

# The Surety Association of America

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## MEMORANDUM

**TO:** Local Surety Associations

**FROM:** Dov Weinstein

**DATE:** March 13, 2006

**SUBJECT:** Legislative Report – February 2006

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*The SAA monthly legislative report lists new bills that were introduced since the last report, and updates the status of bills being tracked that had movement in the preceding month. This is intended to be a comprehensive federal and state-by-state report that assists members in getting information about, and being proactive on, legislation of importance. This monthly report is sent electronically to the GAAC and to the local surety associations. It is available to all SAA members on our website. The features of this report are:*

- *Once posted on the website, there is a function that allows the user to navigate the contents of the report by state so that users can easily access and view only the states in which they have an interest;*
- *To assist users in sorting and utilizing the information, SAA staff lists enacted laws and bills awaiting the governor's signature at the top of each state's listing so that the user can skim through each state to see what has or is about to become final action;*
- *The monthly legislative report include a highlights feature, which gives SAA members an upfront summary of recent enactments of new bond enactments and reductions/eliminations of existing bond requirements.*

*The SAA is coordinating with the AIA to take action on the following bills. SAA's positions are indicated by (-) for opposing/opposed, (=) for neutral and (+) for supporting/supported. If you have any questions, please do not hesitate to contact me.*

## **Federal**

**(+) HR 4761** (2/15/06 – Referred to Resources Committee)

HR 4761 would require anyone conducting surface disturbing activity for exploration or development and production under the Mineral Leasing Act to post a bond or other security.

**(+) S 2013** (2/27/06 – On Legislative Calendar)

S 2013 would allow one holding a polar bear, or part thereof, while civil or criminal proceedings were held regarding the illegal importation, purchase, or possession of the bear, to post a surety bond in lieu of holding the bear.

## **Alabama**

**(+) HB 27** (2/8/06 – Amended)

HB 27 would require a dog to be registered with the health department or animal control facility if it was found to be dangerous but not a significant threat to public health and safety. A surety bond of up to \$100,000 could be required as part of this registration.

**(-) HB 49** (2/28/06 – Passed Third Reading)

HB 49 would enact the Uniform Trust Code in Alabama. The following language, which impacts on the trustee bond, would be included:

- (a) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.
- (b) The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

In addition, this bill would remove a provision requiring that if the trust estate is moved to another state or jurisdiction, than the persons requesting the moving of the estate must post a surety bond and the new trustee must post a surety bond valued at double the amount of the trust estate.

**(-) SB 157** (2/28/06 – Third Reading Carried Over)

SB 157 is similar to HB 49 described above.

**(+) HB 87** (1/12/06 – Read Second Time)

HB 87 would regulate professional employer organizations (PEOs). The bill provides that a “covered employee is not, solely as the result of being a covered employee of a PEO an employee of the PEO for purposes of general liability insurance, employment practices liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or liquor liability insurance carried by the professional employer organization unless the covered employees are included by specific reference in the PEO agreement and applicable prearranged employment contract, insurance contract, or bond.” In addition, the director of the Professional Employer Organization Registration Administrative Trust Fund and the State Treasurer, who would be the trustee and custodian of the Fund, respectively, would have to post bonds.

**(+) SB 41** (2/8/06 – Amended)  
SB 41 is similar to HB 87 described above.

**(+) HB 150** (2/2/06 – Read Second Time)  
HB 150 would require boxing promoters to post a performance bond. An additional performance bond could be required to obtain a match permit.

**(+) HB 239** (2/16/06 – Read Second Time)  
HB 239 would allow a court to require an additional bond from a conservator, up to double the estimated value of the property in the estate.

**(+) HB 293** (2/22/06 – Pending Third Reading)  
HB 293 would require off-road vehicle dealers to post a bond of at least \$5,000. In addition, a bond could be required from one registering such a vehicle, if ownership of the vehicle was uncertain.

**(+) HB 405** (2/22/06 – Pending Third Reading)  
HB 405 would establish a Pre-need Funeral Consumer Protection Fund. Presently, sellers of pre-need funeral services must post a surety bond or place money into a trust. This requirement would not be changed. In addition, the bill would require a preconstruction trust to be established when a cemetery offers for sale space in a mausoleum or crypt prior to construction. Alternately, a performance bond could be posted.

**(+) HB 591** (2/7/06 – Read First Time)  
HB 591 would require auctioneers to post a bond. The amount of the bond is not specified and will, presumably, be specified through the promulgation of a rule.

**(=) SB 82** (2/22/06 – Pending Third Reading)  
Under SB 82, the owner of a dangerous dog could be required to post a surety bond valued up to \$100,000.

**(=) SB 183** (1/26/06 – Read First Time)  
SB 183 would limit supersedeas bonds for signatories to the Master Settlement Agreement to \$125 million.

### **Alaska**

**(+) HB 392** (2/17/06 – Referred to Labor and Commerce Committee)  
HB 392 would create regional solid waste management authorities. Board members and executive officers responsible for finances would have to post a fidelity bond.

**(+) HB 424** (2/3/06 – Referred to Labor and Commerce Committee)  
HB 424 would require a mortgage lender to post a \$25,000 license bond. Alternately, one could maintain \$100,000 in assets.

**(+) SB 272** (2/8/06 – Referred to Labor and Commerce Committee)  
SB 272 is similar to HB 424 described above.

### Arizona

**\*\*NEW LAW\*\***

**(+) HB 2145** (2/13/06 – Signed by Governor; Chapter 2)  
HB 2145 creates county island fire districts. Those who successfully bid to provide fire protection and emergency medical services have to post a \$10 million performance bond. Municipalities do not have to post this bond if they are the successful bidder.

**(+) HB 2383** (1/23/06 – Read Second Time)  
HB 2383 would establish PACE, a Program for the All-inclusive medical Care of the Elderly. Performance bonds or other security would be required from those contracting to be a PACE organization.

**(=) HB 2443** (2/28/06 – To Senate)  
HB 2443 would make indemnity agreements in construction contracts void but this would not apply to agreements for indemnification of a surety on a bond by its principal or indemnitors.

**(+) SB 1098** (2/21/06 – Read Second Time)  
SB 1098 would raise the value of the bond required from third-party motor vehicle registrants from \$25,000 to \$100,000. In addition, the bill would remove an exemption for title service companies that are bonded by the department of transportation from posting this bond.

**(-) SB 1393** (2/16/06 – Assigned to Appropriations Committee)  
SB 1393 would create the multiple unit residential project recovery fund to benefit those harmed by the default of a developer of a multiple unit residential project. In addition to funding this fund, the developer could also be required to post a surety bond if s/he was found in violation of this article, convicted of a felony or misdemeanor relating to a real estate transaction, or has an administrative order against him/her from a real estate regulatory agency.

### California

**(-) HB 630** (2/9/06 – Referred to Senate Judiciary Committee)  
HB 630 would require surety companies that issue bonds to immigration consultants to “notify either the city attorney where the immigration consultant maintains his or her principal office or the office of the district attorney of the county where the immigration consultant maintains his or her principal office within 30 days of the date that either of the following occurs:  
(1) The immigration consultant's bond is canceled or is otherwise no longer in force and effect.  
(2) The amount of the bond is reduced below the minimum amount required by this chapter. The notice sent by a corporate surety to an immigration consultant under Section 996.320 of the Code of Civil Procedure shall include a warning that the corporate surety is required to notify the office of the city attorney or the office of the district attorney if the bond is canceled or withdrawn.” A violation of these provisions could result in a fine of up to \$10,000.

**(+) HB 1932** (2/14/06 – Referred to Transportation Committee)  
HB 1932 would require traffic violator schools that offer home study programs to post a \$25,000 bond.

**(+) HB 2025** (2/23/06 – Referred to Transportation Committee)  
HB 2025 would allow design-build contracting on transportation contracts. Payment and performance bonds would be required.

**(+) HB 2334** (2/23/06 – Read First Time)  
HB 2334 would require janitorial service providers to post a bond of at least \$10,000.

**(+) HB 2425** (2/23/06 – Read First Time)  
HB 2425 would require agents distributing funds collected under the California Apple Pest and Disease Prevention Act to post a \$25,000 fidelity bond.

**(+) HB 2580** (2/27/06 – Read First Time)  
HB 2580 would allow sanitation districts to enter into design-build contracts for projects costing more than \$10 million. Bonds would be required.

**(+) HB 2763** (2/27/06 – Read First Time)  
HB 2763 would require the operator of relocatable housing for migrant farm workers to post a performance bond.

**(-) HB 2833** (2/27/06 – Read First Time)  
HB 2833 would raise the threshold for requiring bonds on projects let by school districts from \$15,000 to \$50,000.

**(+) SB 371** (1/31/06 – Read First Time in House)  
SB 371 would allow for design-build contracts on Department of Transportation construction projects. In preparing a questionnaire to pre-qualify design-build entities, the Department would have to consult with surety companies. Design-build entities would have to disclose work completed by a surety within the previous five years. “Any design-build entity that is selected to design and build a project under this article shall possess or obtain sufficient bonding to cover the contract amount for non-design services, and errors and omission insurance coverage sufficient to cover all design, engineering, and architectural services provided in the contract. This section does not prohibit a general or engineering contractor from being designated the lead entity on a design-build project for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.”

**(+) SB 1316** (2/22/06 – To Local Government Committee)  
SB 1316 would allow the City of Victorville to enter into design-build contracts. Bonds would be required.

**(+) SB 1431** (2/22/06 – Introduced)  
SB 1431 would permit special districts to utilize design-build contractors on projects exceeding \$2.5 million. Bonds would be required.

**(+) SB 1550** (2/23/06 – Introduced)  
SB 1550 would require professional fiduciaries to post a \$100,000 bond.

**(+) SB 1593** (2/27/06 – Read First Time)  
SB 1593 would require a towing company that removes vehicles parked on private property to post a \$25,000 bond. A towing company that could remove vehicles from private property at its own discretion would have to post a \$50,000 bond.

**(-) SB 1627** (2/27/06 – Read First Time)  
SB 1627 would prohibit a city or county from requiring a bond for the removal of a wireless telecommunications facility from one constructing or reconstructing such a facility.

### **Colorado**

**(=) HB 1148** (2/17/06 – Introduced in Senate)  
HB 1148 would render void and unenforceable any indemnity provision in a construction agreement that requires a person or their surety or insurer to indemnify, insure, or defend in litigation another person against liability for damage arising out of death or bodily injury to persons or damage to property caused by the negligence or fault of the indemnitee or any third party under the control or supervision of the indemnitee. This provision would not affect any provision in a construction agreement that requires a person or the person's surety or insurer to indemnify another person against liability for damage, including but not limited to the reimbursement of attorney fees and costs, if provided for by contract or statute, arising out of death or bodily injury to persons or damage to property, but not for any amounts that are greater than that represented by the degree or percentage of negligence or fault attributable to the indemnitor or the indemnitor's agents, representative, subcontractors, or suppliers.

**(+) HB 1161** (2/17/06 – Referred to Appropriations Committee)  
HB 1161 would require mortgage brokers to post a \$25,000 bond or other security.

**(+) HB 1185** (2/27/06 – Introduced in Senate)  
HB 1185 would allow an oil and gas operator to enter a surface owner's property if no surface use and compensation agreement was reached within 30 days of receiving notice of intent to enter the property. The operator would have to post a bond valued at \$25,000.

**(+) HB 1245** (2/20/06 – Postponed Indefinitely)  
HB 1245 would require the Director of the Minority Business Office to establish a surety technical assistance program for historically underutilized businesses (HUBS). To qualify as a historically underutilized business, more than 50% of the company would have to be owned by African Americans, Hispanic Americans, Asian Americans, Native Americans, or women.

