Jr. Memorial Commission, which has been directed to plan, coordinate, and implement Virginia's commemoration of the decision, Virginia launched its official 18-month long commemoration of Brown v. Board of Education with the three-day State visit of the Brown v. Board of Education 50th Anniversary Commission. This resolution is identical to HJR 78.

*Patron - Marsh*

**D SJ39 Transit options in the U.S. Route 1 corridor.** Recognizes the need for various transit options in the U. S. Route 1 corridor in Fairfax and Prince William counties.

*Patron - Puller*

**D SJ49 School of pharmacy in Buchanan County.** Endorses the establishment of a school of pharmacy in Buchanan County. This resolution notes the need for economic development projects in Southwest Virginia and the recent establishment of the Appalachian School of Law and the proposal for a pharmacy school at the University of Appalachia in Grundy. A \$3 million loan has been granted for the construction of the pharmacy school and the Board of Supervisors of Buchanan County has strongly endorsed this project. Copies of the resolution are to be transmitted to the members of the Virginia Congressional Delegation and the Governor with directions to disseminate the resolution to relevant federal officials and various state higher education entities, respectively.

*Patron - Puckett*

**D SJ73 Brown v. Board of Education Year in Virginia.** Designates 2004 and 2005, as Brown v. Board of Education Years in Virginia, and requests the Governor to call upon the citizens of Virginia to observe the designated commemorative period by engaging in the activities offered in their communities. This resolution is a recommendation of the Dr. Martin Luther King, Jr. Memorial Commission.

*Patron - Marsh*

**D SJ79 Importation of municipal solid waste.** Urges Congress to enact the State Waste Empowerment and Enforcement Provision Act of 2003 (HR 1123). This legislation would allow states to regulate the information of municipal solid waste into their respective jurisdictions.

*Patron - Obenshain*

**D SJ112 Commemorating the 100th Anniversary of The Souls of Black Folk by Dr. William Edward Burghardt Du Bois.** Commemorates the 100th Anniversary of *The Souls of Black Folk*, a monumental literary work in African-American and American letters, concerning the double consciousness of African Americans and race relations in America. The resolution also notes that Dr. William Edward Burghardt Du Bois may best be honored on the 100th anniversary of his treatise by encouraging teachers to include the book on reading assignments, and by embracing its truths and meeting the challenge to create a society devoid of racial prejudice.

*Patron - Marsh*

**D SJ114 French and Indian War.** Commemorates the 250th anniversary of the beginning of the French and Indian War and expresses support for commemorative activities of the Virginia French and Indian War 250 planning group centered at Shenandoah University and the French and Indian War 250, Inc.

*Patron - Ticer*

**D SJ115 Recognizing and supporting members of the National Guard and Reserve.** Expresses the General Assembly's support for the National Guard and Reserve by encouraging local governments and private employers to conduct awareness programs and by holding Military Appreciation Day and other ceremonies.

*Patron - O'Brien*

**D SJ117 Greek Independence Day.** Designates March 25, 2004, and in each succeeding year, as Greek Independence Day in Virginia.

*Patron - Rerras*

**D SJ120 Courtesy Week.** Designates the second week in February in 2004 and in each succeeding year, as National Courtesy Week in Virginia.

*Patron - Houck*

**D SJ204 Commending Ruby Nell Bridges.** Commends Ruby Nell Bridges, who as a kindergartner desegregated William Frantz Elementary School in New Orleans in 1960, following the United States Supreme Court decision in *Brown v. Board of Education*. At the age of six, Ms. Bridges had to be escorted by federal marshals to school each day through a mob of fierce segregationists who threatened her and retaliated against her family. On February 24, 2004, Ms. Bridges addressed the metropolitan Richmond community at St. Catherine's School during the school's observance of the 50th anniversary of *Brown v. Board of Education* to recount her experience during the ordeal and to promote racial unity, tolerance, respect, and appreciation of diversity.

*Patron - Marsh*

## Failed

: **HJ112 "Welfare diet."** Encourages Virginia's legislators to go on a "welfare diet" for a two-week period to gain greater understanding of the dire circumstances of thousands of Virginia families.

*Patron - Van Yahres*

: **HJ116 Use of prison bed space; Secretary of Public Safety.** Encourages the Secretary of Public Safety to refrain from utilizing bed space within the Virginia Department of Corrections to house out-of-state prisoners.

*Patron - Jones, D.C.*

: **HJ130 Memorializing Free Trade Agreement.** Memorializes the President of the United States and the Congress of the United States to withdraw the United States from the North American Free Trade Agreement and the World Trade Organization, to refuse to ratify a Central American Free Trade Agreement, and to resist attempts to further liberalize American trade policy. This resolution is incorporated into HJR 290.

*Patron - Dudley*

: **HJ154 Health Literacy Month.** Designates October in 2004 and each year thereafter as Health Literacy Day in Virginia. The resolution calls on the Commissioner of Health, the Director of the Department of Health Professions, and the

presidents of the Medical Society of Virginia and the Old Dominion Medical Society to assist patients in comprehending essential medical information and instructions by providing such information orally in simplified language or in writing at a level commensurate with their educational levels and proficiency in the English language.

*Patron - Baskerville*

: **HJ179 Pledge of Allegiance.** Encourages the United States Supreme Court to uphold in *Elk Grove Unified School District v. Newdow* a public school district policy that requires teachers to allow willing students to recite the Pledge of Allegiance. The Supreme Court agreed to hear this case on October 14, 2003. This resolution is identical to HR 14.

*Patron - Cole*

: **HJ192 Congress to amend NCLB.** Memorializes Congress to amend the No Child Left Behind (NCLB) Act immediately to include a mechanism for an automatic waiver from its provisions for school accountability for states, such as Virginia, that have successfully raised student achievement through their own standards and accountability reforms, and that this waiver be available to states so long as they maintain these proven standards and accountability programs.

*Patron - Landes*

: **HJ248 Woodlawn Road.** Memorializes Congress to restore public access to Woodlawn Road. This resolution is identical to SJR 97.

*Patron - Amundson*

: **HJ285 Memorializing Congress; public expressions of religious faith.** Memorializes the Congress of the United States to continue to preserve Virginia's sovereignty related to public expressions of religious faith in the Commonwealth.

*Patron - Black*

: **HJ286 Burial allowance for veterans.** Memorializes the Congress of the United States to increase the federal burial allowance for veterans to at least \$750.

*Patron - Pollard*

: **HJ289 Women in History Month.** Designates March, in 2004 and in each succeeding year, as Women in History Month in Virginia.

*Patron - Baskerville*

: **HJ290 Memorializing Congress.** Memorializes the Congress of the United States to oppose ratification of the Free Trade Area of the Americas Agreement.

*Patron - Armstrong*

: **SJ40 Central American Free Trade Agreement.** Memorializes the President of the United States and the Congress of the United States to reject the Central American Free Trade Agreement and to withdraw the United States from the North American Free Trade Agreement and similar free trade agreements.

*Patron - Reynolds*

: **SJ55 Naming athletic field at Mountain View School.** Encourages the Fairfax County School Board and the Fairfax County Board of Supervisors to name the athletic field at Mountain View School the Jacob Salter Field.

*Patron - O'Brien*

: **SJ69 Memorializing Congress on financial needs of WMATA.** Memorializes Congress to make a renewed com-

mitment to adequately fund the Washington Metropolitan Area Transit Authority.

*Patron - Whipple*

: **SJ96 Confederate History and Heritage Month.** Designates the month of April, in 2004 and in each succeeding year, as Confederate History and Heritage Month in Virginia.

*Patron - Hawkins*

: **SJ97 Woodlawn Road.** Memorializes Congress to restore public access to Woodlawn Road. This resolution is identical to HJR 248.

*Patron - Puller*

: **HR15 Safe and Free.** A resolution defending the civil liberties and civil rights of all individuals living in the Commonwealth of Virginia.

*Patron - Welch*

: **HR16 Memorializing the Federal Communications Commission regarding broadcast standards.** Memorializes the Federal Communications Commission to enforce its standards governing broadcasts over the public airwaves. The resolution also expresses the indignation of the General Assembly regarding violations of FCC standards during family hour, particularly violations of the standards during the 2004 Super Bowl halftime show and certain MTV rebroadcasts.

*Patron - Pollard*

## Carried Over

**7 HJ159 Designating June 20, 2004 as Delegate Roland J. "Duke" Ealey Day.** Designates June 20, 2004, and in each succeeding year, as Delegate Roland J. Ealey Day in Virginia. This resolution requests that the late Delegate Ealey, former member of the Virginia House of Delegates, be honored and remembered for service and contributions to the Commonwealth. This resolution is a recommendation of the Dr. Martin Luther King, Jr. Memorial Commission's Steering Committee on the 50th Anniversary of *Brown v. Board of Education*.

*Patron - Baskerville*

**7 HJ199 Prescription drugs from Canada.** Memorializes the United States Congress to remove current restrictions on the purchasing of prescription drugs from Canada.

*Patron - Armstrong*

## Miscellaneous (Including Budget and Bonds)

### Passed

**D HB29 Budget bill.** Amends Appropriations Act of 2003, Chapter 1042.

*Patron - Callahan*

**D HB31 Bond bill; Commonwealth of Virginia Higher Educational Institutions Bond Bill of 2004.** Authorizes the issuance of 9 (c) bonds in a principal amount not to exceed \$255,316,600 for the financing of revenue-producing capital projects at institutions of higher education in the Commonwealth. Of the total amount of bonds authorized, \$137,700,600 is allocated for previously authorized projects



and \$117,616,000 is allocated for new projects. This bill is identical to SB 31.

*Patron - Callahan*

**D HB32 Commonwealth of Virginia Parking Facilities Bond Bill of 2004.** Authorizes the issuance of 9 (c) bonds in a principal amount not to exceed \$5,700,000 for acquisition of the Virginia Retirement System parking deck. This bill is identical to SB 32.

*Patron - Callahan*

**D HB106 Bonds; Virginia Public Building Authority.** Authorizes the Virginia Public Building Authority to issue bonds in the amount of \$159,300,000 to finance the undertaking, development, acquisition and construction of the first phase of the State Agency Radio System (STARS).

*Patron - Sherwood*

**D HB848 Claims; Julius Earl Ruffin.** Provides relief for Julius Earl Ruffin who was incarcerated between 1982 and 2003 for a crime that scientific evidence later revealed he did not commit. Governor Warner granted him an absolute pardon on March 19, 2003. Under the bill, the Commonwealth will provide a lump-sum payment to Mr. Ruffin of \$325,000 to be paid by August 1, 2004, and an annuity for the primary benefit of Mr. Ruffin providing for equal monthly payments for a period certain of 30 years commencing on September 1, 2004, in the cumulative amount of \$900,000. The bill provides that the annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages, but shall contain beneficiary provisions providing for the annuity's continued disbursement in the event of the death of Mr. Ruffin to his children and his spouse. The bill also provides that Mr. Ruffin shall be entitled, until 2009, to receive career and technical training within the Virginia community college system free of tuition charges, up to a maximum of \$10,000. This bill is identical to SB 234.

*Patron - Jones, S.C.*

**D HB949 Property conveyance; subaqueous lands to City of Norfolk.** Authorizes the Governor to convey certain subaqueous lands in the Elizabeth River at Norfolk to the City of Norfolk. The bill provides that such conveyance shall be made in a form approved by the Attorney General and that the appropriate officials of the Commonwealth are authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.

*Patron - Howell, A.T.*

**D HB1261 Property conveyance; certain real property to City of Petersburg.** Authorizes the Virginia Employment Commission to convey certain real property located at 10 North Jefferson Street in the City of Petersburg to the City of Petersburg. The bill provides that such conveyance shall be approved by the Governor and made in a form approved by the Attorney General and that the appropriate officials of the Commonwealth are authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.

*Patron - Bland*

**D HR2 2004-2006 Budget Bill.** Requests the Governors of the Commonwealth to submit a Budget Bill utilizing existing fiscal resources without incorporating a general tax increase.

*Patron - Marshall, R.G.*

**D SB31 Bond bill, Commonwealth of Virginia Higher Educational Institutions Bond Bill of 2004.** Authorizes the issuance of 9 (c) bonds in a principal amount not to

exceed \$255,316,600 for the financing of revenue-producing capital projects at institutions of higher education in the Commonwealth. Of the total amount of bonds authorized, \$137,700,600 is allocated for previously authorized projects and \$117,616,000 is allocated for new projects. This bill is identical to HB 31.

*Patron - Chichester*

**D SB32 Commonwealth of Virginia Parking Facilities Bond Bill of 2004.** Authorizes the issuance of 9 (c) bonds in a principal amount not to exceed \$5,700,000 for acquisition of the Virginia Retirement System parking deck. This bill is identical to HB 32.

*Patron - Chichester*

**D SB39 Bonds; Virginia Public Building Authority.** Authorizes the Virginia Public Building Authority to issue bonds in the amount not to exceed \$159,300,000 to finance the undertaking, development, acquisition and construction of the first phase of the Statewide Agencies Radio System (STARS) and several public safety related projects.

