

# 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 - Sui*

**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 HB113 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