**(-) HB 1258** (2/1/06 – Assigned to Judiciary Committee)  
HB 1258 would enact the Uniform Trust Code in Colorado.

**(-) HB 1261** (2/21/06 – Postponed Indefinitely)  
HB 1261 would change the value of the bond required from the secretary of the Board of Governors of the Colorado State University System from \$5,000 to an amount determined by the board. Similarly, the bond required from the treasurer would be changed from \$100,000 to an amount determined by the board.

**(+) HB 1280** (2/20/06 – Referred to Appropriations Committee)  
HB 1280 would require debt management service providers to post a \$50,000 bond issued by an A rated company. Alternate securities such as irrevocable letters of credit could also be used. SAA supports this new bond and will work to remove the rating requirement. This is a new NCCUSL Uniform Act.

**(+) HB 1294** (2/15/06 – Referred to Appropriations Committee)  
HB 1294 would require one to post a bond or other security if s/he was unable to prove title to a motor vehicle.

### Connecticut

**(+) HB 5127** (2/15/06 – In Public Safety Committee)  
HB 5127 would require those licensed to hold wrestling matches to post a bond.

**(-) HB 5187** (3/3/06 – Hearing Postponed)  
HB 5187 would stipulate that a surety waives its defenses to a claim on a bond of a public works project if it failed to pay the amount claimed or identify the portion of the claim subject to a good faith dispute within 90 days. Furthermore, the bill would require that any lawsuit brought forth to claim retainage be made within 1 year of the date that payment of retainage was due. SAA is working with AIA to eliminate the waiver of defenses provision and clarify the retainage provision if the bill cannot be defeated.

**(+) HB 5521** (2/23/06 – Referred to Energy Committee)  
HB 5521 would require directors of the Connecticut Power Authority to each post a \$50,000 bond.

**(+) HB 5564** (2/24/06 – Referred to Environment Committee)  
HB 5564 would allow one to avoid certain requirements when conveying a unit in a residential common interest community by posting a bond. Furthermore, the bill could require the owner of a solid waste disposal area to post a performance bond.

**(+) SB 45** (2/9/06 – Referred to Commerce Committee)  
SB 45 would create the Connecticut Finance Collaborative. Members of the board of directors of the Collaborative would have to post \$50,000 surety bonds.

**(+) SB 358** (2/23/06 – Referred to Judiciary Committee)  
SB 358 would, on private projects, require the contractor to hold in trust the funds it has been paid in order to pay for the labor and materials provided on the project.

**(+) SB 391** (2/23/06 – Referred to General Law Committee)  
Current law requires home heating oil dealers who enter into prepaid contracts or capped price per gallon contracts to obtain futures contracts for 75% of the amount of oil promised or post a bond equal to at least 50% of the funds received. SB 391 would expand these rules to home heating propane gas dealers.

**(-) SB 429** (2/27/06 – Referred to Judiciary Committee)  
SB 429 would enact the Uniform Trust Code in Connecticut. A trustee would only have to post a bond if a court found it necessary or it was specified by the trust and a court had not dispensed with that requirement.

### **Florida**

**(+) HB 167** (2/8/06 – Favorable Report from State Resources Council)  
HB 167 would require household movers to maintain liability insurance of \$10,000 per shipment. A mover that operates two or fewer vehicles could choose to post a \$25,000 performance bond or certificate of deposit instead of maintaining liability insurance. A moving broker, which is a person who arranges moving services for compensation, would have to maintain a \$25,000 performance bond or certificate of deposit.

**(+) SB 244** (2/10/06 – In Community Affairs Committee)  
SB 244 is similar to HB 167 described above.

**(+) HB 247** (2/20/06 – In Finance and Tax Committee)  
HB 247 would require a winery shipper to post a \$5,000 bond.

**(+) HB 343** (1/25/06 – In Finance and Tax Committee)  
HB 343 would allow counties to establish special districts to provide services to seniors. A council would govern these districts. The chair of the council and any other member of the council who signs the council's checks would be required to post a surety bond of at least \$1,000 for every \$1 million or fraction thereof in the council's budget.

**(+) HB 971** (2/23/06 – Referred to Local Government Council)  
HB 971 is similar to HB 343 described above.

**(-) HB 425** (2/22/06 – In Economic Development Committee)  
HB 425 would enact the Uniform Trust Code in Florida. The bill contains the following language, which impacts the trustee bond:

- (1) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

- (2) The court may specify the amount of a bond, the trustee's liabilities under the bond, and whether sureties are necessary. The court may modify or terminate a bond at any time.

**(-) HB 517 (2/20/06 – In State Administration Appropriations Committee)**

HB 517 would allow, under certain circumstances, two or more nonprofit organizations to create a self-insurance fund.

**(+) HB 759 (2/2/06 – Referred to Finance and Tax Committee)**

HB 759 would create the City of Ruskin. The city manager, city clerk, assistant city managers, department directors, and any other employees so designated by the administrative code would be required to post bonds.

**(+) HB 937 (2/21/06 – Referred to Finance and Tax Committee)**

HB 937 would create the Pinecraft Lighting District, which would be operated by a board of five commissioners. Each commissioner would have to post a \$1,000 bond.

**(+) HB 1207 (2/21/06 – Filed)**

HB 1207 would create the Indian River Mosquito Control District, which would be run by three commissioners. Each commissioner would have to post a \$5,000 bond.

**(+) HB 1245 (2/22/06 – Filed)**

HB 1245 would require each of the seven members of the governing board of the North Broward Hospital District to post a \$5,000 bond.

**(-) SB 660 (2/14/06 – In Judiciary Committee)**

Under current law, an owner of amusement rides must maintain a \$1 million insurance policy or surety bond. SB 660 would exclude government entities that self-insure or enter into risk management programs from this requirement.

**(+) SB 1314 (2/27/06 – On Community Affairs Committee Agenda)**

SB 1314 would allow counties to establish special districts to provide services to seniors. A council would govern these districts. The chair of the council and any other member of the council who signs the council's checks would be required to post a surety bond of at least \$1,000 for every \$1 million or fraction thereof in the council's budget.

**(+) SB 1528 (2/13/06 – Referred to Environmental Preservation Committee)**

SB 1528 would require the owner or operator of a landfill not operated by the government to post financial security to cover closure costs.

**(+) SB 1540 (2/13/06 – Referred to Regulated Industries Committee)**

SB 1540 would require veterinary prescription drug wholesalers to post a \$20,000 bond or other security.

**(+) HB 685 (2/27/06 – Pending Review of Committee Substitute)**

HB 685 is similar to SB 1540 described above.

**(+) SB 2064** **(2/15/06 – Filed)**  
SB 2064 would create the Pinecraft Lighting District. The five commissioners who would run the district would be required to each post a \$1,000 bond.

**(+) SB 2102** **(2/15/05 – Filed)**  
SB 2102 would create a corporation, governed by trustees, to preserve Babcock Ranch. Each trustee would have to post a \$5,000 bond.

**(+) SB 2234** **(2/21/06 – Filed)**  
SB 2234 would require an eligible nonpublic school receiving scholarship monies to prove its fiscal soundness. One way to do this would be through posting a bond.

### **Georgia**

**(+) HB 276** **(2/15/06 – Favorable Report from Committee)**  
HB 276 would require one who operates a center designed to provide and install “ignition interlock devices when their use is required by or as a result of an order of a court” to post a \$10,000 continuous surety bond. The bond could not be liable for more than \$20,000 per location. SAA is working to ensure that the language in this bill regarding bond amounts and the surety’s liability is made clearer.

**(+) HB 816** **(2/21/06 – Passed Senate)**  
HB 816 would establish the City of Cairo. “The officers and employees of this city shall execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the city council shall from time to time require by ordinance or as may be required by law.”

**(+) HB 924** **(2/16/06 – Favorable Report from Committee)**  
HB 924 would incorporate the city of Milton. “The officers and employees of this city, both elected and appointed, shall execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the city council shall from time to time require by ordinance or as may be provided by law.”

**(=) HB 1177** **(2/22/06 – Passed House)**  
HB 1177 would allow the Department of Transportation, on projects that exceed \$300 million, to make a determination that 100% bonds are not reasonably available. It would then have to require performance and payment bonds of not less than \$300 million and protect the balance of construction costs with a combination of letters of credit and corporate guarantees. SAA member company representatives and staff have assisted in crafting this bill.

**(-) HB 1248** **(2/16/06 – Favorable Report from Committee)**  
HB 1248 would remove a \$500 bond requirement for wine retailers. The bond for general alcohol retailers would remain in place.

**(+) HB 1321** **(2/22/06 – Passed House)**  
HB 1321 would incorporate the City of Johns Creek. Officers and employees of the City could be required to post surety and fidelity bonds.

**(+) HB 1323** **(2/15/06 – Read Second Time)**  
HB 1323 would allow the creation of infrastructure development districts. The treasurer of such a district could be required to post a bond.

**(+) SB 244** **(2/23/06 – Read First Time in House)**  
SB 244 would create the Magistrates Retirement Fund, which would be run by a board of commissioners. The board could require the secretary-treasurer of the board to post a surety bond.

**(+) SB 447** **(2/15/06 – Read Second Time in House)**  
SB 447 would establish the Georgia Blueberry Commission. Persons who handle the funds of the Commission would have to post a bond.

### **Hawaii**

**(-) HB 2215** **(2/13/06 – Passed Second Reading)**  
HB 2215 would allow those concessionaires who must post a bond valued at less than 4 months rental costs, to post an alternate security in lieu of the bond.

**(-) SB 2459** **(2/27/06 – Committee Recommended to Pass)**  
SB 2459 is similar to HB 2215 described above.

**(+) HB 2316** **(2/2/06 – Committee Recommended to be Deferred)**  
HB 2316 would require mortgage brokers to post a \$50,000 bond.

**(+) SB 2279** **(2/28/06 – Deferred)**  
SB 2279 is similar to HB 2316 described above.

**(+) HB 2963** **(2/17/06 – Passed Second Reading)**  
HB 2963 would require that when the Hawaii Housing Finance and Development Administration enters into agreements to develop housing projects, the developer post a performance bond.

**(+) HB 2966** **(2/28/06 – Recommended to Pass)**  
HB 2966 would create the Hawaii Housing Finance and Development Corporation. When developing dwelling units in conjunction with other developers or contractors, the Corporation could require bonds from them. When the project is primarily for lower income housing, developers would have to post performance bonds. Performance and payment bonds would be required from developers working on housing projects.

**(+) SB 2952** **(2/17/06 – Second Reading)**  
SB 2952 is similar to HB 2966 described above.

**(+) HB 3076** (2/6/06 – Committee Recommended to be Deferred)  
HB 3076 would require specialty contractors and general contractors to post a \$5,000 bond. Roofing contracts that guarantee workmanship for more than 7 years would have to be accompanied by a surety bond.

**(+) HB 3223** (2/17/06 – Passed Second Reading)  
HB 3223 would require the promoter of a mixed martial arts contest to post a bond.

**(-) HB 3250** (2/7/06 – Recommended to Pass by Judiciary Committee)  
HB 3250 would limit supersedeas bonds to \$25 million. If the party posting the bond is a small business, the bond could not exceed \$1 million.

**(+) SB 2143** (2/23/06 – Committee Recommended to Pass)  
SB 2143 would require money transmitters to post a \$1,000 bond or alternate security. The bond could be increased to a maximum value of \$500,000.