*Patron - Stolle*

**D SB234 Claims; Julius Earl Ruffin.** Provides relief for Julius Earl Ruffin who was incarcerated between 1982 and 2003 for a crime that scientific evidence later revealed he did not commit. Governor Warner granted him an absolute pardon on March 19, 2003. Under the bill, the Commonwealth will provide a lump-sum payment to Mr. Ruffin of \$325,000 to be paid by August 1, 2004, and an annuity for the primary benefit of Mr. Ruffin providing for equal monthly payments for a period certain of 30 years commencing on September 1, 2004, in the cumulative amount of \$900,000. The bill provides that the annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages, but shall contain beneficiary provisions providing for the annuity's continued disbursement in the event of the death of Mr. Ruffin to his children and his spouse. The bill also provides that Mr. Ruffin shall be entitled, until 2009, to receive career and technical training within the Virginia community college system free of tuition charges, up to a maximum of \$10,000. This bill is identical to HB 848.

*Patron - Lambert*

**D SB602 Chamberlin Hotel.** Gives the consent of the Commonwealth for the extension of the lease for the operation of the Chamberlin Hotel at Fort Monroe for 50 years and expands the approved uses to include a senior housing facility with an assisted living component and an adjoining parking garage. The bill also includes an emergency provision.

*Patron - Williams*

**D SB623 Awards service handgun to widow of Anthony Daryl Campbell.** Awards the service handgun of Virginia State Trooper Anthony Daryl Campbell to his widow.

*Patron - Rerras*

**D SB654 Hampton Roads Sanitation District.** Adds King and Queen County and makes numerous other changes to the enabling act of the Hampton Roads Sanitation District.

*Patron - Norment*

**D SJ65 Colonial Founders Day.** Designates May 14, 2004, and in each succeeding year, as Colonial Founders Day in Virginia. May 14 signifies the date of the disembarking of the passengers who founded Jamestown.

*Patron - Wagner*

## Failed

: **HB30 Budget Bill.** Makes appropriations for the 2004-06 biennium.

*Patron - Callahan*

: **HB93 Virginia Public Building Authority and Virginia College Building Authority.** Authorizes the Virginia Public Building Authority and the Virginia College Building Authority to issue bonds in principal amounts not to exceed \$56,457,000 and \$216,865,538 to fund and construct specific capital projects throughout the Commonwealth.

*Patron - Callahan*

: **HB488 Relief; Andrew Patrick Kidder.** Provides relief to Andrew Patrick Kidder by directing the Birth-Related Neurological Injury Compensation Program to (i) admit him into the Program and provide continued benefits under the Program and (ii) provide reimbursement of expenses incurred by Andrew's parents in caring for Andrew since 1990 that would have been covered by the program pursuant to § 38.2-5009, provided that no expense shall be reimbursed by the Program if it has been reimbursed from another source.

*Patron - Tata*

: **HB1071 U.S. Route 58 Commonwealth of Virginia Transportation Revenue Bonds.** Increases the maximum principal amount of the Transportation Revenue Bonds for the U.S. Route 58 Corridor Development Program ("Program") by \$300 million, from \$704.3 million to \$1.0043 billion. The proceeds from the issuance of this additional \$300 million are to be used to complete that portion of the Program from the Stuart By-Pass to Interstate 77.

*Patron - Armstrong*

: **SB29 Budget bill.** Amends Appropriations Act of 2003, Chapter 1042.

*Patron - Chichester*

: **SB30 Budget Bill.** Makes appropriations for the 2004-06 biennium.

*Patron - Chichester*

: **SB37 Virginia Public Building Authority and Virginia College Building Authority.** Authorizes the Virginia Public Building Authority and the Virginia College Building Authority to issue bonds in principal amounts not to exceed \$56,457,000 and \$216,865,538 to fund and construct specific capital projects throughout the Commonwealth.

*Patron - Chichester*

: **SB191 Claims; Larry and Virginia Mitchell.** Provides \$5,000 in relief to Larry and Virginia Mitchell. The Mitchells suffered \$5,000 in losses from damage to their corn crop caused by a bear or bears. The Mitchells assert that the bear or bears that destroyed part of their corn crop was released by the Department of Game and Inland Fisheries.

*Patron - Reynolds*

: **SB256 Claims; Marshall and Allison Lineberry.** Provides relief for Marshall and Allison Lineberry, consisting of a lump-sum payment of \$200,000 to be paid by August 1, 2004. Mr. and Mrs. Lineberry purchased a house without a certificate of occupancy and now are unable to sell the house without such a certificate. A permanent certificate of occupancy was never issued for the house due to serious structural defects. In order to receive a certificate of occupancy, the house must be demolished and rebuilt.

*Patron - Puckett*

: **SB410 Claims; Sharon Dalton.** Provides \$69,820 in relief for Sharon Dalton. Mrs. Dalton was injured in December 1996 while performing her work duties for the Department of Alcohol Beverage Control when a stack of liquor cases fell on her head and neck, injuring her neck. This relief is for lost wages from February 2000. The Workers' Compensation Commission denied Mrs. Dalton's claim for part of the period in question; however, Mrs. Dalton questions the sufficiency of the evidence relied upon by the Commission in deciding to deny her claim.

*Patron - Ruff*

: **SB531 Commonwealth of Virginia Parks and Natural Areas Bond Act of 2002; issuance of bonds.** Places a one-year moratorium on the issuance of bonds authorized under the Commonwealth of Virginia Parks and Natural Areas Bond Act of 2002. The Treasury Board shall not issue any bonds authorized under the Act, with the exception of refunding instruments, in the period beginning July 1, 2004, and ending June 30, 2005.

*Patron - Hanger*

: **SB532 Commonwealth of Virginia Educational Facilities Bond Act of 2002; issuance of bonds.** Places a one-year moratorium on the issuance of bonds authorized under the Commonwealth of Virginia Educational Facilities Bond Act of 2002. The Treasury Board shall not issue any bonds authorized under the Act, with the exception of refunding instruments, in the period beginning July 1, 2004, and ending June 30, 2005.

*Patron - Hanger*

: **SB568 Claims; Sean and Jennie Barrett.** Provides relief for Sean and Jennie Barrett, consisting of a lump-sum payment of \$11,821 to be paid by August 1, 2004. Mr. and Mrs. Barrett purchased a house and six-acre parcel that contained a malfunctioning septic system in 1998. The presence of the malfunctioning septic system was not revealed to them prior to purchase. Although Mr. and Mrs. Barrett obtained an out-of-court settlement with the seller's real estate agent regarding the failure to disclose the malfunctioning septic system, events related to the erroneous issuance of a sewage disposal construction permit in 1988 also contributed to the situation faced by Mr. and Mrs. Barrett. The Caroline County Department of Health, which is an agency of the Virginia Department of Health, issued a sewage disposal construction permit in 1988. The physical inspection prior to the issuance of this permit was conducted not on the six-acre parcel, but on an adjoining 10-acre parcel. Based upon the inspection of the 10-acre parcel, a sewage disposal construction permit was issued for the six-acre parcel. It is unclear how the permit inspection for the 10-acre parcel resulted in the issuance of a permit for the six-acre parcel.

*Patron - Bolling*

## Carried Over

**7 SB358 Claims; Henry Ridge.** Provides an amount to be determined by the Commonwealth Transportation Commissioner in relief for Henry Ridge. Mr. Ridge received additional payment for the Stafford County property upon which the Commonwealth Transportation Commissioner exercised eminent domain. However, he received no interest award on the additional payment due to the interest rate applied by § 33.1-128 being negative. Section 33.1-128 was amended during the 2003 Session and made retroactive, but Mr. Ridge's situation still does not qualify for retroactive application of the amended section. Mr. Ridge is seeking the amount he would

receive if he qualified for retroactive application of the amended section.

*Patron - Colgan*

**7 SB572 Claims; Beverly Anne Monroe.** Provides relief for Beverly Anne Monroe who was incarcerated between 1992 and 2002. A panel of the United States Court of Appeals for the Fourth Circuit ruled that Ms. Monroe's 1992 trial was flawed because of the prosecution's failure to disclose exculpatory evidence and granted her a new trial. The Commonwealth's Attorney for Powhatan County decided not to retry Ms. Monroe. Under the bill, the Commonwealth will provide a lump-sum payment to Ms. Monroe of \$400,000 to be paid by August 1, 2004, and \$1,237,000 through an annuity to be paid in equal monthly payments for 20 years commencing on or before September 1, 2004.

*Patron - Lambert*

**7 SB686 Establishing the ownership and management relationship of the sailing vessel Virginia.** Authorizes the Governor to enter into an agreement with the Virginia Maritime Heritage Foundation for the operation of the sailing vessel Virginia. Under the bill, ownership of the Virginia is transferred to the Commonwealth; however, the operation and maintenance of the Virginia is the responsibility of the Foundation. The bill sets out the minimum requirements of the agreement and that the Virginia is to be used for trade missions, marketing, economic development, film production, festivals and other events.

*Patron - Rerras*

## Study Resolutions

### Passed

**D HJ6 Virginia Public Records Act.** Creates a joint subcommittee to study the Virginia Public Records Act, electronic records, and their effect on the state depository system. In conducting its study, the joint subcommittee shall examine the Virginia Public Records Act and the extension of its scope to (i) provide and assign authority to establish and maintain guidelines or regulations for the creation, transfer, and archival preservation of electronic state records and publications; (ii) provide and assign authority to establish and maintain procedures for the official authentication of e-records and documents; and (iii) establish a means to identify, describe, receive, and manage discrete electronic government information products covered by copyright. This resolution is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This resolution is identical to SJR 1.

*Patron - Cox*

**D HJ13 Two-term Governor.** Establishes a joint subcommittee to study the appropriate balance of power between the legislative and executive branches to support a two-term Governor. The joint subcommittee shall (i) examine the history of the Governor's power in the Commonwealth; (ii) compare the powers of the governors of other states; (iii) determine the balance of power established between the executive and legislative branches in other states, particularly in those states that transitioned from a one-term governor to a two-term governor; and (iv) consider constitutional and statutory options for the equitable distribution of power between the legislature and

executive branch to support a two-term Governor in the Commonwealth.

*Patron - Landes*

**D HJ34 Virginia Retirement System.** Creates a joint legislative subcommittee to study the Virginia Retirement System and benefits for public safety officers who are injured in the line of duty. In conducting its study, the joint subcommittee shall (i) examine the current benefit structure of the Virginia Retirement System; (ii) review matters relating to funding, including amortization schedules, level and adequacy of funded ratios, and blending of contribution rates between and among retirement systems; (iii) make recommendations to improve the Virginia Retirement System; (iv) examine existing Virginia benefits and those provided by other states and the federal government to public safety officers who suffer severe and permanent disabilities as a result of catastrophic personal injuries incurred in the line of duty; and (v) consider such other related matters as the joint subcommittee deems appropriate.

*Patron - Putney*

**D HJ71 Individuals with limited English proficiency; access to information and services.** Requests the Secretary of Health and Human Resources to develop a plan for increasing awareness of the requirements to provide meaningful access to information and services in the Health and Human Resources Secretariat for Virginia's limited English speaking residents who are lawfully in the United States. The Secretary is also requested to identify, prioritize and estimate the costs of translating significant information and documents used by agencies and service providers within the Secretariat.

*Patron - Cox*

**D HJ72 Virginia's nutrient management plans.** Directs the Joint Legislative and Review Commission to study the effectiveness of the implementation, performance, and enforcement of Virginia's nutrient management plans. The Commission must also make recommendations concerning improvements to nonpoint source pollution that comply with the nutrient management program.

*Patron - Cox*

**D HJ79 Mistaken identity.** Directs the Virginia State Crime Commission to study mistaken identification in criminal cases. The commission shall (i) review the cases in the United States in which DNA profiling was used to exonerate persons convicted of a crime; (ii) examine the procedures used in traditional police lineups or photographic review; and (iii) consider the sequential method as a procedure for identifying suspects.

*Patron - Purkey*

**D HJ82 Nonstate cultural institutions.** Requests the Department of Taxation to collect sales tax data concerning the economic impact of nonstate cultural institutions on the Commonwealth. The Department of Taxation must compile sales tax collections for businesses in the immediate vicinity of nonstate agency cultural institutions located in the cities of Norfolk, Lynchburg, Richmond, and Roanoke, and in the County of Fairfax that received more than \$50,000 in state funds in a single year within the last five years.

*Patron - Fralin*

**D HJ103 Impact of aging population on the demand for and cost of state agency services.** Directs the Joint Legislative Audit and Review Commission to study the impact of Virginia's aging population on the demand for and cost of state agency services, policies and program management. In conducting its study, the Joint Legislative Audit and Review Commission shall consult with the Commonwealth Council on Aging, the Commissioners of the Departments of

Health, Social Services, and Mental Health, Mental Retardation and Substance Abuse Services, and the Director of the Virginia Retirement System, Department for the Aging, Department of Medical Assistance Services, Department of Corrections, and Department of Human Resources Management.

*Patron - Reid*

**D HJ105 Commonwealth's assistance to localities for developing adequate K-12 school infrastructure.** Creates a joint subcommittee to study the level of the Commonwealth's assistance to localities that is necessary for developing adequate K-12 schools infrastructure. The joint subcommittee shall consider the physical and technical structure needs of K-12 schools throughout the Commonwealth and various options for funding those needs.

