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## HOUSE JOINT RESOLUTION NO. 97

Offered January 11, 2006

Prefiled January 10, 2006

*Directing the Joint Legislative Audit and Review Commission to study the extent to which asset transfers are being used to shelter assets in order to qualify for Medicaid long-term care services. Report.*

Patrons—Landes, Athey, Brink, Cline, Cosgrove, Gear, Hamilton, Jones, S.C., Melvin, Morgan, O'Bannon, Rust, Saxman, Scott, E.T. and Welch; Senators: Blevins, Houck, Lambert, Puller, Rerras and Wampler

Referred to Committee on Rules

WHEREAS, House Bill No. 2601 (2005) was introduced to allow the Department of Medical Assistance Services to seek a waiver of the Social Security Act under Section 1115 to create more restrictive asset transfer limits than those currently allowed under federal law or regulations; and

WHEREAS, the introduction of House Bill No. 2601 raised a variety of issues related to individuals disposing of assets to gain access to Medicaid long-term care services; and

WHEREAS, in addition, House Bill No. 2601 drew attention to the potential value of excluded assets that are frequently transferred by long-term care recipients, such as personal jewelry and objects of art; and

WHEREAS, the Joint Legislative Audit and Review Commission completed a study over a decade ago entitled Medicaid Asset Transfers and Estate Recovery SD 10 (1993) that addressed the impact of Medicaid asset transfers in Virginia; and

WHEREAS, the federal Omnibus Budget Reconciliation Act of 1993 imposed additional restrictions on Medicaid asset transfers after the conclusion of the Joint Legislative Audit and Review Commission study; and

WHEREAS, estate planners and elder law attorneys have developed mechanisms for clients to use in protecting their assets for future transfer to heirs; and

WHEREAS, the Joint Commission on Health Care, in response to Commission member requests, conducted a review of Medicaid asset transfer issues and found that other than anecdotal evidence, current data is not available on the extent of Medicaid asset transfer abuses; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission be directed to study the extent to which asset transfers are being used to shelter assets in order to qualify for Medicaid long-term care services.

In conducting its study, the Joint Legislative Audit and Review Commission shall examine the practice and extent of persons transferring or giving away assets in an inappropriate manner so that they may become eligible for Medicaid, and to recommend to the General Assembly options available to limit the financial impact of such practices on the Commonwealth.

All agencies of the Commonwealth shall provide assistance to the Joint Legislative Audit and Review Commission for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings for the first year by November 30, 2006, and for the second year by October 1, 2007. The chairman shall report its findings and recommendations to the Joint Commission on Health Care by October 1, 2007, and submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year. Each executive summary shall state whether the Joint Legislative Audit and Review Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summaries and reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

INTRODUCED

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