### **Idaho**

**(=) HB 543** (2/3/06 – To Transportation Committee)  
HB 543 would require utility type vehicle dealers to post a \$10,000 bond. In general, motor vehicle dealers must post a \$20,000 bond, but dealers who exclusively sell motorcycles, motor scooters, ATVs, or snow machines must only post a \$10,000 bond. This bill would define utility type vehicles as recreational vehicles designed for travel on unpaved roads.

**(=) HB 603** (2/22/06 – To Senate Transportation Committee)  
HB 603 is similar to HB 543 described above.

**(+) HB 733** (2/27/06 – To Business Committee)  
HB 733 would require electricians, electrical contractors, master electricians, specialty electricians, specialty electrical contractors, plumbing contractors, HVAC contractors and specialty contractors to post a \$10,000 bond.

**(+) SB 1326** (2/20/06 – To House Judiciary Committee)  
SB 1326 would allow a court to require a foreign guardian or conservator to post a bond.

### **Illinois**

**(+) HB 4147** (2/1/06 – Referred to Senate Rules Committee)  
HB 4147 would create the Central Illinois Economic Development Authority. Banks serving as the depository for the Authority's money would be required to post a surety bond equal to the maximum amount expected to be on deposit at any one time.

**(+) HB 4958** (2/15/06 – Second Reading)  
HB 4958 would require real estate notaries to post a \$15,000 bond. Real estate notaries that are employed by a government entity would only have to post a \$5,000 bond.

**(+) HB 4991** **(2/14/06 – Second Reading)**  
HB 4991 would require one who provides debt management services to post a \$50,000 bond or other security.

**(=) SB 2155** **(2/17/06 – Referred to Rule Committee)**  
Under current law, private vocational and business schools must post a surety bond. SB 2155 would allow the use of a certificate of deposit instead of a surety bond. Similarly, sales representatives who represent such schools and are currently required to post a surety bond would be given the option of posting a certificate of deposit instead.

**(+) SB 2262** **(2/22/06 – Third Reading)**  
SB 2262 would create the Southern Illinois Economic Development Authority. The bank that serves as depository of the Authority's money would have to post a bond equal to the maximum sum expected to be on deposit.

**(+) SB 2519** **(2/16/06 – Second Reading)**  
SB 2519 would create the Central Illinois Economic Development Authority. The bank that serves as depository of the Authority's money would have to post a bond equal to the maximum sum expected to be on deposit.

**(+) SB 2655** **(2/23/06 – Referred to House Rules Committee)**  
SB 2655 would enable surety companies to include copies of power of attorney with policies, rather than file the power of attorney with the circuit courts. SAA worked with AIA to have this bill introduced. This is one of the SAA's state-specific priorities for 2006.

## **Indiana**

**(+) HB 1006** **(2/21/06 – Passed Senate; Returned to House with Amendments)**  
HB 1006 would allow schools to pool resources to maintain insurance. If the pool elected to create an insurance trust, the trust would have to maintain a fidelity bond.

**(+) SB 323** **(2/2/06 – Referred to House Education Committee)**  
SB 323 is similar to HB 1006 described above.

**(-) HB 1008** **(2/23/06 – Recommended to Pass by Senate Committee)**  
HB 1008 would allow public-private agreements to develop transportation facilities. The agreement may provide for performance and payment bonds, but is not specifically required to provide for bonds.

**(+) HB 1097** **(2/27/06 – Passed Senate; Returned to House with Amendments)**  
HB 1097 would require discount medical card program organizations to maintain a surety bond or deposit valued at a minimum of \$35,000.

**(+) HB 1134** **(2/7/06 – Passed Senate; Returned to House with Amendments)**  
HB 1134 would require the treasurer of a school's extracurricular fund to post a bond if s/he would control more than \$300.

**(+/-) HB 1257** **(2/27/06 – Second Reading in Senate)**

HB 1257 would raise the value of the bond required from postsecondary proprietary educational institutions which have no annual gross tuition charges from the previous year from \$5,000 to \$25,000. The bill would remove, however, a requirement for such schools to post a bond based on the amount of the previous year's tuition. In addition, the bill would require schools with annual gross tuition charges greater than \$250,000 to post a \$50,000 bond. Currently, this requirement only applies to schools with annual gross tuition charges greater than \$500,000. Finally, the balances needed to be placed in the Career College Student Assurance Fund before a school could stop posting a bond would be increased.

**(+) SB 11** **(2/23/06 – Passed House; Returned to Senate with Amendments)**

SB 11 would require a loan broker who is appealing a decision of the Securities Commissioner to post a \$500 bond or other security.

**(+) SB 112** **(2/23/06 – Second Reading)**

SB 112 would allow an HMO to post a bond or cash deposit instead of meeting net worth requirements.

**(+) SB 168** **(2/21/06 – Second Reading in House)**

SB 168 would raise the value of the bond required from credit service organizations from \$10,000 to \$25,000.

**(-/+ ) SB 229** **(2/27/06 – Second Reading in House)**

SB 229 would allow 2 or more educational institutions to enter into an agreement to self-insure and purchase excess insurance, including surety and fidelity. Those with access to the trust funds would have to post a fidelity bond.

**(+) SB 341** **(2/7/06 – Referred to House Local Government Committee)**

SB 341 would allow "a court to require a performance bond from a property owner if the property owner requests additional time to comply with an order under the unsafe building law."

**(+) SB 349** **(2/28/06 – Second Reading in House)**

SB 349 would require a title insurer that engages or employs a title agency to certify that the title agency has posted a fidelity bond of at least \$50,000. In addition, the bill would require foreign insurance companies that write surety bonds to appoint the Commissioner as the agent for service of process.

**(=) SB 359** **(2/27/06 – Second Reading)**

SB 359 would alter retainage law for public works contracts. Currently, retainage must be placed in an escrow account, if portions of the contract are subcontracted. This bill would eliminate this requirement. Originally, the bill would have increased the amount of retainage held. Currently, either 6% can be held until 50% completion with nothing held thereafter or 3% can be held until work is satisfactorily complete. This bill would have raised the percentage retained to 10% and 5% respectively. This provision, however, has been removed through amendment.

**(-) SB 360** (2/7/05 – Referred to House Insurance Committee)  
SB 360 would increase the threshold for requiring bonds on public works projects from \$150,000 to \$500,000. Furthermore, under current law, if the contract is less than \$150,000 a payment bond may still be required instead of holding retainage. This bill would eliminate that clause, only allowing retainage to be held.

**(-) SB 362** (2/27/06 – Second Reading)  
Under current law, if a sheriff collects the full amount of a tax warrant that has been partially or fully paid by a person's surety, then "the sheriff may not release the judgment until the surety's rights under the judgment have been satisfied by the person." SB 362 would remove this clause relating to the sheriff's release of the judgment.

### **Iowa**

**(+) HB 2230** (2/2/06 – Referred to Commerce, Regulations, and Labor Committee)  
HB 2230 would require motor vehicle equity line of credit lenders to post a \$25,000 bond or irrevocable letter of credit per office.

**(+) HB 2356** (2/13/06 – Referred to Environmental Protection Committee)  
HB 2356 would require employees of the Department of Environmental Protection who are accountable for property or funds of the State to post a fidelity bond.

**(+) HB 2372** (2/15/06 - Referred to Commerce, Regulations, and Labor Committee)  
HB 2372 would require home improvement contractors to post a \$40,000 bond.

**(+) SDSB 3157** (2/14/06 – Filed)  
SDSB 3157 is similar to HB 2356 described above.

**(-) SDSB 3129** (2/8/06 – Filed)  
SDSB 3129, a study bill, would raise the threshold for bonds on public works projects from \$25,000 to \$100,000.

**(+) SDSB 3139** (2/8/06 – Filed)  
SDSB 3139, a study bill, would raise the value of the bond required from debt management advisors from \$10,000 to \$25,000.

**(+) HDSB 671** (2/10/06 – Filed)  
HDSB 671 is similar to SDSB 3139 described above.

**(+) SDSB 3215** (2/23/06 – Filed)  
SDSB 3215 would require a service contract company that secured its contracts through a funded reserve but did not have \$100 million of equity to maintain a security deposit trust fund or post a bond that is not less than "five percent of the gross consideration received by the service company, less claims paid, for the sale of all service contracts issued and in force in this state, but not less than twenty five thousand dollars."

**(+) SDSB 3229** **(2/27/06 – Filed)**  
SDSB 3229, a study bill relating to energy cost savings contracts, would require an energy cost savings contractor to post a performance bond guaranteeing the construction and the savings.

### **Kansas**

**(+) HB 2394** **(2/9/06 – Referred to Senate Ways and Means Committee)**  
HB 2394 would require that requests for proposals for design-build contracts include a request for available ratings for performance bonds, payment bonds, and insurance.

**(=) HB 2607** **(2/24/06 – Referred to Senate Judiciary Committee)**  
HB 2607 would allow a court to require a surety bond from one petitioning the court to order the trustee of a revocable trust “to exercise or refrain from exercising the trustee’s authority in a manner inconsistent with the trustee’s fiduciary responsibilities under the provisions of the trust; remove the trustee; require the trustee to account; and issue such other orders as the court finds will be in the best interests of the settler,” when the settler becomes incapacitated.

**(+) HB 2645** **(2/28/06 – Referred to Senate Transportation Committee)**  
HB 2645 would require vehicle title service agents to post a \$25,000 bond or alternate security.

**(+) HB 2837** **(2/8/06 – Referred to Commerce and Labor Committee)**  
HB 2837 would require debt collectors to post a \$25,000 bond.

**(+) HB 2874** **(2/24/06 – Referred to Senate Financial Institutions Committee)**  
HB 2874 would raise the value of the bond required from money transmitters from a minimum of \$50,000 to a minimum of \$200,000.

**(+) HB 2905** **(2/15/06 – Referred to Judiciary Committee)**  
HB 2905 would require home heating oil, kerosene, or gas suppliers that enter into prepaid contracts to either obtain commitments allowing them to buy at least 75% of the product promised at a fixed price or post a surety bond equal to at least 50% of the funds collected.

**(-) SB 253** **(2/28/06 – Received in House)**  
Currently, the secretary of transportation is allowed to develop rules relating to performance bonds and liability insurance for those holding licenses for outdoor advertising. SB 253 would strike this provision. However, rules for performance bonds are already in place under KAR 36-17-1.

**(-) SB 355** **(2/24/06 – Referred to House Judiciary Committee)**  
SB 355 would change appellate bond requirements. Presently, a bond is required when appealing from a district magistrate judge to a district judge or from a district court to an appellate court. This bill would allow the court to require such a bond, but it would not be mandatory.

**(+) SB 408** (2/28/06 – Referred to House Judiciary Committee)  
SB 408 would allow an animal that had been treated cruelly to be given up for adoption or killed after 20 days unless the owner posted a bond valued to care for the animal for thirty days.

**(+) SB 422** (2/13/06 – Referred to House Insurance Committee)  
Under current law the county auditor of a county with a population between 80,000 and 300,000 must post a bond with 2 sureties. SB 422 would require only one surety. The \$20,000 value of the bond would remain the same. Similarly one requesting review of a decision to refuse to issue or renew a controlled area shooting license, one requesting an appeal of a seized airplane or vehicle, one contracting for bridge construction, and officers receiving arms and equipment for the militia, would only have to post a bond with one surety instead of two. Abstracters who post a bond instead of liability insurance would only need one surety instead of three. Nothing in the bill would prohibit one from using more than one surety.