*Patron - Drake*

**D HJ114 Proposed child-care regulations.** Directs the Joint Legislative Audit and Review Commission to study the potential impact of the amended 22 VAC 15-30, Standards for Licensed Child Day Care Centers, on providers, parents, and children. The commission shall submit a report no later than September 15, 2004. The Governor is requested to consider the results of the study prior to his approval of the regulation. This resolution is identical to SJR 80.

*Patron - Marrs*

**D HJ120 Nanotechnology.** Directs the Joint Commission on Technology and Science to identify nanotechnology research and economic development opportunities for the Commonwealth. The Commission shall consider the efficacy of creating a statewide, comprehensive and coordinated strategy to secure additional federal research and development funds and to boost commercial activity in this fast-emerging sector.

*Patron - May*

**D HJ124 Continuing Commission on Educational Leadership.** Continues for one year the 21-member Commission to Review, Study, and Reform Educational Leadership (initially created in 2002 (HJR 20; SJR 58)) to (i) receive reports and information regarding Board of Education recommendations regarding alternative licensure routes and a two-tiered licensure system; and (ii) examine such other issues as it deems appropriate.

*Patron - Hamilton*

**D HJ125 Template for a statewide articulation agreement.** Requests the Board of Education, the State Board for Community Colleges, and the State Council of Higher Education for Virginia to develop a template for a statewide articulation agreement for career and technical education. The resolution notes that articulation agreements can provide a seamless pathway for students to progress from high school to community college for completion of industry certifications and state licensure requirements and, for certain students, to enrollment in four-year institutions of higher education. Because an educated workforce is the only way to maintain the economic base of the Commonwealth, the Advisory Council on Career and Technical Education recommends that all levels of public education cooperate in the development of a template for articulation agreements in order to facilitate students' movement through a K-16 system that allows smooth transitions between high school, community college, and four-year institutions of higher education. The template will be developed by a taskforce of staffers and stakeholders that will identify obstacles and issues, including any issues relating to credentialing of teachers and how credits can be transferred from one high school to another, from any high school to any

community college, and from any community college to the public four-year institutions of higher education. The taskforce is also directed to develop a template that provides for flexibility for school divisions, community colleges, and four-year institutions of higher education, taking into account the various curricula that are offered in the many schools, colleges, and universities, and the local economic and other conditions. The template is to include some standardization of credit transfers, provide options for the various corners of the Commonwealth that are tailored to match the capabilities of the educational agencies in local areas while offering opportunities for improvement in cooperation and collaboration between and among the various levels of educations, a list of programs and courses that are articulated, the identity of the agencies that are articulated for each program or course, the tuition charges for the various classes at the different levels, information on limitations on enrollment in the various programs or classes, and the effect, if any, on tuition charges of articulation agreements in the community colleges and four-year institutions of higher education.

*Patron - Hamilton*

**D HJ133 Prehospital emergency medical services in Virginia.** Directs the Joint Legislative Audit and Review Commission to study prehospital emergency medical services in Virginia. In conducting its study, the Commission shall (i) conduct a comprehensive review and assessment of emergency care services in Virginia; (ii) ascertain the average Medicaid and Medicare reimbursement rates in the Commonwealth, and compare such rates to the national average; (iii) identify emerging issues and problems in prehospital emergency medical services in the Commonwealth and make recommendations to address them; (iv) review the findings and recommendations of previous legislative studies pertaining to emergency medical services to determine their relevancy today; (v) evaluate the need for a Department of Emergency Medical Services; (vi) review relevant state and federal laws and regulations pertaining to emergency medical services, patient privacy, security and emergency preparedness; (vii) consider issues pertaining to medical liability insurance, health care insurance, health care costs, funding for emergency medical care, third-party reimbursement, and indigent care and their effect on a quality and efficient emergency medical care services system in the Commonwealth; and (viii) consider such other related issues as the Commission may deem appropriate and necessary.

*Patron - O'Bannon*

**D HJ134 Disclosure of health records.** Directs the Joint Commission on Health Care to study the use and disclosure of health records relative to Virginia law and the federal Health Insurance Portability and Accountability Act (HIPAA). The Commission shall consider the need for amendments to Virginia laws and recommend ways to assist health care providers and other relevant parties to understand and comply with state and federal health record privacy laws.

*Patron - O'Bannon*

**D HJ142 Consolidation of the Cities of Norfolk and Portsmouth.** Establishes a joint subcommittee to study the feasibility of the consolidation of the Cities of Norfolk and Portsmouth. In conducting its study, the joint subcommittee shall (i) review other models whereby localities were consolidated into a single city that operates under the strong mayor/council form of government; (ii) determine whether such a system, with a directly elected mayor, would be feasible in the two cities, to be phased in over a period of 10 to 20 years; (iii) examine the feasibility of permitting the consolidation of a particular city only upon a favorable vote by referendum in each such city; (iv) examine the feasibility of allowing the constitutional officers of each of the consolidating cities to retain their

individual positions during an interim period of time or until the retirement of such an officer; and (v) explore an efficient method of eventually transferring the duties of such constitutional officers to a single office for the consolidated city. Other issues to be examined by the joint subcommittee shall include (i) whether an amendment to the Constitution of Virginia will be required in order to implement a proposed consolidation; (ii) the means by which utility systems within the consolidating cities may be efficiently combined or coordinated so as to provide cost-effective and uninterrupted service to the region; (iii) the feasibility of phasing in a consolidated school system under the leadership of a single school board with each city being a separate school district; (iv) the feasibility of providing for oversight by an outside entity of new local debt of the consolidating cities during the transition period between the time of voter approval of the consolidation and the actual consolidation; and (v) the method by which the individual debts and obligations of the consolidating cities shall become the debts and obligations of the consolidated city.

*Patron - Joannou*

**D HJ152 Housing issues.** Directs the Virginia Housing Study Commission, with the assistance of the Virginia Housing Development Authority and the Virginia Department of Housing and Community Development, to continue its study of certain housing-related issues, including the development of a statewide housing policy for the Commonwealth.

*Patron - Drake*

**D HJ153 Underground utility distribution lines.** Requests the State Corporation Commission to study the placement of utility lines underground. The State Corporation Commission is required to study the feasibility of placing underground the currently existing overhead utility distribution lines and any new distribution lines, the costs that would be incurred, and the options for funding such underground placement.

*Patron - Drake*

**D HJ162 "Smart" driver's licenses.** Establishes a joint subcommittee to study the desirability and feasibility of issuing driver's licenses and identification cards containing an embedded computer chip that stores biometric and other personal data.

*Patron - Byron*

**D HJ163 Transportation in Reston.** Requests the Secretary of Transportation, the Commonwealth Transportation Board, the Department of Transportation, the Department of Rail and Public Transportation, the County of Fairfax, Washington Metropolitan Area Transit Authority, LINK, the Dulles Corridor Rail Association, the Dulles Corridor Task Force, local elected officials, and Reston community and business leaders to continue their work to ensure that a coordinated transportation plan is implemented for the Reston community.

*Patron - Plum*

**D HJ164 Adequacy of Virginia's infant screening program for metabolic disorders.** Directs the Joint Commission on Health Care to collect information pertaining to infant screening program for metabolic disorders. The Commission shall compile a list of the (i) types of metabolic disorders for which infants are screened in other states, including a summary of the benefits of such screening; and (ii) the costs of such screening programs.

*Patron - Plum*

**D HJ170 Commission on Growth and Economic Development.** Continues the Commission for one additional year and requires the Commission to review conditional zoning

and its effect on residential housing patterns and the cost of housing in the Commonwealth. This resolution incorporates HJR 227 (2004).

*Patron - Hall*

**D HJ172 Income tax and sales and use tax.** Directs the Joint Legislative Audit and Review Commission to collect information from other states and countries that have replaced income tax revenues with sales and use tax revenues.

*Patron - Lingamfelter*

**D HJ174 Certification process for voting equipment and matters related to the performance and proper deployment of voting equipment.** Creates a joint subcommittee to evaluate the Commonwealth's procedures and processes for evaluating, certifying, and handling voting equipment. The resolution provides for background information from the State Board of Elections on the source codes for direct electronic voting devices and on the undervote experience in 2003 compared to past years.

*Patron - Hugo*

**D HJ176 Remote sales tax collection.** Creates a joint subcommittee to study the impact of collecting remote sales taxes on the economy of the Commonwealth, including the impact on revenue and small businesses. In conducting its study, the joint subcommittee shall determine the amount of revenue the Commonwealth would generate and the impact on small businesses within the Commonwealth if the Commonwealth collected taxes on remote sales; and the ability to use the lack of a requirement to collect remote sales as a marketing tool.

*Patron - Hugo*

**D HJ183 The use and financing of trauma centers in the Commonwealth's hospitals.** Requires the Joint Legislative Audit and Review Commission to study use and financing of Virginia's designated trauma centers. In conducting its study, the Joint Legislative Audit and Review Commission must (i) examine utilization trends vis-a-vis number of patients served and kind of services delivered; (ii) compare Virginia's utilization trends to national utilization trends; (iii) assess the demographics of patients requiring trauma center services in Virginia; (iv) conduct an insurance profile of the patients requiring these services in Virginia and, in so far as possible, the nation; (v) analyze the financial costs and benefits to hospitals of being designated a trauma center, including any public relations or other "good will" benefit from being known as a trauma center; and (vi) determine any steps that can be taken to maintain appropriate and necessary trauma services in Virginia's hospitals. This resolution incorporates HJR 115.

*Patron - McDonnell*

**D HJ185 U.S. Route 460 Communications Committee.** Extends for two years the Committee's mandate to receive and disseminate communications between the Virginia Department of Transportation and persons and entities affected by the prompt completion and success at all phases and aspects of the planning, designing, constructing, and financing of the U. S. Route 460 Improvement Projects. This resolution incorporates HJR 166.

*Patron - McDonnell*

**D HJ186 Conflicts of interests and lobbyist disclosure forms.** Creates a legislative joint subcommittee to review the adequacy of the disclosure forms, study the use of a uniform conflicts of interests disclosure form, and examine the feasibility and costs of providing information from the forms on the Internet.

*Patron - McDonnell*

**D HJ193 Department of Social Services by the Joint Legislative Audit and Review Commission.** Directs the Joint Legislative Audit and Review Commission (JLARC) to conduct a two-year study of the mission and effectiveness of the organization, operation, and performance of the Department of Social Services. In conducting the study, JLARC shall assess the effectiveness of the social services system as measured by (i) changes in customer self-sufficiency; (ii) the delivery of effective prevention and early intervention services; (iii) the availability of necessary resources to ensure the delivery of quality services in a timely manner; and (iv) the adequacy and effectiveness of information systems, such as the Application Benefit Delivery Automation Project (ADAPT), including the effective coordination of services by the Departments of Social Services, Medical Assistance Services, and Juvenile Justice. The Joint Legislative Audit and Review Commission shall make recommendations based upon the findings of the study to improve the Department's performance for each of these measures.

*Patron - Landes*

**D HJ195 Community health workers.** Requests James Madison University to study the status, impact, and utilization of community health workers. Community health workers are trained lay persons who, as trusted members of their communities, serve as health resource persons where they live and work, implementing culturally appropriate health education and outreach among groups that have traditionally lacked adequate health care. The University shall (i) inventory the number, roles, and training of all community health workers employed in the Commonwealth and explore a standard designation for such workers; (ii) identify and review outcome studies and evaluations on the efficacy of community health workers; (iii) determine ways to elevate the role of community health workers in the health care delivery system and to integrate more effectively such workers in public agencies; (iv) examine the potential use of community health workers as part of a best-practice quality measure for Medicaid and other contracted providers; (v) explore the development of a statewide core curriculum that would be used for the training of publicly employed community health workers and be available for volunteer workers; and (vi) recommend any other steps to maximize the value and utilization of community health workers. This resolution is identical to SJR 19.

*Patron - Landes*

**D HJ197 Establishing a public four-year institution in South Central Virginia.** Requests the State Council of Higher Education to consider the establishment of a public four-year degree granting institution of higher education in South Central Virginia in developing its systemwide needs assessment plan for higher education in the Commonwealth. The institution must strengthen and support existing public and private institutions of higher education in the South Central Virginia region. In its deliberations to develop the plan, the Council shall (i) solicit the participation of and collaborate with all interested parties, and (ii) evaluate all available options, including, but not limited to, the creation of a branch campus of an existing institution in the South Central Virginia region. This resolution is identical to SJR 86.

*Patron - Armstrong*

**D HJ225 Commonwealth's Attorneys.** Directs the Crime Commission to conduct a statewide study of the operations of the offices of the Commonwealth's Attorneys. The Commission shall study the quality of prosecutorial representation and the efficiency by which prosecutorial services are provided. The study of prosecutorial representation shall examine the impact, if any, of the existing workloads in the Common-

wealth's Attorneys' offices, any disparity in workload per attorney, training and technical support for Commonwealth's Attorneys versus judicial and criminal justice system agencies, opportunities for continuing legal education specifically geared towards career prosecutors, and the Commonwealth's Attorneys' ability to hire and retain qualified prosecutors in their offices.

