State Corporation Commission
2002 Fiscal Impact Statement

1. **Bill Number** SB151

House of Origin	☒ Introduced	☐ Substitute	☒ Engrossed
Second House	☐ In Committee	☐ Substitute	☐ Enrolled

2. **Patron** Norment

3. **Committee** Passed Senate; Communicated to House

4. **Title** Uninsured motorist coverage; rates and refunds.

5. Summary/Purpose:

This proposal allows uninsured motorist (UM) rates to be regulated under Chapter 19 of Title 38.2, which is the “file and use” chapter of the insurance code. UM rates will no longer be subject to the “prior approval” provisions of Chapter 20. The proposal also amends § 38.2-3001 to allow for a more equitable distribution of the refunds from the Uninsured Motorists Fund.

6. No Fiscal Impact on state agencies. See #8

7. Budget amendment necessary: No

8. Fiscal implications: The Bureau of Insurance is unable to quantify the fiscal impact, but, the commercial insurance marketplace should be able to react faster and adjust rates more quickly in response to changes in the market. Also, uninsured motorist (UM) refund calculations for insurance carriers should be less burdensome. In addition, enactment of Senate Bill 151 should have some impact on the workload of the Bureau of Insurance as the number of form and rate filings are reduced. Some background information on “file and use” versus “prior approval” rate regulation and on the changes to the UM Fund is contained below in item # 11.

9. Specific agency or political subdivisions affected: State Corporation Commission Bureau of Insurance

10. Technical amendment necessary: No

11. Other comments: Drivers are not required to purchase insurance in Virginia. However, drivers that do not purchase insurance must pay the Department of Motor Vehicles (DMV) a $500 uninsured motorist fee. A portion of the uninsured motorist fees goes back to the insurance companies that provide uninsured motorists coverage in order to keep the rates low. The $500 uninsured motorist fee goes into a fund called the Uninsured Motorists Fund, which is maintained by the DMV. The DMV keeps part of the fees for its administrative costs, and the remainder is transferred to the Bureau for distribution to insurance companies writing automobile liability insurance in Virginia. The distribution is based on each company's premium income for basic uninsured motorists coverage written in Virginia during the

preceding year. This is done in accordance with Virginia Code §§ 38.2-3000 and 38.2-3001.

Currently, uninsured motorists rates that are used by insurance companies writing automobile insurance in Virginia are established by the Bureau. The annual rates established by the Bureau for uninsured motorists coverage at Virginia's minimum liability limits are $35.00 for the first vehicle and $30.00 for each other vehicle covered by the policy. The charge for this coverage is greater when higher liability limits are purchased. Insurance companies may submit their own rates for approval if they want to deviate from the rates established by the Bureau. Should an insurance company wish to deviate from the approved uninsured motorists rates, the company's proposed rates are submitted by the Bureau to an actuary to determine that they are not excessive, inadequate, or unfairly discriminatory as provided by § 38.2-2005 of the Code.

The change in the distribution of the refunds from the Uninsured Motorists Fund is being proposed to allow for a more equitable distribution to insurers writing uninsured motorist coverage in Virginia. Currently, insurers charging higher rates stand to recoup larger refunds than insurers charging lower rates, everything else being equal. The proposed change puts all insurers writing uninsured motorist coverage on an equal footing, regardless of the rate that is charged. In addition, calculating the premium income for “basic uninsured motorist limits” is very difficult and time-consuming for insurers. Basing the refund on car years, on the other hand, will be much easier to calculate because insurers are already required to report car-year exposures to their statistical agents. In addition, during the auditing process, it will be easier for the Bureau to verify car years by checking with the rate service organizations to which insurers report their statistics. Right now, there is no way for the Bureau to verify “basic uninsured motorist limits” since this is not reported on the annual statement or anywhere else. Also, there is no need to require that the insurer’s records show its loss experience in order to qualify for a refund because the refund calculations are not based on each insurer’s loss experience.

Under the current system, insurers charging higher rates stand to recoup larger refunds than those charging lower rates. This proposal puts all insurers on an equal footing. When the law was written, all companies charged the same U.M. rates. This is no longer the case. Many have made filings that have been approved to allow them to charge higher U.M. rates than what the Bureau has approved.
The latest UM refund distribution was $14 million paid to 279 companies. The largest distribution to a particular insurer was $1.4 million.

<u>The change from “prior approval” to “file and use” rate regulation is being proposed for the following reasons:</u>

1. UM rates are the only component of motor vehicle insurance premiums that are not subject to “file and use” rate regulation. Motor vehicle insurance rates became subject to the “file and use” chapter of the Insurance Title (Chapter 19) 30 years ago, and Virginia’s rates are very low as compared to other states. For example, the latest annual report prepared by the National Association of Insurance Commissioners (NAIC), which compares private passenger automobile insurance premiums among the states, shows Virginia ranked as 45th (one being the highest) for combined average premium trends (this includes liability, collision, and comprehensive premiums).

2. Most of the major writers have enough experience to file their own UM rates, and most of the major writers (including State Farm, GEICO, and USAA) already file independent rates rather than relying on rates established by the Bureau of Insurance. In fact, 46% of the voluntary market is using independent UM rates.
3. Under “file and use” rate regulation, the Commission has the authority, after providing notice and opportunity to be heard, to disapprove a rate that is found to be in violation of § 38.2-1904 (if the rate is excessive, inadequate, or unfairly discriminatory). This is the same authority the Commission has for motor vehicle insurance rates in general (i.e. the liability, collision, and comprehensive portion of the rate).

Date: 1/25/02 V. Tompkins

cc: Secretary of Transportation