**(-) SB 516** (2/24/06 – Referred to Commerce Committee)  
SB 516 would limit retainage on public contracts to 5%.

**(+) SB 534** (2/10/06 – Referred to Utilities Committee)  
SB 534 would require the owner of an industrial windpower electric generation facility to post a bond equal to decommissioning and reclamation costs.

**(+) SB 575** (2/22/06 – Referred to Federal and State Affairs Committee)  
SB 575 would require the treasurer of the Topeka/Shawnee County Riverfront Authority to post a bond.

### **Kentucky**

**(+) HB 380** (2/22/06 – Recommitted to Appropriations Committee)  
HB 380 would appropriate funds for the renovation of the Executive Mansion. Performance and payment bonds would be required.

**(-) HB 454** (2/14/06 – To Senate Military Affairs Committee)  
HB 454 would provide that when the Kentucky Department of Veteran Affairs is appointed as a guardian or conservator, a bond would not be required.

**(+) HB 462** (2/23/06 – Posted in Banking and Insurance Committee)  
HB 462 would raise the minimum value of the bond required from mortgage loan companies from \$100,000 to \$250,000. The bill would raise the minimum value of the bond required from mortgage loan brokers from \$50,000 to \$100,000.

**(+) HB 564** (2/14/06 – To Judiciary Committee)  
HB 564 would require notaries to post a \$25,000 bond.

**(+) SB 179** (2/16/06 – To Licensing Committee)  
SB 179 is similar to HB 564 describe above.

**(+) HB 633** **(2/22/06 – To Judiciary Committee)**  
HB 633 would require an owner of an animal who was found to be cruel to the animal to post a bond to cover the costs of the petitioner who cared for the animal from the date of impoundment to the date of the trial.

**(-) HB 661** **(2/24/06 – To Natural Resources Committee)**  
Currently, sanitation districts must get bids and bid bonds on projects exceeding \$1,000. HB 661 would raise this to \$20,000.

**(+) HB 700** **(2/28/06 – To Judiciary Committee)**  
HB 700 would create the Kentucky Physicians' Mutual Insurance Authority to insure physicians for malpractice. The manager of the Authority would have to post a bond.

**(+) HB 702** **(2/28/06 – To Licensing Committee)**  
HB 702 would require charitable gaming facility licensees to post surety and fidelity bonds.

**(+) HB 737** **(2/28/06 – To Appropriations Committee)**  
HB 737 would require resident cigarette wholesalers who acquire tax stamps on a 30 day deferred payment basis to post a \$25,000 bond or other security. After three years of satisfactory tax compliance they would no longer be required to post such a security. If payment was delinquent for 15 days, payment would be immediately withdrawn from the surety or other security. While SAA supports this new bond requirement, it will seek to remove the adverse selection component.

**(+) HB 738** **(2/28/06 – To Agriculture Committee)**  
HB 738 would bring Kentucky law in line with Federal law relating to livestock packers. Currently, in Kentucky, stockyard owners must post a bond valued between \$2,000 and \$10,000. The 2004 Federal Packers and Stockyards Act (7 USC sections 181 – 229b) prohibits states from enforcing further bonding provisions than the ones enumerated under the Federal statute. Under the Federal law, bonds are required from those whose livestock purchases exceed \$500,000 annually. HB 738 further requires “the owner or operator of any stockyard, market agency, or livestock dealer who is not required to file a surety bond under requirements in the Packers and Stockyards Act, 7 U.S.C. secs. 181-229b” to post a bond.

**(-) SB 71** **(2/6/06 – WITHDRAWN)**  
SB 71 would have removed a provision requiring employers engaged in construction work for less than 5 consecutive years to post a performance bond ensuring payment of wages.

**(+) SB 107** **(2/28/06 – To House Banking Committee)**  
SB 107 would require viatical settlement brokers to maintain liability insurance or post a bond or cash, valued between \$20,000 and \$100,000. Alternately, an agreement with a viatical settlement provider to assume \$20,000 of responsibility per occurrence could be used to meet this financial security requirement.

**(+) SB 123** (2/27/06 – To Rules Committee)  
SB 123 would require money transmitters to post a bond or other security valued between \$500,000 and \$5 million.

### **Louisiana**

**(=) HB 36x** (2/6/06 – DEAD)  
HB 36x would have required notaries to post a bond. The bill would also have removed a requirement for the clerk of the civil district court to post a \$20,000 bond.

**(=) HB 37x** (2/6/06 – DEAD)  
HB 37x was similar to HB 36x described above.

### **Maryland**

**(-) HB 169** (1/19/06 – To Health and Government Operations Committee)  
HB 169 would allow individual sureties to bond public procurement and construction contracts.

**(-) SB 391** (1/31/06 – First Reading)  
SB 391 is similar to HB 169 described above.

**(-) HB 488** (2/28/06 – Passed Second Reading)  
HB 488 would limit retainage to 5%.

**(-) SB 302** (1/26/06 – First Reading)  
SB 302 is similar to HB 488 described above.

**(+) HB 1124** (2/10/06 – Referred to Health and Government Operations Committee)  
HB 1124 would require urgent care centers to post a bond valued between \$2,500 and \$500,000.

**(-) HB 1289** (2/10/06 – Read in Environmental Affairs Committee)  
HB 1289 would allow a county or municipal corporation to require one applying for a permit for a rubble landfill to post a bond valued at \$150,000 per acre of land. The bond would have to remain in effect for 50 years. Similarly, one could be required to post a bond valued at \$5,000 per acre of land for a sewage sludge utilization facility. This bond also would have to remain in effect for 50 years.

**(-) HB 1333** (2/10/06 – First Reading)  
HB 1333 would limit supersedeas bonds to \$75 million.

**(+) SB 193** (1/23/06 – Read First Time)  
SB 193 would institute a program to help employ ex-felons. As part of the program, the State would buy fidelity bonds to bond up to 150 felons for a full year of employment.

**(+) HB 1391** (2/10/06 – Read First Time)  
HB 1391 is similar to SB 193 described above.

**(+) SB 785** **(2/3/06 – First Reading)**

SB 785 would create a State Commission on Vessel Gaming. Members of the Commission would have to be bonded. Furthermore, the bill would require that operators of gaming vessels post a \$200,000 bond.

**(+) SB 974** **(2/23/06 – First Reading)**

SB 974 would allow a tenant to purchase a surety bond instead of posting a security deposit. However, the landlord could refuse the surety bond, in which case, the surety company would be obligated to refund to the tenant any premium or other charges already paid.

**Massachusetts**

**(+) SB 2365** **(2/13/06 – House Concurred in Committee Referral)**

SB 2365 would require the Town Administrator of Walpole to post a bond.

**Michigan**

**(+) SB 1066** **(2/23/06 – Referred to Agriculture Committee)**

SB 1066 would require commercial animal waste handlers and primary animal waste handlers to post a \$25,000 bond.

**(+) SB 1068** **(2/23/06 – Referred to Agriculture Committee)**

SB 1068 would require the owner of a confined animal feeding operation to post a bond or other security. The value of the bond would vary depending on the types and number of animals present.

**Mississippi**

**(-) SB 2328** **(2/27/06 – Passed House)**

SB 2328 would repeal a provision requiring a surety bond of at least \$2,000 from each highway patrolman.

**(+) SB 2439** **(2/8/06 – Referred to House Banking Committee)**

SB 2439 would require that third-party payment processors post a \$50,000 surety bond or other security for each debt management service provider it contracts with, but no more than \$150,000.

**(+) HB 1012** **(2/28/06 – Died in Senate Insurance Committee)**

HB 1012 was similar to SB 2439 described above.

**(=) SB 2556** **(2/27/06 – Passed House)**

SB 2556 would lower the amount of time one has to pay contractors from 60 days to 45 days from when payment was due before interest would begin to accrue.

**(=) HB 716** **(2/28/06 – Died in Senate Insurance Committee)**

HB 716 was similar to SB 2566 described above.

**(=) HB 789** (2/14/06 – Referred to Senate Business Committee)  
HB 789 is similar to SB 2556, but would lower the time frame to 30 days.

**(=) SB 2727** (2/27/06 – Passed House)  
SB 2727 is similar to HB 789 described above.

**(+) SB 2742** (2/9/06 – Referred to House Judiciary Committee)  
SB 2742 would require alarm contractors to post a \$300,000 general liability and errors and omissions policy or surety bond. SAA will work to change this bill to require both e&o and a surety bond since they provide different coverage.

**(-) SB 2913** (2/22/06 – Recommended to Pass House)  
SB 2913 would repeal a requirement that members of the Board of Registered Professional Geologists each post a \$50,000 bond.

**(+) SB 2943** (2/28/06 – Referred to House Ways and Means Committee)  
SB 2943 would create the Gulf Region Water Utility Authority. The authority would be comprised of a board of 9 directors, each of whom would have been required to post a \$50,000 bond. The treasurer would be required to post a \$50,000 bond.

**(+) HB 239** (1/31/06 – Died in Insurance Committee)  
HB 239 would have raised the value of the bond required from motor vehicle dealers from \$15,000 to \$25,000.

**(+) HB 512** (1/31/06 – Died in Insurance Committee)  
HB 512 would have required scholarship granting organizations that receive more than \$50,000 a year to post a surety bond or other security. The value of the assurance would have had to be equal to the value of contributions received.

**(+) HB 686** (1/31/06 – Died in Insurance Committee)  
HB 686 would have required wine distributors to post a bond with a maximum value of \$100,000.

**(+) HB 687** (1/31/06 – Died in Insurance Committee)  
HB 687 would have required wine distributors to post a bond. No maximum value would have been set as was done in HB 686.

**(+) HB 985** (1/31/06 – Died in Insurance Committee)  
HB 985 would have required persons who perform residential construction or residential improvement to post a \$50,000 bond.

**(+) HB 1184** (1/31/06 – Died in Insurance Committee)  
HB 1184 would have required certified professional evaluators of on-site wastewater disposal systems to have an error and omissions policy or surety bond in effect with liability limits of \$50,000 per occurrence or \$100,000 in the aggregate.

**(+) HB 1300** **(1/31/06 – Died in Insurance Committee)**  
HB 1300 would have created the Gulf Region Water Utility Authority. The authority would have been comprised of a board of 9 directors, each of whom would have been required to post a \$10,000 bond. The treasurer would have been required to post a \$50,000 bond.

**(+) SB 2007** **(1/31/06 – Died in Insurance Committee)**  
SB 2007 would have required humane enforcement officers to post a \$100,000 bond.

**(+) SB 2100** **(2/28/06 – Died in House Insurance Committee)**  
SB 2100 would have allowed a court dealing with divorce proceedings to require surety bonds to ensure payment of maintenance and alimony.

**(+) SB 2481** **(1/31/06 – Died in Insurance Committee)**  
SB 2481 would require notaries to post a \$10,000 bond.

**(+) HB 936** **(1/31/06 – Died in Insurance Committee)**  
HB 936 was similar to SB 2481 described above.

**(+) SB 2530** **(1/31/06 – Died in Insurance Committee)**  
SB 2530 would establish the Mississippi Scholarship for Students with Disabilities Program. Private schools participating in the program would have to demonstrate fiscal soundness by “being in operation for one (1) school year or provide the State Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the department.” We will attempt to eliminate the adverse selection in this bill.

**(+) SB 2545** **(1/31/06 – Died in Insurance Committee)**  
SB 2545 would allow a court to require one to post a bond to ensure payment for an order of paternity. If such a bond were required, the person also would be required to post a bond to the State for the support and education of the child. The bill would also allow a court to require a bond from a mother who has failed to support and educate her child.