*Patron - McDonnell*

**D HR18 Child Day Care Regulations.** Requests the Child Day Care Council to review the impact of proposed revisions to the Minimum Standards for Licensed Child Day Centers on providers and families, and to defer the implementation of the provisions of such revised regulations pertaining to staff-to-child ratios, educational requirements, square footage, and group size until July 1, 2005. The Child Day Care Council must submit an executive summary and report of its progress in meeting the requests of this resolution no later than the first day of the 2005 Regular Session of the General Assembly.

**D SJ19 Community health workers.** Requests James Madison University to study the status, impact, and utilization of community health workers. Community health workers are trained lay persons who, as trusted members of their communities, serve as health resource persons where they live and work, implementing culturally appropriate health education and outreach among groups that have traditionally lacked adequate health care. The University shall (i) inventory the number, roles, and training of all community health workers employed in the Commonwealth and explore a standard designation for such workers; (ii) identify and review outcome studies and evaluations on the efficacy of community health workers; (iii) determine ways to elevate the role of community health workers in the health care delivery system and to integrate more effectively such workers in public agencies; (iv) examine the potential use of community health workers as part of a best-practice quality measure for Medicaid and other contracted providers; (v) explore the development of a statewide core curriculum that would be used for the training of publicly employed community health workers and be available for volunteer workers; and (vi) recommend any other steps to maximize the value and utilization of community health workers. This resolution is identical to HJR 195. The University must report its findings and recommendations to the 2005 Session of the General Assembly.

*Patron - Howell*

**D SJ24 Access to and costs of oral health care.** Establishes a joint subcommittee to study access to and the costs of oral health care. In conducting its study, the joint subcommittee shall (i) ascertain the state of oral health in Virginia; (ii) identify and evaluate oral health care needs by demographic characteristics in the Commonwealth; (iii) determine the number of persons without adequate or any dental insurance; (iv) determine the number of dental visits each year by age, gender, services rendered, and costs of services; and (v) recommend strategies to promote and increase good oral health in the Commonwealth, including, but not limited to, issues relating to access to oral care by poor, low-income, and minority persons, and ways to provide affordable oral health care for all persons. The joint subcommittee must submit an executive summary of its findings and recommendations to the 2005 Session of the General Assembly.

*Patron - Marsh*

**D SJ25 Mental health needs and treatment of young minority adults in the Commonwealth.** Directs the Joint Commission on Health Care to study the mental health

needs and treatment of young minority adults in the Commonwealth. In conducting its study, the Joint Commission on Health Care shall, to the extent possible, (i) estimate the number of mentally disabled young adults by gender, age, and racial and ethnic classification, in the geographical regions of the Commonwealth; (ii) identify the prevailing mental health and emotional disorders and their etiology among minority young adults; (iii) identify the mental health needs of minority citizens, particularly minority young adults in Virginia; (iv) determine the number of racial and ethnic minority persons who receive mental health treatment each year and the facilities providing such care; (v) determine whether mental health care providers are trained to provide culturally competent mental health treatment; (vi) assess the need for culturally competent mental health treatment in Virginia; (vii) review federal and state laws and regulations governing the confidentiality of health care, mental health treatment, and medical records and identify the conditions and the extent to which medical records information may be disclosed to parents and family members to assist them in obtaining health, social services, and mental health treatment for mentally disabled young adults; (viii) recommend ways and alternatives, within the law, to provide parents and family members of mentally disabled young adults the ability to obtain needed health, social services, and mental health treatment for such persons without involuntary commitment; and (ix) consider such other related matters as the Commission may determine necessary to address the objectives of this resolution. The Commission must report its findings and recommendations to the 2005 Session of the General Assembly.

*Patron - Marsh*

**D SJ38 Local firearms hunting ordinances.** Requests the Department of Game and Inland Fisheries to study local firearms hunting ordinances. The study is to examine how these ordinances can be made more uniform throughout the State. The Department shall submit a report its findings and recommendations to the 2005 Session of the General Assembly.

*Patron - Stolle*

**D SJ43 Lead-poisoning prevention.** Continues the Joint Subcommittee Studying Lead-Poisoning Prevention to (i) work with the Lead-Safe Virginia program within the Department of Health, in all ways feasible, to maintain and increase federal support for Virginia's lead-poisoning prevention efforts; (ii) cooperate with the Department of Housing and Community Development, in all ways feasible, to assist with its housing grant; (iii) pursue the development of a metadata clearinghouse by the Virginia Information Technologies Agency of the databases and data repositories within the Secretariat of Health and Human Resources, upon approval of appropriate legislation; (iv) examine any issues relating to the blood-lead testing protocol as needed; (v) assess any housing issues that may arise in the coming year; (vi) seek the establishment of a collaborative approach to blood-lead testing issues between the Division of Consolidated Laboratories, the Department of Health, and the Department of Medical Assistance Services; (vii) seek input from nurses, pediatricians, nurse practitioners, physician assistants, and various state agency personnel concerning the potential benefits or drawbacks of delegating certain screening and testing to registered nurses; and (viii) continue to act as a coordinating influence on state efforts to prevent lead poisoning. To assist the joint subcommittee in its work (a) the Secretary of Health and Human Resources is requested to establish a task force to examine issues relating to the delegation of screening and testing to registered nurses, pursuant to the Medicaid Early and Periodic Screening Diagnosis and Treatment (EPSDT) program; and (b) the Division of Consolidated Laboratory Services and the Sec-

retary of Health and Human Resources are requested to establish a task force to facilitate communication and cooperation of blood-lead testing issues. The joint subcommittee must submit an executive summary of its findings and recommendations, including a summary of the presentations to the joint subcommittee by the Secretary of Health and Human Resources and the Division of Consolidated Laboratory Services, to the 2005 Session of the General Assembly.

*Patron - Lambert*

**D SJ57 Horse industry.** Requests the Department of Agriculture and Consumer Services to study ways to enhance the economic development of Virginia's horse industry. The Commissioner of Agriculture and Consumer Services is required to create a task force composed of representatives of industry groups to assist the Department in its study. The Department's study may include, among other issues, an examination of the use tax, the application of sales tax on horses sold in Virginia to determine whether the breeding animal exemption should be expanded, zoning issues, the extent to which horses or horsemeat are exported to foreign markets for human consumption and the laws governing this practice, the impact of the loss of state funding on the Virginia Horse Center and the Virginia Horse Breeder Incentive Program, and the need for a state natural disaster plan, including the education and training of horse owners regarding preparation for disasters.

*Patron - Hawkins*

**D SJ58 Benefits of public-private partnerships to Medicaid recipients.** Directs the Joint Commission on Health Care to study the success of other states in improving services and lowering costs of health care and prescription drugs to Medicaid recipients through public-private partnerships, including other states' disease management programs, and to recommend whether Virginia should adopt similar programs. In conducting its study, the Commission shall examine the other states' programs for improving services and lowering costs of health care and prescription drugs through agreements with the private sector, including Florida's Medicaid Initiative and its Medicaid Disease Management Initiative.

*Patron - Bell*

**D SJ64 Future of manufacturing in Virginia.** Establishes a joint subcommittee to study manufacturing needs and the future of manufacturing in Virginia. The joint subcommittee shall (i) assess the current state of the manufacturing sector of Virginia's economy; (ii) determine how the sector's needs may be addressed quickly, efficiently, and cost-effectively; and (iii) consider what role state and local governments should have in this endeavor. The joint subcommittee must submit its findings and recommendations to the 2005 Session of the General Assembly.

*Patron - Wagner*

**D SJ74 Public funding of higher education Establishes a joint subcommittee to study the public funding of higher education in Virginia.** The joint subcommittee shall examine (i) alternatives to the current formulas and methods used by the Commonwealth to fund institutions of higher education; (ii) alternatives for paying for a college education including, but not limited to, interest-free loans guaranteed by the Commonwealth; (iii) the efficacy and appropriateness of delivering degree programs through distance learning; and (iv) access to Virginia institutions of higher education by residents of the Commonwealth, including the feasibility of guaranteeing placement at a four-year institution of higher education in Virginia for certain graduates of Virginia's community colleges satisfying an agreed upon curriculum and grade-point average. Staff support to the joint subcommittee will be provided by the

Senate Committee on Finance and the House Committee on Appropriations. The joint subcommittee must report its findings and recommendations to the 2006 Session of the General Assembly.

*Patron - Stosch*

**D SJ75 Incentives for preserving forestland.** Requests the Board of Forestry, with assistance from the Virginia Department of Forestry, to study the provision of incentives to private landowners to hold and preserve forestland. In conducting the study, the Board is to (i) review laws and programs of other states, localities, and agencies and (ii) seek comments and recommendations from citizens, conservation groups, farm and forest landowner association representatives, and forest industry association representatives for the purpose of recommending mechanisms that will provide incentives to private landowners to maintain and preserve their forestland for the environmental and economic benefit of the Commonwealth. The Board must submit its findings and recommendations to the 2005 Session of the General Assembly.

*Patron - Ticer*

**D SJ80 Proposed child-care regulations.** Directs the Joint Legislative Audit and Review Commission to study the potential impact of the amended 22 VAC 15-30, Standards for Licensed Child Day Care Centers, on providers, parents, and children. The commission shall submit a report no later than September 15, 2004. The Governor is requested to consider the results of the study prior to his approval of the regulation. This resolution is identical to HJR 114.

*Patron - Newman*

**D SJ86 Establishing a public four-year institution in South Central Virginia.** Requests the State Council of Higher Education to consider the establishment of a public four-year degree granting institution of higher education in South Central Virginia in developing its systemwide needs assessment plan for higher education in the Commonwealth. The institution must strengthen and support existing public and private institutions of higher education in the South Central Virginia region. In its deliberations to develop the plan, the Council shall (i) solicit input from and collaborate with all interested parties, and (ii) evaluate all available options, including, but not limited to, the creation of a branch campus of an existing institution in the South Central Virginia region. The Council must report its progress in meeting the objectives of the resolution to the 2005 Session of the General Assembly. This resolution is identical to HJR 197.

*Patron - Reynolds*

**D SJ89 Incorporation of churches.** Establishes a joint subcommittee to study the issues attendant to the incorporation of churches in Virginia. The joint subcommittee shall examine, among other issues it deems appropriate, (i) whether churches properly can incorporate in those portions of the state not covered by the United States District Court for the Western District of Virginia's ruling; (ii) how unincorporated churches should transition from "trustee" ownership to "corporate" ownership of real property; and (iii) whether statutory restrictions on the amount of real property a church may hold apply to incorporated churches. The joint subcommittee shall submit its findings and recommendations to the 2005 Session of the General Assembly.

*Patron - Mims*

**D SJ90 Administrative and financial relationships between the Commonwealth and its institutions of higher education.** Establishes a joint subcommittee to examine the issues and law relating to the feasibility and practicability of restructuring the administrative and financial relationships

between the Commonwealth and its public institutions of higher education. The joint subcommittee must submit its findings and recommendations to the 2005 Session of the General Assembly.

*Patron - Chichester*

**D SJ95 Impact of blighted or deteriorated properties in older urban communities.** Directs the Virginia Housing Study Commission to study the impact of blighted or deteriorated properties in older urban communities as part of the commission's study on the development of a statewide housing policy.

*Patron - Lucas*

**D SJ111 Southwest Virginia economic development.** Establishes a joint subcommittee to study measures to improve and enhance economic development in the Southwest region of the Commonwealth. The joint subcommittee shall review methods to attract business and industry to the Southwest region of the state through (i) actions that may be taken by the state government, (ii) joint efforts with neighboring states and local governments, and (iii) programs provided by or through institutions of higher education and the business community located in the region. The joint subcommittee must submit its findings and recommendations to the 2006 Session of the General Assembly.

*Patron - Puckett*

**D SJ131 Sexual assault.** Requests the Department of Health, with primary assistance from the Department of Criminal Justice Services, to study the effectiveness of the statewide response to sexual assault victims and the prevention of sexual assault, and to make recommendations to the General Assembly.

*Patron - Watkins*

## Failed

: **HJ8 Sheriffs' staffing standards.** Creates a joint subcommittee to study staffing standards for sheriffs' departments.  
*Patron - Cosgrove*

: **HJ17 Joint Rules Committee to study the formation of a bipartisan redistricting commission.** Requests the Committee to (i) evaluate the present Virginia redistricting process, (ii) review alternative redistricting processes used in other states, (iii) consider both constitutional and statutory changes in the process, and (iv) study the criteria that should be followed in developing redistricting plans. The Committee shall complete its work by November 30, 2004. This resolution is incorporated into HJR 165.  
*Patron - Purkey*

: **HJ20 Joint subcommittee to study medical, ethical, and scientific issues relating to stem cell research conducted in the Commonwealth.** Establishes a joint subcommittee to study stem cell research in Virginia. In conducting its study, the joint subcommittee shall examine the medical, ethical and scientific policy implications of prohibiting the creation of embryos in vitro for any purpose other than bringing them to birth, and the criminalizing of the transfer of compensation, in cash or in-kind, to induce any person to donate sperm or eggs for any purpose other than procreation. The joint subcommittee shall also examine the efficacy of research using adult stem cells rather than embryonic stem cells. The chairman must submit an executive summary of the joint subcommittee's findings and recommendations no later than the first day of the 2005 Regular Session of the General Assembly to the Division of Legislative Automated Systems.



The executive summary shall state whether the joint subcommittee intends to submit to the Governor and the General Assembly a report of its findings and recommendations for publication as a document. The executive summary and the report shall be posted on the General Assembly's website.

*Patron - Marshall, R.G.*

: **HJ39 Economic development and retention.**

Establishes a joint subcommittee to study economic development and the retention of existing businesses within the Commonwealth. In conducting its study, the joint subcommittee shall research and ascertain necessary programs that will aid in retaining businesses within the Commonwealth including (i) no- or low- interest loans, (ii) tax refunds based on job creation, (iii) waiver of permit fees, (iv) relief from or assistance with utility taxes, (iv) subsidies for land purchases, and (v) any other programs, plans or processes that enhance business retention within the Commonwealth. The joint subcommittee shall complete its work by November 30, 2004.

*Patron - Purkey*

: **HJ42 Medicaid nonemergency transportation services.**

Directs the Joint Commission on Health Care to study the current provision of brokered nonemergency transportation for Medicaid recipients through the Logisticare contract. The Joint Commission shall examine the previous pilot program in far southwest Virginia and the efforts by states similar to Virginia to provide cost-effective Medicaid transportation. The Joint Commission shall make legislative, regulatory, policy, or administrative recommendations that would result in a nonemergency transportation service that is brokered more effectively and responsively, for the benefit of Medicaid recipients, their families, other service providers, and taxpayers. In conducting this study, the Joint Commission shall solicit input from recipients, family members, and providers of transportation and other Medicaid services. The Joint Commission on Health Care shall complete its meetings by November 30, 2004, and the Chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2005 Regular Session of the General Assembly.

*Patron - Athey*

: **HJ75 Due process accorded noncustodial parents.**

Requests the Department of Social Services to study the due process accorded noncustodial parents in the enforcement remedies used by the Division of Child Support Enforcement. In conducting this study, the Department of Social Services shall evaluate the enforcement remedies used by the Division of Child Support Enforcement, describe the due process procedures currently accorded noncustodial parents prior to enforcement action, and make legislative recommendations to enhance the constitutional requirements of due process for noncustodial parents.

*Patron - Jones, D.C.*

: **HJ76 Child support enforcement.**

Directs the Joint Legislative Audit and Review Commission to study the Commonwealth's child support enforcement practices. The Joint Legislative Audit and Review Commission shall examine, among other things deemed relevant, the management of the state and local child support enforcement offices, their enforcement and accounting practices, and the high proportion of African Americans in the enforcement base. The Joint Legislative and Audit Commission shall complete its meetings for the first year by November 30, 2004, and for the second year by November 30, 2005, and the Chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the

first day of the next Regular Session of the General Assembly for each year.

*Patron - Jones, D.C.*

: **HJ83 Business practices and ethical issues relating to assisted reproductive technology conducted by fertility clinics.**

Requests the Joint Commission on Health Care to study for two years the business practices and ethical issues relating to assisted reproductive technology conducted by fertility clinics in the Commonwealth. In conducting its study, the Joint Commission shall make legislative, regulatory or policy recommendations to ensure the quality of assisted reproductive technology and address the ethical quandaries that arise from the scientific manipulation of the origins of human life. The Joint Commission shall solicit input from bioethicists, the fertility industry, appropriate consumer and professional organizations involved in assisted reproductive technology, legal experts, and all other stakeholders. The chairman must submit an executive summary of the Joint Commission's findings and recommendations no later than the first day of both the 2005 and 2006 Regular Sessions of the General Assembly to the Division of Legislative Automated Systems. The executive summary shall state whether the Joint Commission intends to submit to the Governor and the General Assembly a report of its findings and recommendations for publication as a document. The executive summary and the report shall be posted on the General Assembly's website.

*Patron - Marshall, R.G.*

: **HJ84 Joint subcommittee to study regulation of embryo laboratories engaging in assisted reproductive technology.**

Establishes a joint subcommittee to study the regulation of embryo laboratories engaging in assisted reproductive technology in the Commonwealth. In conducting its study, the joint subcommittee shall solicit input from appropriate consumer and professional organizations with expertise in using, providing, and evaluating professional services and embryo laboratories associated with assisted reproductive technology programs. The joint subcommittee shall review the model certification program developed by the Centers for Disease Control and Prevention for inspecting and certifying laboratories used in fertility clinics that provide assisted reproductive technology and make all necessary legislative, regulatory or policy recommendations to promote quality services. The chairman must submit an executive summary of the joint subcommittee's findings and recommendations no later than the first day of the 2005 Regular Session of the General Assembly to the Division of Legislative Automated Systems. The executive summary shall state whether the joint subcommittee intends to submit to the Governor and the General Assembly a report of its findings and recommendations for publication as a document. The executive summary and the report shall be posted on the General Assembly's website.

*Patron - Marshall, R.G.*

: **HJ85 Escalating cost of health care in Virginia.**

Establishes a joint subcommittee to study the escalating cost of health care in Virginia. The joint subcommittee shall identify and consider the impact of various influences on escalating health care costs, including dramatically rising prescription drug costs, related to factors such as increased patient demand and education as a result of direct consumer advertising, the introduction of new and expensive drug therapies by pharmaceutical companies, greater reliance on drug therapies by the physician community, and efforts by drug manufacturers to increase market share; the aging of the workforce; increased obesity and other health risk factors among various age groups; critical labor shortages for certain medical professionals such as nurses, physical therapists, and pharmacists; escalating medical malpractice insurance premiums; consolidations of for-

profit health care provider groups, which have enabled providers to negotiate higher reimbursement levels and made it more difficult to contain costs; mergers of health insurers with health care providers, which may result in less competition and increased costs; the erosion in value of fixed-dollar copayment levels over time relative to the cost of medical care to the patient, which may encourage greater use of services; limited information about the effectiveness of many medical tests and procedures; and significant amounts of uncompensated care provided for many individuals without health insurance. The Joint Subcommittee also shall identify potential strategies and mechanisms to address the escalating cost of health care in Virginia, including chronic disease management techniques, provider payment incentive systems, the widespread distribution of comparative quality information about providers and effectiveness information about various medical procedures and tests, restrictive choices of providers, and cost-sharing approaches that provide increased incentives to patients to make cost-effective decisions about their use of health care resources. The joint subcommittee shall complete its meetings for the first year by November 30, 2004, and for the second year by November 30, 2005, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year.

*Patron - Marshall, R.G.*

: **HJ86 Comprehensive Services for At-Risk Youth and Families.** Establishes a joint subcommittee to study the cost effectiveness of the Comprehensive Services for At-Risk Youth and Families program (CSA). In conducting its study, the joint subcommittee shall study the administration of CSA by state and local governments, including projections of case-loads, service needs and costs, and make recommendations for improvement of program services and strategies for cost containment. The chairman must submit an executive summary of the joint subcommittee's findings and recommendations no later than the first day of the 2005 Regular Session of the General Assembly to the Division of Legislative Automated Systems. The executive summary shall state whether the joint subcommittee intends to submit to the Governor and the General Assembly a report of its findings and recommendations for publication as a document. The executive summary and the report shall be posted on the General Assembly's website.

*Patron - Pollard*

: **HJ92 Joint Legislative Audit and Review Commission school funding recommendations.** Creates a 10-member legislative study committee to conduct a one-year study of the feasibility and appropriateness of implementing the recommendations of the 2002 Review of Elementary and Secondary School Funding by the Joint Legislative Audit and Review Commission. In conducting its study, the joint subcommittee shall consider, among other things, the implication of requiring that (i) the costs of implementing the Standards of Quality be estimated on principles consistent with producing a current, prevailing cost; (ii) salaries, support costs, and fringe benefits be funded at the full anticipated levels in the budgetary biennium; (iii) the cost of competing factor for Planning Division 8 support salaries be fully funded; (iv) the use of the linear weighted average to determine prevailing costs be reviewed for any dampening effect on estimates of prevailing costs; and (v) recommendations be developed regarding establishing a teacher salary goal for the Commonwealth.

*Patron - Rust*

: **HJ93 Virginia Public Procurement Act.** Creates a joint subcommittee to study the Virginia Public Procurement Act to ensure the best possible goods and services at the lowest

possible cost and to identify ways that state procurement practices can strengthen Virginia's economy.

*Patron - Amundson*

: **HJ94 Establishing a joint subcommittee to study the redistricting process.** Creates a joint subcommittee comprised of five House and three Senate members to (i) evaluate the present Virginia redistricting process, (ii) review alternative redistricting processes used in other states including, in particular, Arizona and Iowa, (iii) consider both constitutional and statutory changes in the process, and (iv) study the criteria that should be followed in developing redistricting plans. The subcommittee shall complete its work by November 30, 2004. This resolution is incorporated into HJR 165.

*Patron - Amundson*

: **HJ102 Nonmigratory Canada geese.** Requests that the Department of Game and Inland Fisheries study strategies to control nonmigratory Canada Geese populations.

*Patron - Watts*

: **HJ104 Joint Legislative Audit and Review Commission; Office of Inspector General.** Directs the Joint Legislative Audit and Review Commission to study the establishment of an office of inspector general in each Secretariat.

*Patron - Brink*

: **HJ111 Safe Routes to School.** Requests the Board of Education to examine the feasibility and appropriateness of implementing a Safe Routes to School Program in the Commonwealth. In conducting its study, the Board shall examine (i) Safe Routes to School programs in other states; (ii) the respective roles of state and local education, transportation, law enforcement, and other entities; (iii) current initiatives in the Commonwealth addressing student safety in walking or cycling to school; (iv) relevant fiscal and safety concerns; and (v) such other issues as it deems necessary.

*Patron - Van Yahres*

: **HJ115 The use and financing of trauma centers in the Commonwealth's hospitals.** Requires the Joint Legislative Audit and Review Commission to study use and financing of Virginia's designated trauma centers. In conducting its study, the Joint Legislative Audit and Review Commission must (i) examine utilization trends vis-a-vis number of patients served and kind of services delivered; (ii) compare Virginia's utilization trends to national utilization trends; (iii) assess the demographics of patients requiring trauma center services in Virginia; (iv) conduct an insurance profile of the patients requiring these services in Virginia and, in so far as possible, the nation; (v) analyze the financial costs and benefits to hospitals of being designated a trauma center, including any public relations or other "good will" benefit from being known as a trauma center; and (vi) determine any steps that can be taken to maintain appropriate and necessary trauma services in Virginia's hospitals. The Commission must report by the first day of the 2005 Session. This resolution is incorporated into HJR 183.

*Patron - Jones, D.C.*

: **HJ121 Local correctional facilities.** Establishes a joint subcommittee to study good conduct allowance for jail inmates.

*Patron - Keister*

: **HJ131 Expansion of Hampton Roads Bridge-Tunnel.** Requests the Virginia Department of Transportation to study the desirability, feasibility, and cost of constructing two additional tunnel tubes parallel to the existing tunnel tubes of

the Hampton Roads Bridge-Tunnel connecting the Cities of Hampton and Norfolk and expanding a portion of Interstate Route 64 in Norfolk.

*Patron - Gear*

: **HJ135 Access to and the availability of geriatricians and ways to increase geriatrics expertise among Virginia's health professionals; report.** Directs the Joint Commission on Health Care to survey the Commonwealth's three medical schools and other health professional programs in Virginia's private and public institutions of higher education to ascertain how geriatrics is covered in the curricula and what, if any, plans have been or are being made to develop specific programs focused on geriatrics or incorporating appropriate principles into the present programs for surgeons, psychiatrists, neurologists, dentists, other specialty areas, and primary care specialties. The Joint Commission must also ascertain how the known effects of aging on the immune system, the nervous system and other organ systems are approached or included in the relevant courses of various undergraduate courses for health care professionals or basic science classes for graduate and professional students. In its deliberations, the Joint Commission shall determine the adequacy of the Commonwealth's programs and whether additional projects, programs, or curriculum should be initiated in order to produce an adequate supply of geriatricians to care for Virginia's senior citizens. Upon completion of its data collection and analyses, the Joint Commission must make recommendations concerning (i) the professionals that should be encouraged to study geriatrics, (ii) additions to any medical school or higher education curriculum, (iii) the number of geriatricians in various health professions and specialties that will be needed in Virginia by 2010, and (iv) initiatives for individuals enrolled in various medical and health care education to become geriatricians. The Joint Commission must report its findings by the first day of the 2005 Session.