**(+) SB 2717** **(1/31/06 – Died in Insurance Committee)**  
SB 2717 would raise the value of the bond required from motor vehicle dealers from \$15,000 to \$50,000.

**(=) SB 2948** **(1/31/06 – Died in Insurance Committee)**  
SB 2948 would allow the seller of a condominium, in lieu of placing funds in an escrow account, obtain a surety bond or other security.

## Missouri

### **(-) HB 1380**

**(2/21/06 – Passed Rules Committee)**

HB 1380 would allow for a public-private partnership to finance, develop, and/or operate a toll bridge between Illinois and Missouri. Bid bonds would not be required on the project, but the Missouri Highways and Transportation Commission could require performance and payment bonds.

### **(-) SB 938**

**(2/23/06 – To Senate Floor)**

SB 938 is similar to HB 1380 described above.

### **(+/-) HB 1465**

**(2/2/06 – Referred to Workforce Development Committee)**

HB 1465 would require every officer, agent, shop steward, or other representative or employee of any labor organization, who handles funds or property of the labor organization to be bonded. This requirement would not apply to labor organizations whose annual value is less than \$5,000. The bond would be valued at 10% of the funds handled by an individual during the preceding year, up to \$500,000. The first year bonds would be a minimum of \$1,000. Surety companies issuing these bonds would have to issue detailed reports to the State, filed by the president and treasurer or corresponding principal officers, detailing “premiums received, total claims paid, amounts recovered by way of subrogation, administrative and legal expenses and such related data and information as the department shall determine to be necessary in the public interest.” SAA favors the new bond requirement, but is working with AIA to eliminate the reporting requirements.

### **(+) HB 1479**

**(2/23/06 – Referred to Urban Issues Committee)**

HB 1479 would require that private schools participating in the Angell Scholarship Program demonstrate fiscal soundness by being in existence for three years or posting a bond or letter of credit for the amount of funds received through the scholarship.

### **(+) HB 1730**

**(2/13/06 – Read Second Time)**

HB 1730 would allow the State to require a bond from those constructing facilities that utilize innovative wastewater treatment technology.

### **(+) SB 1081**

**(2/21/06 – Read Second Time)**

SB 1081 is similar to HB 1730 described above.

### **(+) HB 1783**

**(2/23/06 – Referred to Urban Issues Committee)**

HB 1783 would require that a scholarship granting organization post a bond if it receives more than \$50,000 a year in donations.

### **(+) HB 1851**

**(2/23/06 – Read Second Time)**

HB 1851 would establish universal health insurance in Missouri. The executive director of the program would have to post a surety bond.

**(=) SB 908** **(3/1/06 – On Consent Calendar)**  
SB 908 would allow electronic bidding on state highway projects. Bid bonds would have to be able to be submitted electronically.

**(+) SB 991** **(2/20/06 – In Judiciary Committee)**  
SB 991 would require motor vehicle extended service contract providers to either insure the contracts or maintain a funded reserve and post a financial security of at least \$25,000, but not less than five percent of the gross consideration received, less claims paid, on the sale of the motor vehicle extended service contract for all motor vehicle extended service contracts issued and in force.

**(+) HB 1626** **(2/16/06 – Referred to Insurance Committee)**  
HB 1626 is similar to SB 991 described above.

**(+) SB 993** **(2/20/06 – In Governmental Organizations Committee)**  
SB 993 would raise the value of the bond required from a check seller from \$25,000 to \$100,000.

**(+) SB 1024** **(2/8/06 – Read Second Time)**  
SB 1024 would allow one to post a bond to release property seized by the State.

### **Nebraska**

**(+) LB 875** **(2/28/06 – Advanced for Re-engrossment)**  
LB 875 would require a managing general agent to post a surety bond valued at “at least one hundred thousand dollars or ten percent of the managing general agent’s total annual written premium nationwide produced by the managing general agent for the insurer in the prior calendar year, but not greater than five hundred thousand dollars.”

**(+) LB 876** **(2/13/06 – Engrossed)**  
LB 876 would raise the value of the surety bond required from mortgage bankers from \$50,000 to \$100,000.

**(+) LB 1198** **(2/24/06 – Placed on General File)**  
LB 1198 would require microscale producers of biofuel to post a bond with a maximum value of \$5,000.

### **New Hampshire**

**(=) HB 1107** **(2/23/06 – Committee Recommended to Refer for Interim Study)**  
HB 1107 would establish laws for commercial construction contracts. Such contracts are defined as being greater than \$25,000, not a public works project, not funded or insured by HUD, and if for residential occupancy, containing more than 4 units. The owner would be required to pay anyone with whom s/he directly contracts within 30 days of receiving request for payment. Likewise, those who received these monies would have to pay their subs and suppliers within 30 days of receipt of payment. If payment were not made, a notice of claim would have to be made through certified mail. Ten days after receipt of notice, the one notified would be liable for 1%

interest per month on the payment. If the party withholding the money were found to have done so in bad faith s/he would also be liable for 10% in damages. Retainage could not exceed 7.5% and would have to be placed in an escrow account. The bill also provides that any provision in a construction contract or any periodic lien waiver issued pursuant to a construction contract that purports to waive the right to assert a lien or make a claim against a payment bond shall be void and of no effect. “No surety shall be obligated to include in the payment of a bond issued by such surety any interest, costs, penalties, or attorneys’ fees imposed on the principal of such bond under any provision of this chapter, unless the terms of the bond expressly reference said sections and subsection and state that such surety is obligated to pay such interest, costs, penalties or attorneys’ fees.” “In any enforcement action under this chapter, a court may award court costs and reasonable attorney’s fees to the prevailing party.”

This bill is similar to the “prompt pay” legislation that the SAA has seen subcontractors introduce in other states, with some notable exceptions: 1) it is limited to commercial contracts, as defined in the bill; 2) it permits retainage whereas most prompt pay bills eliminate it; and 3) it specifically excludes bond claims for attorneys fees, interest and penalties.

**(+) HB 1126 (2/17/06 – Committee Recommended to Pass)**

HB 1126 would require mortgage bankers to post a \$20,000 surety bond. Currently, only mortgage brokers are required to post this bond.

**(+) HB 1247 (2/21/06 – Committee Recommended to Refer for Interim Study)**

HB 1247 would require pharmacy benefit managers to post a fidelity bond equal to at least 10% of the amount of the funds s/he manages annually. The insurance department could require the bond be in excess of \$500,000, but no more than 10% of the amount of funds handled.

**(+) HB 1324 (2/23/06 – Committee Recommended to Pass)**

HB 1324 would require the State to solicit lease proposals for the Cannon Mountain ski area. Performance bonds would have to be part of any proposal.

**(+) HB 1325 (2/22/06 – Committee Recommended to Refer for Interim Study)**

HB 1325 would require martial arts schools to post a \$50,000 surety bond or other security. Schools that only accept membership fees on a monthly basis or whose refund liability does not exceed \$5,000 would be exempted from the bond requirement.

**(+) HB 1614 (2/23/06 – Committee Recommended as Inexpedient to Legislate)**

HB 1614 would require an erosion control bond in the amount of \$.10 per square foot of disturbed area of topsoil when doing road construction. SAA is attempting to amend the bill to require the bond be not less than \$.10 per square foot to ensure adequate coverage.

**(+) HB 1685 (2/15/06 – Committee Recommended as Inexpedient to Legislate)**

HB 1685 would establish a scholarship to allow children with educational disabilities to enroll in a private school. Schools receiving scholarship money would have to post a surety bond equal to the aggregate amount of scholarship money expected to be received.

**(+) HB 1759** (2/23/06 – Committee Recommended as Inexpedient to Legislate)  
HB 1759 would allow a court to allow the posting of a lien bond to discharge a lien held by one who provided labor or materials.

**(+) SB 72** (2/22/06 – Enrolled)  
SB 72 would raise the value of the bond required from public adjusters from not less than \$10,000 to at least \$20,000.

**(+) SB 391** (2/23/06 – Referred to Finance Committee)  
SB 391 would require insurance administrators who administer multiple employer welfare arrangements or church self-insured plans to post a surety bond or other security valued “in the greater of \$100,000 or 10 percent of the administrator’s average daily client account balance during the preceding calendar year.” The bond could not exceed \$1 million.

### **New Jersey**

**(+) HB 285** (1/10/06 – Introduced)  
HB 285 would allow the attachment of the property of one against whom there is probable cause the s/he has committed, supported, or is about to commit or support terrorism. The posting of a bond or other security could release the property.

**(+) SB 1182** (1/30/06 – Referred to Judiciary Committee)  
SB 1182 is similar to HB 285 described above.

**(+) HB 798** (2/23/06 – Second Reading)  
HB 798 would require that the seller of a unit in a common interest community which requires a public offering statement to post a bond or other security for insurance against the lien on the property.

**(+) HB 1458** (1/26/06 – Second Reading)  
HB 1458 would stay judgments against New Jersey members of the armed forces and national guard, and their sureties, while on active duty.

**(+) SB 1233** (1/30/06 – Introduced)  
SB 1233 is similar to HB 1458 described above.

**(-) HB 1552** (1/30/06 – WITHDRAWN)  
HB 1552 would have altered retainage rules on state DOT projects. Currently, 5% of the first 50% of the project is withheld. This bill would have allowed 2% to be withheld until 100% completion. Retainage could have been increased to 4% if work was not satisfactorily progressing.

**(-) SB 120** (2/6/06 – WITHDRAWN)  
SB 120 was similar to HB 1552 described above.

**(-) HB 1770** **(2/6/06 – WITHDRAWN)**  
HB 1770 would have removed a requirement that when bidding for state college contracts that require a performance bond, the bidder “submit with the bid a certificate from a surety company stating that it will provide that bidder with a performance bond in the specified amount and form.”

**(+) HB 2334** **(2/6/06 – Introduced)**  
HB 2334 would require inmates to pay for their incarceration. The State would have a lien against an inmate’s property to cover this charge. An inmate could discharge this lien by posting a bond.

**(=) SB 1071** **(1/26/06 – Referred to Community and Urban Affairs Committee)**  
SB 1071 would, in any municipality, allow treasurers, tax collectors, and municipal court judges and clerks, to be covered under a blanket bond.

**(=) HB 2514** **(2/23/06 – Referred to Financial Institutions Committee)**  
HB 2514 is similar to HB 1071 described above.

**(+) SB 1321** **(2/6/06 – Introduced)**  
SB 1321 would require a timeshare developer to put purchasers’ funds into escrow until the cancellation period has ended. Alternately, the developer could post a bond.

**(=) SB 1392** **(2/9/06 – Introduced)**  
SB 1392 would allow counties and municipalities to establish eligibility criteria for surety companies to write bonds.

### New Mexico

**(-) HB 33** **\*\*NEW LAW\*\*  
(3/2/06 – Signed; Chapter 18)**  
HB 33 removes a requirement for the treasurer of the chiropractic board to post a \$5,000 bond.

**(-) SB 201** **(2/12/06 – DIED)**  
SB 201 was similar to HB 33 described above.

**(+) HB 437** **(2/10/06 – DIED)**  
HB 437 would have allowed an oil and gas operator to enter a surface owner’s property if no surface use and compensation agreement was reached within 30 days of receiving notice of intent to enter the property. The operator would have had to post a bond to do this, valued at the greater of \$2,500 or compensation for damages caused by the oil and gas operations.

**(+) SB 631** **(2/9/06 – DIED)**  
SB 631 was similar to HB 437 described above.

**(+) SB 650** (2/11/06 – DIED)  
SB 650 would have required one issued a permit for a sustainable development testing site to post a \$100,000 bond or other security.