*Patron - Morgan*

: **HJ143 Escalating costs of health insurance in Virginia.** Establishes a 10-member joint subcommittee to study the escalating costs of health insurance in Virginia, by identifying and considering the impact of various influences such as the dramatically rising prescription drug costs; increased patient demand and education for new drugs and other new medical therapies; the effects of direct consumer advertising; greater reliance on drug therapies by the physician community; efforts by drug manufacturers to increase market share; the aging of the workforce; increased obesity and other health risk factors among various age groups; critical labor shortages for certain medical professionals such as nurses, physical therapists, and pharmacists; escalating medical malpractice insurance premiums; consolidations of for-profit health care provider groups, which have enabled providers to negotiate higher reimbursement levels and made it more difficult to contain costs; mergers of health insurers with health care providers, which may result in less competition and increased costs; the erosion in value of fixed-dollar co-payment levels over time relative to the cost of medical care to the patient, which may encourage greater use of services; limited information about the effectiveness of many medical tests and procedures; and significant amounts of uncompensated care provided for many individuals without health insurance. The joint subcommittee must also collect and analyze data relating to the past and present business practices of the insurance companies, without intruding into the realm of proprietary business information, to determine the companies' yearly total premiums, surplus funds, net incomes, and assets; the salaries of executives and bonuses or other perquisites for executives; workforce size and makeup; actual costs of the delivered services to the company, as negotiated with health care providers;

the effects of conversion to stock companies; and the effects of any changes in corporate documents or any other matters relating to company structure and form that may be relevant to costs. This two-year study group must report by way of an executive summary posted by the first day of the 2005 and 2006 Sessions. The executive summary will note whether a report will be submitted.

*Patron - Marshall, R.G.*

: **HJ147 Department of Social Services; reporting of adult abuse and neglect.** Requests the Virginia Department of Social Services to study the detection and reporting of caregiver abuse, neglect, and exploitation of adults. In conducting its study, the Department shall (i) determine whether caregiver abuse, neglect, and exploitation of adults can be adequately prosecuted under existing domestic violence or other criminal statutes; (ii) determine whether hospital admission procedures should track occurrences of conditions that could indicate adult abuse or neglect; (iii) develop a list of mandatory reporters and establish reporting procedures comparable to those regarding suspected abuse or neglect of children; and (iv) determine whether family violence fatality review teams should investigate the deaths of adults who were being cared for by nonfamily members when abuse or neglect is a suspected cause of death. The commissioner of the Department shall submit to the Division of Legislative Automated Systems an executive summary and report of the progress in meeting the request of this resolution no later than the first day of the 2005 Regular Session of the General Assembly. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

*Patron - Watts*

: **HJ149 Establishing a joint subcommittee to examine advisory referenda procedures.** Establishes an eight-member joint subcommittee appointed from the House and Senate Committees on Privileges and Elections to propose a uniform process for advisory referenda for localities throughout the Commonwealth.

*Patron - Ware, O.*

: **HJ151 Need for and cost of additional veterans care centers and cemeteries.** Requests that the Department of Veterans Services study the need for and cost of additional veterans care centers and cemeteries. The Department of Veterans Services shall (i) examine the present services provided by Virginia's veterans care centers and cemeteries and the related costs; (ii) identify situations where veterans' needs are not presently being met; (iii) examine whether changes to the federal government's veterans' policies and practices are failing to meet the needs of Virginia's veterans; (iv) recommend whether Virginia should increase the services it provides Virginia's veterans via care centers and cemeteries and identify the related costs; (v) recommend whether Virginia should construct or acquire facilities to house additional veterans care centers and identify the related costs; and (vi) recommend whether Virginia should acquire property for additional veterans cemeteries and identify the related costs. The Department of Veterans Services shall complete its meetings by November 30, 2004, and the executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2005 Regular Session of the General Assembly.

*Patron - Dillard*

: **HJ155 Racial and ethnic disparity in mental health services.** Establishes a joint subcommittee to study

racial and ethnic disparity in mental health services. In conducting its study, the joint subcommittee shall identify the mental disorders prevalent among racial and ethnic minority citizens in the Commonwealth, (ii) determine whether such persons suffer disproportionately from depression and substance abuse; (iii) determine why such persons are less likely to receive needed mental health services and whether they have less access to such services, and the availability of mental health services; (iv) assess the quality of mental health services that minorities receive and whether mental health care providers are required to develop cultural diversity competencies; (v) assess the extent to which cultural, economic, and social influences are determinants of mental illness, and how such factors effect the willingness of minority citizens to seek care, communication with mental health care providers, and diagnosis, treatment, and service delivery; (vi) ascertain the supply and demand of racial and ethnic mental health care providers; and (vii) recommend ways to eliminate racial and ethnic disparity in mental health services and the underrepresentation of minorities in mental health research. The joint subcommittee must submit an interim report to the 2004 and 2005 Sessions of the General Assembly.

*Patron - Baskerville*

: **HJ157 Racial and ethnic disparities in health care.** Establishes a joint subcommittee to study ways to eliminate racial and ethnic disparity in health care in Virginia. In conducting its study, the joint subcommittee shall (i) identify the health status and needs of racial and ethnic minority populations in Virginia; (ii) evaluate the need for more racial and ethnic minority health care providers; (iii) determine ways to improve and increase the delivery of health care services in minority and medically underserved communities, including strategies to overcome language barriers; (iv) ascertain the need for cultural competency training for health care providers; (v) assess the need for patient education programs to increase patients' health literacy, knowledge, and skills in navigating the health care system; and (vi) consider such other related issues and concerns as the joint subcommittee deems necessary and appropriate to accomplish the objectives of this resolution. The joint subcommittee must submit an executive summary of its findings and recommendations to the 2004 and 2005 Sessions of the General Assembly.

*Patron - Baskerville*

: **HJ160 Pain management in long-term care facilities in the Commonwealth.** Directs the Joint Commission on Health Care to conduct a study of the issue of developing a pain management standard for long-term care facilities in Virginia. In conducting its study, the Joint Commission must review the report of the National Conference of State Legislatures titled "State Initiatives in End of Life Care," outlining advice and questions to guide legislators in improving pain and symptom management for patients approaching the end of their lives. This resolution details statistics indicating that nursing home residents do not receive adequate pain assessments or pain management therapy. The Joint Commission is directed to report its findings by the first day of the 2005 Session.

*Patron - Brink*

: **HJ161 Joint subcommittee to study the appointment, responsibilities, and oversight of the Commonwealth's general registrars.** Creates a nine-member joint subcommittee to examine various issues involving the appointment, responsibilities and oversight of office of the general registrar.

*Patron - Jones, S.C.*

: **HJ165 Joint subcommittee to study the redistricting process.** Creates a joint subcommittee comprised of

five House and three Senate members to (i) evaluate the present Virginia redistricting process, (ii) review alternative redistricting processes used in other states including, in particular, the use of advisory commissions to prepare redistricting plans for consideration by the legislature, (iii) consider both constitutional and statutory changes in the process, and (iv) study the criteria that should be followed in developing redistricting plans. The subcommittee shall complete its work by November 30, 2004.

*Patron - Plum*

: **HJ166 U.S. Route 460 Communications Committee.** Extends the Committee's mandate until construction of the U.S. Route 460 upgrade project has begun. This resolution is incorporated into HJR 185.

*Patron - Wardrup*

: **HJ167 Commissioners of Revenue, Treasurers and Directors of Finance.** Directs the Joint Legislative Audit and Review Commission to study the functions and operations of the Commissioners of Revenue, Treasurers, and Directors of Finance. The study shall address (i) the benefits provided by the three local financial officers to the Commonwealth and its localities; (ii) whether the benefits outweigh the costs; (iii) whether alternative methods of State financing for these offices would be feasible and advisable; (iv) whether the State tax assistance function carried out by these local officers is valuable and cost-effective; and (v) such other related issues as it deems appropriate by the Commission.

*Patron - Wardrup*

: **HJ169 Qualifications for boards of visitors of the Commonwealth's public institutions of higher education.** Establishes a joint subcommittee to study the feasibility and appropriateness of requiring qualifications of members of the boards of visitors of public institutions of higher education in Virginia. The joint subcommittee is charged to consider, among other things, qualifications and training requirements of boards of visitors in the Commonwealth and other states; the appointment and term requirements for boards of visitors in other states; the recommendations of the Governor's Blue Ribbon Commission on Higher Education; and such other issues as it deems necessary. The joint subcommittee must submit its executive summary by the first day of the 2005 Regular Session of the General Assembly.

*Patron - Purkey*

: **HJ177 Development of a National Lambda Rail Advanced Performance Standard Initiative.** Directs the Joint Commission on Technology and Science to determine what public resources, including but not limited to public-private partnerships, other public and private resources, taxation policies, and direct financial assistance may be used to further the development of a National Lambda Rail, advanced, high-speed telecommunications backbone network with the capability of transmitting a minimum of one gigabit per second (OC-24) utilizing the IPv6 Internet Protocol to all workstations within the Commonwealth; and monitor, cooperate, and coordinate with other agencies of the Commonwealth and committees of the General Assembly to ensure a sound, progressive statewide program is in place and being actively pursued. The National Lambda Rail project is a collaborative effort among a number of universities, federal research and development agencies, and private sector firms to develop a next generation Internet for research and education, including both enhanced network services as well as the multimedia applications that will be enabled by those services.

*Patron - Rust*

: **HJ178 Linear weighted average.** Requests the Joint Legislative Audit and Review Commission to study the feasibility and appropriateness of modifying or eliminating use of the linear weighted average in the calculation of certain costs of providing educational programs meeting the Standards of Quality. In conducting its study, the Joint Legislative Audit and Review Commission shall review, among other things, (i) its findings and recommendations regarding the linear weighted average in its 2002 Review of Elementary and Secondary School Funding and in its 2003 Interim Report on Best Practices for the Support Services of School Divisions; (ii) funding methodologies implemented in other states; and (iii) such other issues as it deems appropriate. The Joint Legislative Audit and Review Commission shall complete its meetings by November 30, 2004, and the Chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2005 Regular Session of the General Assembly. This resolution is incorporated into HJR 92.

*Patron - Dillard*

: **HJ184 Tourism.** Establishes a joint subcommittee to study the growth of tourism in the Commonwealth. The study will (i) examine consumer and business travel trends; (ii) review projected estimates of travel expenditures and travel-generated payroll and employment in the Commonwealth; (iii) evaluate the performance of travel-related industries and the state's infrastructure to sustain and promote tourism, including the labor force, transportation (air, rail, and roads), restaurants, accommodations, welcome centers, amusement and recreation services; (iv) evaluate the Commonwealth's spending on promoting tourism through advertisement and marketing strategies and examine ways to bolster such strategies; and (v) examine opportunities to promote regional tourism with neighboring states.

*Patron - McDonnell*

: **HJ198 Cost savings in providing members with videoconferencing equipment.** Directs the Clerk of the House of Delegates and the Clerk of the Senate to collect data on the potential cost savings of providing members with communication equipment to enable them to participate in interim meetings through videoconferencing. In collecting the data, the Clerks shall identify (i) the costs of acquiring, maintaining, and upgrading videoconferencing equipment, including hardware, software, and network access, for members to use from remote locations; (ii) the potential cost savings from reduced payments for travel-related expenses; and (iii) any other relevant cost factor involved with the expansion of videoconferencing.

*Patron - Armstrong*

: **HJ201 Faculty compensation.** Requests the State Council of Higher Education to examine the current methodology for establishing faculty salary structure among the public institutions of higher education in the Commonwealth for the purpose of assessing the parity and appropriateness of the current system. The State Council shall complete its study by October 1, 2004, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2005 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

*Patron - Nutter*

: **HJ203 Redistricting commission.** Establishes a joint subcommittee to study the desirability of creating a Virginia Redistricting Commission. This resolution is incorporated into HJR 165.

*Patron - Moran*

: **HJ227 Conditional zoning.** Establishes a joint subcommittee to study conditional zoning and its effect on residential development patterns and the cost of housing. This resolution is incorporated into HJR 170.

*Patron - Ingram*

: **HJ274 Seriously injured public safety officers.** Establishes a joint subcommittee to study Virginia's current benefits for public safety officers who suffer catastrophic personal injuries in the line of duty and to make recommendations to the General Assembly for any changes or additions to such benefits deemed appropriate. This resolution is incorporated into HJR 34.

*Patron - Carrico*

: **SJ1 Virginia Public Records Act.** Creates a joint subcommittee to study the Virginia Public Records Act, electronic records, and their effect on the state depository system. In conducting its study, the joint subcommittee shall examine the Virginia Public Records Act and the extension of its scope to (i) provide and assign authority to establish and maintain guidelines or regulations for the creation, transfer, and archival preservation of electronic state records and publications; (ii) provide and assign authority to establish and maintain procedures for the official authentication of e-records and documents; and (iii) establish a means to identify, describe, receive, and manage discrete electronic government information products covered by copyright. This resolution is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This resolution is identical to HJR 6.

*Patron - Martin*

: **SJ22 Kinship care.** Directs the Joint Legislative and Audit Review Commission to determine (i) the extent to which children in foster care are placed with relatives and the conditions under which children enter kinship care; (ii) the costs and sources of funds from all sources for kinship care; (iii) the current policy of the Commonwealth regarding kinship care; (iv) the characteristics of kinship caregivers and their households, services provided to kinship caregivers and birth parents; (v) the conditions, if any, under which birth parents may have access to their children in kinship care; and (vi) whether and how plans to provide transition from temporary to permanent kinship care for children should be developed and implemented.