**(+) HB 152** (2/9/06 – DIED)  
HB 152 was similar to SB 650 described above.

### **New York**

**(-) HB 2676** (2/8/06 – Referred to Labor Committee)  
HB 2676 would allow a contractor who had lost a bid to sue the successful bidder for failing to pay prevailing wages or taxes, contributions, assessments or benefits.

**(-) HB 2721** (2/27/06 – On Assembly Floor Calendar)  
HB 2721 would mandate that when monies are retained from a contractor that they be placed in an interest bearing escrow account. “As of the time of the deposit of the retainage, the retained funds shall become the sole and separate property of the contractor.” The bill would also clarify that after retained money is released, the contractor and subcontractor would have five days to release the funds they had retained to the relevant parties.

**(-) HB 4040** (2/27/06 – On Assembly Floor Calendar)  
HB 4040 would amend New York Labor Law to allow private action against a surety bond for failing to pay the prevailing wage, and to allow for the collection of treble damages and attorneys’ fees by adding the following:

“2. In the event that an authorized official has dispensed with the requirement to post a payment bond in accord with the provisions of section one hundred thirty-seven of the state finance law in a contract for the prosecution of a public improvement for the state of New York, a municipal corporation, a public benefit corporation or a commission appointed pursuant to law, or in the absence of a requirement to post such a bond, an aggrieved employee or an employee organization on behalf of such employee may bring an action to recover amounts authorized hereby directly from the contractor or subcontractor for which labor was performed in the prosecution of such public improvement.

3. Actions brought pursuant to this section may be brought in the county in which such labor was performed or if such labor was performed in more than one county, then in any such county unless otherwise specified by the terms of the bond from which recovery is sought.

4. Upon a finding of underpayment or nonpayment of wages and/or supplements, the court, in addition to ordering payment of such wages and/or supplements, shall order payment (a) to each affected employee of a sum equal to three times the full amount of wages or supplements improperly withheld from such employee, (b) to each affected employee or to the employee organization which brought the action on behalf of such employee, but only to the extent paid or owed and admitted, all court costs and fees, reasonable attorney's fees and disbursements, including fees of expert witnesses, and (c) to the commissioner a civil penalty in an amount equal to twenty-five percent of the sum of all wages and/or supplements found to have been improperly withheld which sum shall be paid into a special account established by the state comptroller for the sole purpose of providing funds to be used by the commissioner for enforcement of the provisions of this article.”

**(-) HB 4487 (2/14/06 – Referred to Senate Local Government Committee)**

HB 4487 would remove the provision that the treasurer of the Lakeview public library district, and their sureties, be released from any liability for the loss of money that was deposited in a bank “by reason of the default or insolvency of any such depository.”

**(-) HB 6035 (2/28/06 – Referred to Ways and Means Committee)**

HB 6035 would reduce retainage on public works projects by 50% when 50% of the project is completed.

**(+) HB 6450 (2/27/06 – On Assembly Floor Calendar)**

HB 6450 would implement a real estate transfer tax. If anyone requests a court review of the tax assessed or applies for a refund of the tax, a surety bond would first have to be posted in an amount to cover all costs of the proceeding.

**(+) HB 7520 (2/1/06 – Referred to Local Government Committee)**

HB 7520 would create the Canadarago Lake protection and improvement district. The treasurer would be required to post an official undertaking with sureties.

**(+) HB 9467 (1/13/06 – Referred to Education Committee)**

HB 9467 would authorize the reconstruction of school buildings in Syracuse. Payment and performance bonds would be required in every contract entered into by the school construction board.

**(+) HB 9558 (2/23/06 – Recommitted to Ways and Means Committee)**

Portions of HB 9558 are similar to HB 9467 described above.

**(+) SB 6458 (2/23/06 – Recommitted to Finance Committee)**

SB 6458 is similar to HB 9558 described above.

**(+) HB 9559 (2/23/06 – Recommitted to Ways and Means Committee)**

HB 9559 would raise the value of the bond required from those who write bail bonds from \$5,000 to \$10,000.

**(+) SB 6459 (2/23/06 – Recommitted to Finance Committee)**

SB 6459 is similar to HB 9559 described above.

**(+) SB 4344 (2/6/06 – To Third Reading)**

SB 4344 would require that “commonly owned or maintained improvements are fully completed or subject to a performance bond or letter of credit to insure their completion,” when providing an “offering of cooperative interests in realty that consists of a subdivision of real property that consists of fewer than five individual homes or lots deeded to individual purchasers in fee simple absolute which does not contain commonly owned or maintained major improvements or recreational facilities, but does contain commonly owned or maintained driveways.”

**(-) SB 5463 (2/7/06 – Referred to Assembly Codes Committee)**

SB 5463 would allow the commissioner of labor to require a surety bond from any manufacturer or contractor of apparel who has twice violated the same provision of the labor law for the apparel industry in a two-year period. “Such surety bond shall be payable to the state and shall be for the benefit of production employees damaged by any failure of a manufacturer or contractor to pay wages or benefits or otherwise comply with the provisions of this chapter. Such surety bond shall be in the sum and form that the commissioner shall deem to be necessary to protect such production employees but shall in no case exceed \$2500 per production employee.”

**(+) SB 6642 (2/6/06 – Introduced)**

SB 6642 would require any person who hires labor on a public works contract to post a payment bond.

**Ohio**

**(-) HB 416 (2/28/06 – Referred to Senate Judiciary Committee)**

HB 416 would enact the Uniform Trust Code in Ohio. It would contain the following language, which impacts the trustee bond:

“(A) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

(B) The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

(C) A regulated financial-service institution qualified to do trust business in this state need not give bond, even if required by the terms of the trust.”

Under current Ohio law, a custodian over a minor’s property is not required to post a bond, unless ordered to do so by a court.

**(-) HB 497 (2/8/06 – Referred to Commerce and Labor Committee)**

HB 497 would limit retainage to 8% for the first 50% of the job. Retainage could not be held for materials delivered or otherwise approved. Attorney’s fees could be awarded in suits to claim retainage held.

**(-) SB 270 (2/7/06 – Referred to Insurance Committee)**

SB 270 is similar to HB 497 described above.

**Oklahoma**

**(+) HB 2470 (2/21/06 – First Reading in Senate)**

HB 2470 would expand the definition of “public contract” to include “any contract that is derived from other forms of consideration such as a promise of performance, including but not limited to, pledging a percentage of revenues or toll charges due to a public agency and is awarded by any public agency for the purpose of making any public improvements or constructing any road or bridge whereby the public agency has an agreement to authorize a private entity to make such improvements or construction and transfer the improvement, road, or bridge back to the public agency at a later date.”

**(=) HB 2519** **(2/7/06 – Second Reading)**  
HB 2519 would limit the appeal bond of a nonparticipating manufacturer that is in compliance with the escrow statutes pursuant to the Master Settlement Agreement to \$2.5 million.

**(-) HB 2620** **(2/7/06 – Second Reading)**  
HB 2620 would exempt contracts entered into by Oklahoma Correctional Industries for stemwalls and foundations from being considered a “public construction contract”.

**(=) HB 2657** **(2/7/06 – Second Reading)**  
HB 2657 would raise the value of liability insurance or bond required from owners of dangerous dogs from \$50,000 to \$100,000.

**(=) HB 2658** **(2/7/06 – Second Reading)**  
HB 2658 is similar to HB 2657 described above.

**(=) HB 2813** **(2/22/06 – Amended by Committee)**  
Originally HB 2813 was similar to HB 2657 described above. After being amended, however, the bill no longer raises the bond amount.

**(-) HB 2765** **(2/7/06 – Second Reading)**  
HB 2765 would raise the threshold for requiring bonds on public projects from \$25,000 to \$50,000.

**(-) SB 558** **(2/23/06 – In Appropriations Committee)**  
Originally, SB 558 would have raised the threshold for bonding on public works contracts from contracts exceeding \$25,000 to contracts exceeding \$100,000. The latest version of SB 558 has reduced the \$100,000 amount to \$50,000. Public liability insurance and workers’ compensation insurance would be required for contracts less than \$100,000.

**(+) SB 1049** **(2/7/06 – Second Reading)**  
Under current law, motor license agents must post a surety bond only if they are located in municipalities with populations greater than 8,500 and in counties with populations greater than 130,000. In addition, within these population areas, only those licensed as motor agents after June 25, 1987, have to post a bond. SB 1049 would remove both of these clauses, requiring all motor license agents to post a bond, regardless of location or time on job.

**(+) SB 1717** **(2/23/06 – Amended by Finance Committee)**  
SB 1717 would change the value of the bond required from a cigarette distributor from \$1,000 to being the greater of \$1,000 or 3 months estimated tax liability.

**(-) SB 1789** **(2/27/06 – Pending Committee Report)**  
SB 1789 would raise the threshold for holding retainage on public contracts from \$25,000 to \$40,000.

**(+) SB 1798** (2/6/06 – First Reading)  
SB 1798 would hold that “any provision in a construction agreement that requires an entity or that entity’s surety or insurer to indemnify, insure, defend or hold harmless another entity against liability for damage arising out of death or bodily injury to persons, or damage to property, which arises out of the negligence or fault of the indemnitee, its agents, representatives, subcontractors, or suppliers, is void and unenforceable as against public policy.”

## **Pennsylvania**

**\*\*NEW LAW\*\***

**(+) HB 1114** (2/14/06 – Approved by Governor; Act 7)  
HB 1114 allows anyone to post a surety bond to contest the amount of money being assessed for the remediation of a waste tire pile.

**(-) HB 1854** (2/6/06 – Referred to Senate Local Government Committee)  
HB 1854 would raise the threshold in the Second Class Township Code for requiring performance bonds on contracts from \$10,000 to \$18,000. Originally, the bill raised the dollar amount for requiring bonds to \$25,000. Furthermore, the threshold would be adjusted yearly based on changes in the CPI.

**(-) HB 1855** (2/6/06 – Referred to Senate Local Government Committee)  
HB 1855 is similar to HB 1854, but for First Class Townships.

**(-) HB 1856** (2/6/06 – Referred to Senate Local Government Committee)  
HB 1856 is similar to HB 1854, but for Third Class Cities.

**(-) HB 1857** (2/6/06 – Referred to Senate Local Government Committee)  
HB 1857 is similar to HB 1854, but for boroughs.

**(-) HB 1860** (2/1/06 – To Local Government Committee)  
HB 1860 would raise the threshold for requiring bonds on projects let by the public school construction authority from \$4,000 to \$18,000. Originally, the bill only raised the threshold to \$10,000. In addition, this threshold would be adjusted yearly based on changes in the CPI.

**(-) HB 1871** (2/10/06 – Referred to Senate Local Government Committee)  
HB 1871 is similar to HB 1854, but for the Public Auditorium Building Authority.

**(-) HB 1872** (2/10/06 – Referred to Senate Local Government Committee)  
HB 1872 is similar to HB 1854, but for Second Class Counties.

## **Rhode Island**

**(=) HB 7199** (2/9/06 – Introduced)  
HB 7199 would limit supersedeas bonds posted by a signatory to the Master Settlement Agreement to \$50 million.

**(+) HB 7351** **(2/15/06 – Introduced)**  
HB 7351 would require contractors to post a bond. The value of the bond would be determined by rule and range from \$1,000 to \$500,000, depending on the contractor. The bond would have to be issued by a company rated 'A' or better. SAA supports this new bond requirement and will work to change the rating requirement.

**(-) SB 2319** **(2/2/06 – Introduced)**  
SB 2319 would define a loan originator as “an individual who is an employee of a lender, and whose job responsibilities include direct contact with borrowers during the loan origination process, which may include soliciting, negotiating, acquiring, arranging or making mortgage loans for others, obtaining personal or financial information, assisting with the preparation of loan applications or other documents, quoting loan rates or terms, or providing required disclosures.” Loan originators would not be required to post bonds as others involved in the loan process are.

**(+) SB 2702** **(2/14/06 – Introduced)**  
SB 2702 would require citizens or corporations authorized to issue beach vehicle registration permits to post a bond.

**(+) SB 2731** **(2/14/06 – Introduced)**  
SB 2731 would require debt management service providers to post a bond or alternate security with a minimum value of \$50,000. The bond would have to be issued by an 'A' rated company. SAA supports this new bond requirement and will work to change the rating requirement. This is a new NCCUSL Uniform Act.

**(+) HB 7577** **(2/16/06 – Introduced)**  
HB 7577 is similar to SB 2731 described above.

### **South Carolina**

**(+) SB 1166** **(2/21/06 – Referred to Education Committee)**  
SB 1166 would require an independent school receiving more than \$50,000 in scholarship money to post a bond or show that it has the financial ability to repay the money.

### **South Dakota**

**\*\*NEW LAW\*\***

**(+) SB 49** **(2/28/06 – Signed by Governor)**  
SB 49 requires discount medical plan organizations to post a \$20,000 bond. The NAIC is considering model legislation with a \$35,000 license bond requirement.

**\*\*NEW LAW\*\***

**(+) SB 62** **(2/28/06 – Signed by Governor)**  
SB 62 modifies bonding requirements for uranium exploration permits. Previously, one had to post a bond guaranteeing the plugging of 10% of the test holes. This bill requires the bond to cover plugging all of the test holes. In addition, previously, in lieu of filing a bond for each

exploration area, one could post a \$20,000 bond to cover all exploration statewide. This bill removes that provision.

**\*\*NEW LAW\*\***

**(-) SB 68** (2/28/06 – Signed by Governor)  
SB 68 allows trust companies to purchase liability insurance instead of bonds, which, previously, were the only acceptable financial security.

**(+) SB 50** (2/22/06 – Failed to Pass House)  
SB 50 would make certain members of limited liability corporations and partnerships personally responsible for tax debts. The LLC or partnership could avoid having these members be personally liable by posting a surety bond or other security.

**Tennessee**

**(+) HB 2687** (2/15/06 – Passed Second Consideration)  
HB 2687 would require private schools participating in the opportunity scholarship program to demonstrate fiscal soundness. One way to do this would be through the posting of a bond.

**(+) SB 3536** (2/22/06 – Passed Second Consideration)  
SB 3536 is similar to HB 2687 described above.

**(+) HB 2789** (2/16/06 – Passed Second Consideration)  
HB 2789 would require defensive driving schools, driver safety schools, and course providers to post a bond or other security.

**(+) SB 2721** (2/16/06 – Passed Second Consideration)  
SB 2721 is similar to HB 2789 described above.

**(+) HB 2981** (2/22/06 – Passed Second Consideration)  
HB 2981, similar to HB 2789, would require defensive driving schools and driver safety school to post a \$10,000 bond. Course providers would have to post a \$25,000 bond.

**(-) HB 3028** (2/27/06 – Passed House)  
HB 3028 would allow city employees to get an insurance policy instead of posting surety or fidelity bonds.

**(+) HB 3676** (2/27/06 – Passed First Consideration)  
HB 3676 would require public adjusters to post a \$50,000 bond. This is based on a new NAIC model act, although the bond amount is higher than in the model legislation.

**(+) HB 3768** (2/27/06 – Passed First Consideration)  
HB 3768 would require employee and staff leasing companies that choose to self-insure to have a net worth of at least \$100,000 or post a \$100,000 bond or letter of credit.

**(+) SB 3855** (2/27/06 – Introduced)  
SB 3855 is similar to HB 3768 described above.

**(+) HB 3790** (2/27/06 – WITHDRAWN)  
HB 3790 would require a developer proposing to develop more than 30 acres of land located on a mountainside or hill to post a bond.

**(+) HB 3859** (2/27/06 – Passed First Consideration)  
HB 3859 would require officers and employees of the Town of Gibson to post fidelity and surety bonds. Bid bonds of 5% and 100% performance bonds would be required on all public works contracts.

**(+) SB 3808** (2/27/06 – Introduced)  
SB 3808 is similar to HB 3859 described above.

**(-) SB 2564** (2/8/06 – Passed Second Consideration)  
SB 2564 would allow the City of Martin to accept an insurance policy instead of fidelity bonds for municipal officers and employees.

**(+) SB 3015** (2/22/06 – Passed Second Consideration)  
SB 3015 would allow design-build contracts on certain public projects. Payment and performance bonds would be required.

**(+) HB 3701** (2/27/06 – Passed First Consideration)  
HB 3701 is similar to SB 3015 described above.

**(=) SB 3060** (2/22/06 – Passed Second Consideration)  
SB 3060 would require private special deputies (security officers) to post a \$50,000 bond or liability insurance policy. SAA is exploring whether a clarification is needed on the difference between bonds and liability insurance.

**(=) HB 3163** (2/27/06 – Assigned to Local Government Committee)  
HB 3163 is similar to SB 3060 described above.

**(+) SB 3313** (2/22/06 – Passed Second Consideration)  
SB 3313 would not allow liens when 100% payment bonds were provided. Furthermore, the bill would require that one post a bond valued at the lesser of \$1,000 or the amount of the lien, when applying for the attachment of property.

**(+) HB 3533** (2/23/06 – Passed First Consideration)  
HB 3533 is similar to SB 3313 described above.

## Utah

**(=) HB 100** (2/21/06 – Second Reading in Senate)

HB 100 would require those beginning environmental litigation to post a bond, “in an amount that will cover the payment of the reasonably foreseeable costs and damages suffered in Utah by any person because of the environmental litigation, including:

- (i) employees' lost wages, salaries, and benefits; and
- (ii) lost net revenue;”

Originally, the bill would have also required the bond to cover “consequential damages, including increased construction costs, because of the litigation;”

**(-) HB 145** (2/23/06 – To Senate Rules Committee)

HB 145 would repeal a requirement that the treasurer of the Grazing Advisory Board post a bond.

**(-) HB 291** (2/22/06 – Enrolled)

HB 291 would reduce the minimum amount of a bond required to ensure tax collection from \$50,000 to \$25,000.

**(+) SB 79** (2/28/06 – Passed House)

SB 79 would require debt management service providers to post a \$100,000 bond or alternate security. The bond would have to be issued by a company with a rating of at least A. SAA supports this new bond requirement, but will look to obtain a more reasonable rating requirement. This is based on a new NCCUSL model act, although the amount of the bond is higher than in the model legislation.

**(-) SB 80** (2/16/06 – To House Transportation Committee)

SB 80 would authorize public-private partnerships for the construction of tollways. Payment and performance bonds would be allowed, but are not specifically required.

## Vermont

**(-) HB 678** (2/8/06 – In Senate Finance Committee)

HB 678 would remove the surety bond as one way for a service contract provider to prove his/her financial stability.

**(+) HB 762** (1/31/06 – In Commerce Committee)

HB 762 would require a home heating oil, kerosene, or liquefied petroleum gas dealer who enters into prepaid contracts to either obtain fixed price contracts for 75% of the commodity s/he is to deliver or a surety bond in an amount not less than 50 % of the total amount of funds paid to the dealer.

## Virginia

### **(-) HB 64 (2/2/06 – Referred to Senate General Laws Committee)**

In its current version, HB 64 raises the threshold for requiring bonds from \$100,000 to \$300,000, on transportation related contracts only. The threshold for requiring bonds on other public works would remain at \$100,000. Bid bonds could be required on contracts below these threshold figures. Bid bonds on transportation related contracts above \$300,000 would be limited to 5%. Originally HB 64 would have raised the threshold for requiring bid, performance, and payment bonds on public works projects from \$100,000 to \$500,000. In addition, transportation related projects would no longer have been required to post 100% payment bonds. Despite being successful in seeing the bill limited, SAA and AIA are working to discuss this bill with the sponsor and oppose its enactment.

### **(=) HB 340 (2/28/06 – Passed Senate)**

HB 340 would require the owner of a dangerous dog to maintain \$300,000 in liability insurance or a \$300,000 surety bond.

### **(=) SB 200 (2/22/06 – Committee Substitute)**

SB 200 is similar to HB 340 described above.

### **(+) HB 525 (2/28/06 – On Calendar)**

HB 525 would require a qualified organization composed of or for deaf or blind persons that employs someone who is not a member of the organization to provide clerical assistance in the management and operation but not the conduct of any charitable games to post a fidelity bond. Currently, fidelity bonds are required in such a situation only if the person assists in the conduct of the game.

### **(-) HB 693 (2/27/06 – Passed Senate)**

HB 693 would allow one to post a bond, letter of credit, or cash, to secure escrow deposits for time-share purchases. Currently, only a surety bond may be used to do this.

### **(+) HB 750 (2/9/06 – Continued to 2007)**

Current law requires 100% performance bonds on public contracts exceeding \$100,000. Transportation projects that exceed \$100,000, however, are statutorily exempt from 100% performance bonds, instead requiring a bond in an amount “satisfactory to the public body.” HB 750 would remove this distinction, and require 100% performance bonds on all public contracts greater than \$100,000.

### **(-) HB 812 (2/27/06 – Passed House and Senate)**

HB 812 would remove the requirement for an appeal bond from a plaintiff in a civil case where the defendant has not asserted a counterclaim.

### **(-) HB 881 (1/31/06 – Referred to Commerce and Labor Committee)**

Under current law, when a city or town leases its property for a term greater than five years, the lessee must post a bond “in such sum as the city or town shall determine, conditioned upon the construction, operation and maintenance of the plant or plants provided for in the granted

franchise, right, lease or privilege.” HB 881 would provide that a video provider that develops or operates a cable system would not be required to post performance bonds in excess of \$50,000.

**(-) SB 706** (2/27/06 – Passed House)  
SB 706 is similar to HB 881 described above.

**(-) HB 1404** (2/28/06 – Passed House and Senate)  
HB 1404 is similar to HB 881 described above.

**(-) HB 906** (2/27/06 – Passed House and Senate)  
HB 906 would alter trust law relating to a trust for the care of an animal to specifically state that no surety bond is required from a trustee unless required by a court or the trust instrument.

**(=) HB 994** (2/28/06 – On Calendar)  
HB 994 would allow for OCIPs on public contracts. Originally, Surety bonds were specifically mentioned as being allowed in the OCIP. SAA and AIA worked successfully to eliminate surety from the bill.

**(=) SB 271** (2/28/06 – Passed House and Senate)  
SB 271 is similar to HB 994 described above.

**(-) HB 1115** (2/28/06 – Passed House and Senate)  
Under current law, when distributing the property of one presumed, but not certainly, dead, the recipient of the estate must post a bond “with surety” in case such person is, in fact, alive. HB 1115 would modify this law to require the recipient of the estate post a bond *without surety*.

**(+) HB 1259** (2/27/06 – Passed Senate)  
HB 1259 would alter bonding laws to require bonds on any project exceeding \$100,000 that is paid for with public funds.

**(+) HB 1275** (2/27/06 – Reported from Senate Commerce Committee)  
Under current law, when one sues his/her insurer to determine what coverage is available under his/her bond, or to what extent the insurer is liable, the individual may recover attorneys’ fees and other costs from the insurer. HB 1275 would only have this clause apply to insurance policies, and not have it apply to bonds.