*Patron - Miller*

: **SJ27 Redistricting process.** Creates a joint subcommittee comprised of five House and three Senate members to (i) evaluate the present Virginia redistricting process, (ii) review alternative redistricting processes used in other states, (iii) consider both constitutional and statutory changes in the process, and (iv) study the criteria that should be followed in developing redistricting plans.

*Patron - Williams*

: **SJ28 Educational technology funding.** Creates a 14-member joint subcommittee, comprised of legislators, citizens, and agency officials, to review the feasibility and appropriateness of implementing the educational technology funding

options recommended by the Joint Legislative and Audit Review Commission.

*Patron - Puller*

: **SJ29 Need for and cost of additional veterans care centers.** Requests that the Department of Veterans Services study the need for and cost of additional veterans care centers. The Department of Veterans Services shall (i) examine the present services provided by Virginia's veterans care centers and the related costs; (ii) identify situations where veterans' needs are not presently being met; (iii) examine whether changes to the federal government's veterans' policies and practices are failing to meet the needs of Virginia's veterans; (iv) recommend whether Virginia should increase the services it provides Virginia's veterans via care centers and identify the related costs; and (v) recommend whether Virginia should construct or acquire facilities to house additional veterans care centers and identify the related costs. The Department of Veterans Services shall complete its meetings by November 30, 2004, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations no later than the first day of the 2005 Regular Session of the General Assembly. This resolution was referred to the Senate Committee on Finance for further consideration of the topic by one of its subcommittees during the 2004 interim.

*Patron - Puller*

: **SJ37 Overpopulation of companion animals.** Requests the State Veterinarian to study means to address the issue of overpopulation of companion animals and the associated high rate of euthanasia.

*Patron - Potts*

: **SJ45 Issues relating to delegation to registered nurses of screening and testing pursuant to the Medicaid program known as Early and Periodic Screening, Diagnosis and Treatment (EPSDT).** Requests the Secretary of Health and Human Resources to establish a task force to examine registered nurse delegation of screening and testing under EPSDT. Early and Periodic Diagnosis and Treatment services to children eligible for medical assistance services, which includes comprehensive child health assessments and testing, such as blood-lead testing, when indicated, is a requirement for state Medicaid programs. In conducting its study, the Secretary's task force must (i) review the EPSDT protocols; (ii) identify the screening and testing tasks that could presently be delegated to registered nurses; (iii) identify any screening and testing tasks that would require additional training to be delegated to registered nurses; (iv) evaluate any quality of care issues relating to delegation to a registered nurse by a physician or nurse practitioner; (v) evaluate any costs/reimbursement issues relating to delegation to a registered nurse by a physician or nurse practitioner; (vi) evaluate supervision issues relating to delegation to a registered nurse by a physician or nurse practitioner; (vii) consider the advantages or benefits and disadvantages or disincentives to physicians and nurse practitioners of authorization to delegate EPSDT screening and testing to registered nurses; and (viii) consider whether any cost savings can be realized for delegation to a registered nurse of EPSDT screening and testing. This resolution is a recommendation of the Joint Subcommittee Studying Lead-Poisoning Prevention.

*Patron - Lambert*

: **SJ46 Facilitating communication and cooperation on blood-lead testing issues.** Requests the Division of Consolidated Laboratory Services and the Secretary of Health and Human Resources to establish a task force to evaluate relevant agencies' processes, forms, guidance letters, etc. that

could be revised or standardized to (i) improve providers' understanding of when to submit samples to the Division for testing; (ii) avoid inappropriate funding of tests; and (iii) document for federal authorities the efficiency of the blood-lead testing component of Lead-Safe Virginia. The purpose of the taskforce will be to establish a consistent approach to the processes and communications relating to blood-lead testing. The Division of Consolidated Laboratory Services and the Secretary of Health and Human Resources may view this collaboration as a pilot study to determine if other collaboration on processes, communications and forms would benefit all involved parties. This resolution is a recommendation of the Joint Subcommittee Studying Lead-Poisoning Prevention.

*Patron - Lambert*

: **SJ48 Reestablishment of the Joint Commission on Management of the Commonwealth's Workforce.** Reestablishes the Joint Commission on Management of the Commonwealth's Workforce to continue its comprehensive evaluation of the Commonwealth's Compensation, personnel, and management policies and procedures and formulate recommendations for improvements. This resolution was referred to the Senate Committee on Finance for further consideration of the topic by one of its subcommittees during the 2004 interim.

*Patron - Lambert*

: **SJ50 Public-Private Long-Term Care Insurance Partnership Programs for Virginia.** Requests the Department of Medical Assistance Services to study the feasibility of Public-Private Long-Term Care Insurance Partnership Programs for Virginia. In conducting its study, the Department of Medical Assistance Services shall (i) project the need for long-term care services in Virginia; (ii) review the provisions and determine the number of long term care insurance policies sold in the Commonwealth; (iii) consider the criteria that should be established for public-private long-term care insurance partnership programs in Virginia; (iv) estimate the costs savings to the Commonwealth with the implementation of such insurance partnership programs; and (v) recommend such changes in the law that may be necessary for the implementation of such programs.

*Patron - Edwards*

: **SJ53 Remote sales tax collection.** Creates a joint subcommittee consisting of 17 members (five delegates, four appointed by the Speaker and the chairman of the Joint Commission on Technology and Science, who is a delegate and a member of the House Committee on Science and Technology; three senators; six citizens; and the Secretaries of Finance, Technology, and Commerce and Trade, who serve as nonvoting members) to study the impact of collecting remote sales taxes on the economy of the Commonwealth, including the impact on revenue and small businesses. In conducting its study, the joint subcommittee shall determine the amount of revenue the Commonwealth would generate and the impact on small businesses within the Commonwealth if the Commonwealth collected taxes on remote sales; and the ability to use the lack of a requirement to collect remote sales as a marketing tool.

*Patron - Devolites*

: **SJ56 Outsourcing certain noninstructional services.** Requests the Joint Legislative Audit and Review Commission (JLARC) to study outsourcing opportunities for noninstructional services in public school divisions in the Commonwealth. In conducting its study, the JLARC shall examine (i) current state and local costs incurred for noninstructional services in the public schools; (ii) noninstructional services that local school divisions may provide beyond those

that may be currently required by statute or regulation; (iii) the extent to which school divisions currently seek private sector providers for noninstructional services; (iv) the potential impact of authorizing school divisions to retain any savings realized by such outsourcing; (v) current provisions authorizing the reversion of local funds; and (vi) such other issues as it deems appropriate.

*Patron - O'Brien*

: **SJ71 Status and educational needs of African-American students in Virginia.** Directs the Dr. Martin Luther King, Jr. Memorial Commission to study the status and educational needs of African-American students in Virginia. The Commission shall (i) conduct a comprehensive evaluation of the status of education of African-American students in Virginia; (ii) identify the factors contributing to the academic achievement gap between African-American students and students of other races; (iii) determine the educational needs of such students throughout the educational continuum; (iv) develop a plan to close the academic achievement gap; (v) propose recommendations to improve the education of such students; and (vi) consider such other related issues and concerns as the Commission may deem appropriate and necessary to accomplish the objectives of this resolution.

*Patron - Marsh*

: **SJ78 Transportation maintenance, construction, and funding.** Establishes a 10-member joint subcommittee to conduct a two-year study of Virginia's transportation maintenance and construction program and its funding. This resolution was referred to the Senate Committee on Finance for further consideration of the topic by one of its subcommittees during the 2004 interim.

*Patron - Hanger*

: **SJ82 Senate and House Finance Committees to continue study of tax code.** Directs the Senate Committee on Finance and the House Committee on Finance to continue reviewing the state tax code and tax policy issues on an ongoing basis. This resolution was referred to the Senate Committee on Finance for future examination of the topic during the 2004 interim.

*Patron - Hanger*

: **SJ87 Joint subcommittee on the future of Virginia's public institutions of higher education.** Creates the 20-member, two-year joint subcommittee on the future of Virginia's public institutions of higher education. In conducting its study, the joint subcommittee shall examine, among other things, (i) access to Virginia's public institutions and projected enrollments; (ii) tuition and fee considerations and the availability of student financial aid from public and private sources; (iii) capital construction challenges and the feasibility of enhancing distance learning opportunities; (iv) faculty recruitment and retention; (v) admissions policies and minority access; (vi) such other issues as it deems appropriate.

*Patron - Mims*

## Carried Over

**7 HJ81 Public-private funding of studies.** Directs the Joint Legislative Audit and Review Commission, with the assistance of the Attorney General, to study the appropriateness and feasibility of creating public-private partnerships for funding studies to benefit the Commonwealth. The Commission shall examine (i) public-private study partnerships in other states; (ii) the feasibility and appropriateness of implementing any such partnerships in the Commonwealth on a pilot project basis; and (iii) constitutional, financial, and policy issues

regarding the creation of hybrid public-private studies. The Commission shall develop criteria for determining what studies should receive public-private funding and a process and criteria for soliciting, accepting and distributing private funds.

*Patron - Purkey*

**7 HJ87 Compliance with No Child Left Behind Act.** Requests the Joint Legislative Audit and Review Commission to study the fiscal implications of the Commonwealth's compliance with the federal No Child Left Behind (NCLB) Act. In conducting its study, the Joint Legislative Audit and Review Commission shall examine (i) the additional initiatives Virginia must enact to comply with NCLB, and the estimated associated costs, specifically, the potential costs imposed by additional assessments, training and employment of highly qualified teachers and instructional paraprofessionals, and enhanced data collection and reporting systems; (ii) the levels of federal funding the Commonwealth currently receives to support public education initiatives; (iii) the fiscal and policy implications of noncompliance with the Act; and (iv) such other issues as it deems appropriate.

*Patron - Pollard*

**7 HJ119 Use of soil stabilizers in highway shoulders.** Requests the Virginia Transportation Research Council to study the use of soil stabilizers in highway shoulders at one or more selected locations.

*Patron - May*

**7 HJ128 Department of Taxation to study sales tax exemptions.** Requests the Department of Taxation to study all of the sales and use tax exemptions. In conducting its study, the Department will compile data for each of the 10 categories of sales tax exemptions including, when possible, (i) the number (or an estimate) of entities taking the exemptions, (ii) the revenue loss broken down by types of organizations within each of the 10 categories as far as possible, and (iii) any other data it deems helpful in evaluating the exemptions and their impact on revenues. The Department of Taxation shall also describe problems with how the current exemption process works and recommend changes to improve it. It is a two-year study with a report to be submitted to the 2005 and 2006 General Assembly Sessions.

*Patron - Hamilton*

**7 HJ144 Bureau of Insurance; the operations of the health insurance industry and the escalating cost of health insurance in Virginia.** Requests the Bureau of Insurance to study the operations of the health insurance industry and the escalating cost of health insurance in Virginia by identifying and considering the impact of various influences on escalating health insurance costs, including dramatically rising prescription drug costs; increased patient demand and education for new drugs and other new medical therapies; the effects of direct consumer advertising; greater reliance on drug therapies by the physician community; efforts by drug manufacturers to increase market share; the aging of the workforce; increased obesity and other health risk factors among various age groups; critical labor shortages for certain medical professionals such as nurses, physical therapists, and pharmacists; escalating medical malpractice insurance premiums; consolidations of for-profit health care provider groups, which have enabled providers to negotiate higher reimbursement levels and made it more difficult to contain costs; mergers of health insurers with health care providers, which may result in less competition and increased costs; the erosion in value of fixed-dollar co-payment levels over time relative to the cost of medical care to the patient, which may encourage greater use of services; limited information about the effectiveness of many medical tests and procedures; and significant amounts of

uncompensated care provided for many individuals without health insurance. The Bureau of Insurance must also collect, analyze, and report aggregate data relating to the past and present business practices of the insurance companies to determine the companies' yearly total premiums, surplus funds, net incomes, and assets; the salaries of executives and bonuses or other perquisites for executives; workforce size and makeup; actual costs of the delivered services to the company, as negotiated with health care providers; the effects of conversion to stock companies; and the effects of any changes in corporate documents or any other matters relating to company structure and form that may be relevant to costs. In addition, the Bureau of Insurance will identify potential strategies and mechanisms to address the escalating costs of health insurance in Virginia, including regulatory schemes and enforcement, chronic disease management techniques, provider payment incentive systems, the widespread distribution of comparative quality information about providers and effectiveness information about various medical procedures and tests, restrictive choices of providers, and cost-sharing approaches that provide increased incentives to patients to make cost-effective decisions about their use of health care resources. The Bureau of Insurance will report an executive summary and a report of its findings and recommendations (for publication as a document) by the first day of the 2005 Regular Session of the General Assembly.

*Patron - Marshall, R.G.*

**7 HJ181 School division consolidation.** Directs the Joint Legislative Audit and Review Commission to study (i) current state constitutional and statutory provisions governing school division consolidation; (ii) relevant judicial precedent addressing school desegregation and other constitutional concerns; (iii) current cooperative practices for shared services in Virginia school divisions; (iv) school consolidation procedures in other states; (v) economic and educational efficiencies to be gained or lost by school division consolidations; (vi) recent division consolidations and joint school division operations in Virginia; and (vii) such other issues as it deems appropriate. The study is to be completed in one year.