**(+) HB 1463** (2/15/06 – Referred to Senate Privileges and Elections Committee)  
HB 1463 would require one contesting an election to the General Assembly to post a bond of \$100 per precinct contested. Furthermore, the bill would require a bond of \$10 per precinct to contest the election of Governor, Lieutenant Governor, or Attorney General.

**(-) HB 1502** (2/15/06 – Referred to Senate Finance Committee)  
HB 1502 would regulate construction at Virginia Polytechnic Institute and State University. Retainage would be limited to 5%. Bid, performance, and payment bonds would be required on projects costing more than \$1 million. This would not prohibit requiring such bonds on less

costly projects. As this bill appears to be exempting construction at Virginia Polytechnic Institute and State University from public bonding statutes, SAA opposes the bill.

**(-) SB 675** (2/17/06 – Referred to House Appropriations Committee)  
SB 675 is similar to HB 1502 described above.

**(+) SB 306** (2/27/06 – Passed Senate and House)  
SB 306 would raise the value of the bond required from motor vehicle dealers from \$25,000 to \$50,000.

**(+) SB 371** (2/28/06 – Read Third Time in House)  
SB 371 would allow subdivisions to use private funding for public construction. Bonds or other security would be required.

**(+) SB 545** (2/2/06 – Continued to 2007)  
SB 545 would establish a scholarship for disabled students. Private schools participating in the program would have to demonstrate fiscal soundness, “by being in operation for at least one year, or providing the Board of Education with a (i) statement by a certified public accountant confirming that the private school is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected; or (ii) surety bond or letter of credit for the amount equal to the scholarship funds for any quarter.”

**(+) SB 598** (2/13/06 – Continued to 2007)  
SB 598 would require motor vehicle equity lenders to post a bond in the minimum amount of \$50,000.

**(+) HB 1514** (2/13/06 – Continued to 2007)  
HB 1514 is similar to SB 598 described above.

### **Washington**

**(+) HB 1331** (2/17/06 – Second Reading in Senate)  
Under current law electrical contractors must be licensed and bonded. HB 1331 would elaborate that anyone who advertises, offers to do work, or submits a bid relating to electrical contracting would also have to be bonded and licensed.

**(=) HB 1797** (2/3/06 – Second Reading)  
HB 1797 would prohibit a vehicle protection product warrantor from using the word surety or, something deceptively similar, in its name, contracts, or literature, unless it was licensed as an insurance company.

**(+) HB 2340** (2/23/06 – Second Reading in Senate)  
Under current law, a mortgage broker must post a surety bond or other security valued between \$20,000 and \$60,000. HB 2340 would, after January 1, 2007, only allow surety bonds to be posted to meet this financial assurance requirement.

**(+) SB 6166** (2/24/06 – Second Reading in House)  
SB 6166 is similar to HB 2340 described above.

**(+) HB 2623** (2/3/06 – Second Reading)  
HB 2623 would require farm labor contractors participating or applying to participate in the federal H-2A visa program to post a repatriation bond or other security. “The purpose of the repatriation bond is to cover travel expenses for returning H-2A workers to their home in their country of origin, and room, board, and other living expenses for H-2A workers while they await repatriation if the farm labor contractor fails to make timely repatriation of H-2A workers when appropriate.”

**(+) SB 6352** (2/24/06 – In Rules Committee)  
SB 6352 is similar to HB 2623 described above.

**(+) HB 2776** (2/24/06 – Second Reading in Senate)  
HB 2776 would require home heating fuel service contract providers to either insure the contracts for reimbursement or maintain a funded reserve and a financial security “having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than ten thousand dollars.”

**(+) HB 2871** (2/22/06 – Referred to Senate Transportation Committee)  
HB 2871 would create a regional transportation commission to develop and implement a comprehensive transportation plan within the metropolitan Puget Sound region (Seattle). The treasurer of the commission would have to post a bond.

**(-) HB 3162** (2/3/06 – Second Reading)  
HB 3162 would raise the threshold for requiring bid bonds on water-sewer district contracts from \$10,000 to \$40,000.

**(+) HB 3185** (2/24/06 – Second Reading in Senate)  
HB 3185 would allow the director of the Department of Labor and Industries to order an employer to deliver property to the Director if the employer failed to adhere to wage laws. Alternately, a bond could be posted.

**(=) SB 6541** (2/22/06 – Second Reading in House)  
SB 6541 would limit appeal bonds from master settlement agreement signatories to \$100 million.

**(+) SB 6591** (1/23/06 – Public Hearing in Committee)  
SB 6591 would require a wholesale drug distributor to post a bond.

**(=) SB 6740** (2/23/06 – In Rules Committee)  
SB 6740 would require prime residential contractors to submit “the name and address of the person who received or is entitled to receive the most compensation from the contractor, regardless of whether the compensation is provided as salary, wages, profits, or otherwise,

during the term of the contractor's registration; and, if different, each person financially responsible for the prime residential contractor, as defined by RCW 60.04.011; and (ii) whether any person so identified has obtained personal liability under section 2 of this act and has, in the previous two years, entered into an agreement or was a party to a judgment where a residential homeowner was required to pay some or all of such claimed debt.” Originally, SB 6740 allowed the contractor to post a \$250,000 bond instead of fulfilling the above requirement. This alternative, however, has been removed through amendment.

### **West Virginia**

**(-) HB 4096** (2/9/06 – To Judiciary Committee)  
HB 4096 would limit appeal bonds to \$25 million for compensatory damages and \$25 million for punitive damages.

**(+) HB 4314** (2/1/06 – To Judiciary Committee)  
HB 4314 would require a racetrack table games licensee to post a bond.

**(+) HB 4360** (2/28/06 – Read Second Time)  
HB 4360 would require that in order for a West Virginia law enforcement agency to deputize out of state law enforcement officers, the officers would have to be covered by the West Virginia law enforcement agency’s performance bond.

**(+) HB 4478** (2/9/06 – To Transportation Committee)  
HB 4478 would raise the bond required from new motor vehicle dealers from \$10,000 to \$50,000. In addition, the bond required from one providing license services, one engaged in the daily car rental business, or one conducting automobile auctions would be raised from \$25,000 to \$50,000.

**(-) HB 4622** (2/28/06 – Read Second Time)  
HB 4622 would lower the value of the bond required for every well used for the introduction of liquids for the disposal of pollutants or the effluent therefrom from \$10,000 to \$5,000. Similarly, a bond that could be required on coalbed methane wells would be reduced from \$10,000 to \$5,000.

**(+) HB 4742** (2/23/06 – To Government Organization Committee)  
HB 4742 would allow design-build construction on highways. Bonds would be required.

**(+) SB 71** (2/16/06 – To Finance Committee)  
SB 71 would raise the value of the bond required from commercial prison contractors from \$100,000 to \$1,000,000.

**(+) SB 486** (2/3/06 – To Banking and Insurance Committee)  
SB 486 would require a deferred deposit lender to post a \$25,000 bond per licensed location, with a maximum aggregate of \$250,000.

**(+) SB 559** (2/13/06 – To Banking and Insurance Committee)  
SB 559 is similar to SB 486 described above.

**(+) HB 4567** (2/15/06 – To Banking and Insurance Committee)  
HB 4567 is similar to SB 486 described above.

**(+) SB 520** (2/7/06 – To Government Organization Committee)  
SB 520 would establish a gasoline and fuel tax. Those required to pay or collect the tax could be required to post a bond to ensure the tax is paid.

**(+) HB 4566** (2/15/06 – To Judiciary Committee)  
HB 4566 is similar to SB 520 described above.

**(-) SB 555** (2/10/06 – To Finance Committee)  
SB 555 would remove a \$1,500 bond requirement from those authorized to perform marriages. Clergy are presently exempt from posting this bond.

**(-) SB 575** (2/28/06 – To House Government Organization Committee)  
SB 575 would allow the Contractors' Licensing Board to require a contractor who was found to be violating rules or other provisions of law to post a bond or other security.

**(+) SB 673** (2/28/06 – Read Second Time)  
SB 673 would allow counties to impose service fees on people working within the county. Any special infrastructure project financed in whole or part with these fees would have to be bonded if the cost exceeds \$50,000.

**(+) HB 4791** (2/28/06 – Read First Time)  
HB 4791 is similar to SB 673 described above.

**(+) SB 759** (2/28/06 – Read Second Time)  
SB 759 would allow design-build construction on transportation projects. Bonds would be required.

### **Wisconsin**

**(+) HB 1013** (2/22/06 – Fiscal Estimate Received)  
HB 1013 would require wholesale distributors of prescription drugs to post a bond or other security with a minimum value of \$100,000.

**(+) SB 599** (2/22/06 – Fiscal Estimate Received)  
SB 599 is similar to HB 1013 described above.

**(+) HB 1056** (2/22/06 – Public Hearing Held)  
HB 1056 would hold that "For purposes of coverage under any policy of general liability insurance or employer's liability insurance, other than worker's compensation insurance, carried by the PEO or under a fidelity or surety bond posted by the PEO, a covered employee is not,

solely by reason of being a covered employee, considered to be an employee of the PEO, unless the covered employee is specified as an employee of the PEO for those purposes in the professional employer agreement and in any applicable prearranged employment contract, insurance policy, or bond.”

**(=) SB 391** **(2/27/06 – Read First Time in House)**  
SB 391 would remove a provision allowing the sureties on the bond of a guardian to petition the court for a hearing requiring an accounting by the guardian.

**(+) SB 450** **(2/27/06 – Referred to House Rules Committee)**  
SB 450 amends the construction lien law in which a lien can be removed from the judgment and lien docket if a surety bond or a deposit is posted with the clerk of the court. Existing law provides that the surety bond may be executed by two or more sureties. This bill would change that to a single surety. It eliminates co-surety.

### **Wyoming**

**(-) HB 10** **(2/24/06 – On Senate General File)**  
Under current law, certain nonresident employers must post a surety bond or other security. HB 10 would allow these employers to pay an advance premium deposit in lieu of this bond.

**(-) HB 40** **(2/13/06 – Introduced)**  
HB 40 would create a grain indemnity account to protect against grain warehouse failure. The account would be funded by taxing the first point of sale of grain. Warehusmen would be required to collect and remit these monies. “The department may, when it has reason to believe a warehouseman does not have the ability to pay depositors for grain purchased or when it determines the warehouseman does not have a sufficient net worth to outstanding financial obligations ratio, require the warehouseman to post a bond or other additional security in an amount to be prescribed by rule.” When a warehouse fails, the Department of Agriculture becomes its trustee and pays claims against it from producers and buyers whose grain is/was in the warehouse. Such claims are paid out of the new guaranty fund, and the fund has a right to recover for any claims paid against the warehouse and its sureties. The bill gives the Department the right to sue the warehouse and its sureties to recover--including court costs and attorneys fees. The state also gets interest on judgments awarded under this bill. If approved, this bill would be in force from 7/1/06 to 6/30/12.

**(+) HB 135** **(2/28/06 – On Senate General File)**  
HB 135 would allow construction manager and construction manager at risk contracts. Bonds would be required.

**(-) HB 172** **(2/16/06 – Failed Introduction)**  
HB 172 would lower the value of the bond required to secure the payment of tax from nonresident prime contractors from 3% to 2% of the payments due under the contract.

**(+) SB 69** **(2/28/06 – On House General File)**  
SB 69 would require private degree granting post secondary institutions to post a bond of not more than \$10,000.

**(+) SB 75** **(2/15/06 – Referred to Senate Transportation Committee)**  
SB 75 would require out of state recreational vehicle dealers to post a \$50,000 bond.