*Patron - Saxman*

**7 HJ182 Outsourcing certain noninstructional services.** Requests the Joint Legislative Audit and Review Commission (JLARC) to study outsourcing opportunities for noninstructional services in public school divisions in the Commonwealth. In conducting its study, the JLARC shall examine (i) current state and local costs incurred for noninstructional services in the public schools; (ii) noninstructional services that local school divisions may provide beyond those that may be currently required by statute or regulation; (iii) the extent to which school divisions currently seek private sector providers for noninstructional services; (iv) the potential impact of authorizing school divisions to retain any savings realized by such outsourcing; (v) current provisions authorizing the reversion of local funds; and (vi) such other issues as it deems appropriate.

*Patron - Saxman*

**7 HJ226 Natural aquatic resources.** Requests the Virginia Institute of Marine Science, in consultation with the appropriate state and federal natural resource management agencies, local governments, and interested parties to study the natural aquatic resources associated with available water resources. It is a two-year study with the final report to be submitted to the 2006 Session of the General Assembly. This resolution was continued to the 2005 Session by the Senate Rules Committee, and the subject matter will be considered by the State Water Commission during the 2004 interim.

*Patron - Morgan*

**7 SJ41 General registrars.** Creates a nine-member joint subcommittee to examine various issues involving the appointment, responsibilities and oversight of office of the general registrar. The chairman of the Senate Committee on Privileges and Elections agreed to examine the topic of this resolution under his authority granted by the Rules of the Senate during the 2004 interim.

*Patron - Martin*

**7 SJ63 Teachers as state employees.** Requests the Board of Education to study the feasibility and appropriateness of granting public school teachers and administrators state employee status. In conducting its study, the Board shall examine (i) state constitutional and statutory requirements as well as judicial interpretation of the supervisory role of school boards; (ii) the fiscal and policy implications for the Commonwealth and local school divisions should responsibility for the employment of administrative and instructional personnel be transferred to the Commonwealth; (iii) the benefits of such a conversion, and alternative methods of procuring such benefits for administrative and instructional personnel; and (iv) such other issues as it deems appropriate.

*Patron - Ruff*

## Charters and Authorities

### Passed

**D HB24 Rudee Inlet Authority.** Repeals the 1960 act that created the Rudee Inlet Authority. The authority has reportedly long been dormant and its duties have been taken over by various city offices of Virginia Beach. This is a recommendation of the Virginia Code Commission.

*Patron - Landes*

**D HB53 Charter; City of Winchester.** Increases the term of school board members from three to four years.

*Patron - Sherwood*

**D HB56 Charter; City of Colonial Heights.** Shifts city elections for the council and school board from May to November. Those currently in office shall have their terms extended by six months.

*Patron - Cox*

**D HB57 Charter; City of Franklin.** Increases the salaries of school board members from \$1,000 to \$4,000 and the school board chairman from \$1,500 to \$5,000.

*Patron - Council*

**D HB58 Luray-Page County Airport Authority.** Provides for the establishment of the Luray-Page County Airport Authority upon resolutions adopted by the participating county and town. The powers of the authority, vested in a five-member board of directors, are typical of other airport authorities.

*Patron - Louderback*

**D HB176 Charter; City of Richmond.** Provides for the direct election of the mayor, beginning in November 2004. The person receiving the most votes in each of at least five of the nine city council districts shall be elected. Should no one be elected, a runoff election shall be held on between the two persons receiving the highest total of votes citywide. The person receiving the most votes in each of at least five of the nine city council districts shall be elected. An elected term shall run four



years. Anyone eligible to serve on city council may serve as mayor except no one may be elected mayor for three consecutive full terms. The mayor shall be the chief executive officer of the city and shall be responsible for the proper administration of city government. The mayor shall be recognized as the head of government for all ceremonial purposes, military law and the service of civil process. The office of mayor shall be a full-time position with salary and expenses set by the council. The position of city manager is replaced by the position of chief administrative officer, appointed by the mayor subject to the advice and consent of a majority of the members of city council. The chief administrative officer shall serve at the pleasure of the mayor. Additional amendments clarify the responsibilities of the mayor and the chief administrative officer.

*Patron - Baskerville*

**D HB241 Charter; Town of Christiansburg.** Provides that neither the mayor nor any member of the town council during his tenure of office as such shall be eligible to any remunerative office, position, or employment with the Town.

*Patron - Nutter*

**D HB249 Charter; City of Fairfax.** Provides that the Mayor and council members may be compensated in accordance with general law.

*Patron - Petersen*

**D HB550 Charter; Town of Purcellville.** Provides that if a council vacancy occurs prior to the midpoint of the term, there shall be an election at the next regular council election to fill the remaining two years of the term. Also, council is given authority to appoint an architectural review board, which shall be responsible for the review and implementation of architectural design standards for all commercial and overlay districts.

*Patron - May*

**D HB559 Charter; Chesterfield County.** Provides that the County shall have the power to create or modify certain assessment districts for local improvements. For any such assessment district created after January 1, 2003, the Board may provide for the payment of an assessment of costs for improvements, or of any installment due pursuant to § 15.2-2413 of the Code of Virginia, to be suspended when any owner who owned property on the day the ordinance creating the assessment district was adopted and who occupies a residential building located on the property is 65 years of age or older.

*Patron - Marrs*

**D HB823 Charter; City of Norfolk.** Amends the charter by (i) granting authority to create voluntary design overlay districts, (ii) clarifying the meeting times of council, and (iii) making changes to the status of certain employees reporting to the city manager.

*Patron - Drake*

**D HB968 Charter; City of Williamsburg.** Provides that the City may create underground utility districts upon a petition signed by at least three-fourths of the land owners within a proposed district. Also, school board member salaries are clarified and the clerk of council is given additional authority to administer oaths.

*Patron - Barlow*

**D HB994 Charter; Town of Clifton.** Provides that the vice mayor shall preside in the absence of the mayor.

*Patron - Hugo*

**D HB1088 Charter; City of Radford.** Updates the City's boundary description, provides that all readings of ordi-

nances shall require an affirmative vote of the majority of the members present and voting to pass, and makes numerous technical and clarifying changes.

*Patron - Nutter*

**D HB1112 Charter; City of Harrisonburg.** Provides that the mayor may resign the office of mayor without giving up his or her membership on council. Also, the council may, by unanimous vote of the council members other than the mayor, remove the mayor from the office of mayor.

*Patron - Weatherholtz*

**D HB1206 Charter; Town of Glasgow.** Provides for staggered council terms and deletes obsolete provisions.

*Patron - Cline*

**D HB1248 Charter; City of Falls Church.** Makes changes affecting the internal operations and administration of city government in order to give the City greater flexibility to deal with personnel and other matters.

*Patron - Scott, J.M.*

**D SB97 Charter; City of Fairfax.** Provides that the mayor and council members may be compensated in accordance with general law.

*Patron - Devolites*

**D SB124 Charter; City of Richmond.** Amends the city's charter to provide for the direct election of the mayor. At the November 2004 election, and every four years thereafter, a general election shall be held to elect the mayor. The person receiving the most votes in each of at least five of the nine city council districts shall be elected. Should no one be elected, a run-off election shall be held between the two persons receiving the highest total of votes citywide. The person receiving the most votes in each of at least five of the nine city council districts shall be elected. An elected term shall run four years. Anyone eligible to serve on city council may serve as mayor except no one may be elected mayor for three consecutive full terms. The mayor shall appoint the chief administrative officer subject to the advice and consent of a majority of the members of city council. The chief administrative officer shall be responsible solely to the mayor and serve at the pleasure of the mayor. The mayor will be a full-time position with salary and expenses set by the city council.

*Patron - Watkins*

**D SB203 Charter; City of Falls Church.** Makes changes affecting the internal operations and administration of city government in order to give the City greater flexibility to deal with personnel and other matters.

*Patron - Whipple*

**D SB211 Charter; City of Franklin.** Increases the salaries of school board members from \$1,000 to \$4,000 and the school board chairman from \$1,500 to \$5,000.

*Patron - Quayle*

**D SB396 Charter; City of Williamsburg.** Provides that the City may create underground utility districts upon a petition signed by at least three-fourths of the land owners within a proposed district. Also, school board member salaries are clarified and the clerk of council is given additional authority to administer oaths.

*Patron - Norment*

**D SB472 Charter; City of Alexandria.** Makes several changes including (i) authority to provide grants not to exceed \$5,000 to employees to purchase or rent residences within the City, (ii) grandfathering of city ordinances that may

not have complied with general law, so long as the action was in compliance with the then applicable local law, (iii) clarifying that certain local procedures preempt provisions of general law, and (iv) clarifying certain notice provisions.

*Patron - Ticer*

**D SB522 Charter; City of Lexington.** Provides that vacancies in the office of mayor or in council shall be filled by election if the vacancy occurs during the first 18 months of the term.

*Patron - Hanger*

**D SB561 Charter; City of Richmond.** Extends council terms from two to four years, subject to approval by voter referendum, restores language repealed by charter amendments of 1998 related to nomination of council candidates, removes the requirement of a public hearing for council appointees who are removed from office, clarifies language regarding appointment and removal of certain appointees, creates a new group of appropriations that are exempt from lapsing at the close of a fiscal year, allows the director of finance to appoint a designee to certify that funds are available for formal bids and provides that the stormwater utility program may be administered by either the Department of Public Works or the Department of Public Utilities.

*Patron - Lambert*

## Failed

**: HB63 Charter; City of Richmond.** Amends the city's charter to provide for the direct election of the mayor. At the November 2004 election, and every four years thereafter, a general election shall be held to elect the mayor. The person receiving the most votes in each of at least five of the nine city council districts shall be elected. Should no one be elected, a run-off election shall be held between the two persons receiving the highest total of votes citywide. The person receiving the most votes in each of at least five of the nine city council districts shall be elected. An elected term shall run four years. Anyone eligible to serve on city council may serve as mayor except no one may be elected mayor for three consecutive terms. The mayor shall appoint the chief administrative officer subject to the advice and consent of a majority of the members of city council. The chief administrative officer shall be responsible solely to the mayor and serve at the pleasure of the mayor. The mayor will be a full-time position with salary and expenses set by the city council.

*Patron - Marshall, R.G.*

**: HB707 Charter; City of Hopewell.** Provides that certain state funding mandates will be suspended if in any calendar year the increase in the Consumer Price Index as published by the United States Department of Commerce is more than the increase in the assessed value of private real estate in the City of Hopewell, adjusted for general reassessment, as published by the City of Hopewell real estate assessor.

*Patron - Ingram*

**: HB1031 Charter; City of Richmond.** Provides for the direct election of the mayor, beginning in November 2004. The person receiving the majority of votes in the city at large shall be elected. An elected term shall run four years. No one ineligible to serve on city council may serve as mayor. No person who has served two full terms as mayor may again be eligible for election to the positions of mayor or vice mayor. The mayor shall be the chief executive officer of the city and shall be responsible for the proper administration of city government. The mayor shall have the power to veto any budget, appropriation, tax, levy, resolution, ordinance or other paper

passed by vote of the city council, but council may thereafter override the mayor's veto with a vote of 75 percent or more of the currently filled seats on council. All powers and responsibilities of the city manager under the provisions of the charter shall be vested in the mayor. All references in this charter to the city manager shall be deemed to mean the mayor, unless the context clearly requires a different meaning. The mayor may appoint such staff subordinate to and responsible to him as he may wish, subject to the city budget passed by the council. The mayor shall be recognized as the head of government for all ceremonial purposes, military law and the service of civil process. The office of mayor shall be a full-time position with salary and expenses set by the council.

*Patron - Marrs*

**: SB80 Charter; City of Harrisonburg.** Provides that the mayor may resign the office of mayor without giving up his or her membership on council. Also, the council may, by unanimous vote of the council members other than the mayor, remove the mayor from the office of mayor.

*Patron - Obenshain*

**: SB368 Charter; City of Richmond.** Extends council terms from two to four years, restores language repealed by charter amendments of 1998 related to nomination of council candidates, removes the requirement of a public hearing for council appointees who are removed from office, clarifies language regarding appointment and removal of certain appointees, creates a new group of appropriations that are exempt from lapsing at the close of a fiscal year, allows the director of finance to appoint a designee to certify that funds are available for formal bids and provides that the stormwater utility program may be administered by either the Department of Public Works or the Department of Public Utilities. This bill is incorporated into SB 561.

*Patron - Watkins*

## Carried Over

**7 SB133 Charter; City of Roanoke.** Amends the city's charter to allow for both city council and voter petition-initiated advisory referenda. Such referenda may be held on any question relating to the affairs of the city. If a petition-initiated referendum pertaining to a charter amendment passes by a majority vote, then the clerk of the circuit court shall communicate the result to the General Assembly with the same effect as if the council had adopted a resolution requesting the General Assembly to adopt the amendment.

*Patron - Edwards*

**7 SB478 Charter; County of Roanoke.** Provides that the County shall have authority to levy upon the sale or use of cigarettes a tax at a rate not to exceed 0.75 cents per cigarette sold or used, such tax to be collected pursuant to Article 7 (§ 58.1-3830 et seq.) of Chapter 38 of Title 58.1 of the Code.

*Patron - Edwards*

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