

House Bill 1500

Amendment No. 1 Resource Adjustments (Item 0)

General Assembly Action: Reflected increased general fund resources above the introduced budget of \$223.6 million resulting primarily from a mid-session reforecast of revenues, modification of the proposed VRS rate increase, and elimination of the accelerated sales tax payment for 80 percent of merchants currently paying the accelerated tax.

Governor's Action: The revenue page adjustments reflect amendments proposed in the Governor's package, as shown below.

	<u>FY 2011</u>	<u>FY 2012</u>
Revenues		
Adjust refunds		5,000,000
Additional funds from recordation tax		7,000,000
Sale of Brunswick Correctional Center		8,750,000
Subtotal of Revenues		<u>20,750,000</u>
Additions to Balance		
Relief of Victor A. Burnette (2010 Acts)	(45,213)	(180,852)
Restore VCCS Workforce Development	(439,280)	
Restore balance for DPB Grants Management Web Site	(25,000)	
Reappropriate Purchase of Development Rights balance	(952,135)	
Restore funds for Productivity Investment Fund (#53)	(500,000)	
Increase VRS employer contribution rate (#55)		(23,241,576)
Make VRS payments on monthly basis (#62)		(400,000)
Revert general fund maintenance reserve balances (#65)	239,822	
Revert unobligated central capital balances (#64)	234,456	
Subtotal of Additions	<u>(1,487,350)</u>	<u>(23,822,428)</u>
Transfers		
Transfer nongeneral fund cash balances (#79)	533,074	-
Subtotal of Transfers	<u>533,074</u>	
Total Resources	(954,276)	(3,072,428)

Amendment No. 2
Joint Legislative Audit and Review Commission
JLARC Director's Salary Correction
(Item 30)

General Assembly Action: Adjusted the salary for the new director of the Joint Legislative Audit and Review Commission, appointed as of September 1, 2010. However, the second year salary amount as printed in the enrolled bill was too high by \$215.

Governor's Action: Adjusts the salary downward by \$215 to reflect the actual salary as approved by the Joint Committee on Rules.

Amendment No. 3
Virginia Criminal Sentencing Commission
Deferment of Dispositions in Circuit Court
(Item 49)

General Assembly Action: No action.

Governor's Action: Adds language requiring the Virginia Criminal Sentencing Commission to collect data on the extent to which circuit court judges are deferring decisions, except in cases pursuant to statutes in which the General Assembly has expressly authorized deferral and dismissal.

Notes:

- The Virginia Supreme Court, in the *Hernandez* decision in January 2011, ruled that the courts have authority to defer and dismiss criminal cases unless the General Assembly by statute has specifically forbidden deferral and dismissal.
- In response to *Hernandez*, HB 2513 (Gilbert) was introduced to specify that judges do not have the authority to defer and dismiss criminal cases, unless the General Assembly has specifically authorized this option. HB 2513 passed the House

(76-Y, 22-N, 1-A) but was passed by indefinitely in the Senate Committee on Courts of Justice. Senate Courts then sent a letter to the Crime Commission asking for a study of this issue.

- The Governor's proposed language directs the Virginia Criminal Sentencing Commission to collect information on the number and nature of criminal cases deferred by each circuit court, except those cases deferred pursuant to the specific statutes which authorize deferral.
- For any criminal cases deferred by the circuit courts, with the exceptions as noted, the judge is directed to file a report at the time of deferral and a second report upon the conclusion of the case, and the sentencing commission is directed to maintain a database of the information so obtained. The information is to be provided to the Crime Commission for further study.

**Amendment No. 4
Virginia State Bar
Report on Adjustment in Dues
(Item 51)**

General Assembly Action: Approved language (which was included in the introduced budget) directing the Virginia State Bar to review its member fee structure and make changes necessary to ensure fees are set at amounts needed only to cover costs and provide for an appropriate balance.

Governor's Action: Replaces existing language with new language directing the Virginia State Bar to develop a plan to reduce its member fees to ensure fees are set at amounts needed to cover costs and provide an adequate balance for working capital, sufficient for three months of operating expenses, and to submit the plan to the Chief Justice, the Governor, and the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2011.

Notes:

- The introduced budget included a transfer to the general fund of \$5 million NGF from balances of the Virginia State Bar, along with language for the State Bar to review its fee structure.
- The General Assembly rejected the proposed transfer but kept the language requirement concerning the fee structure.
- The proposed reporting language includes a specific goal that revenues should be within ten percent of actual expenditures and that working capital balances should be sufficient for three months of operations.

Amendment No. 5 Judicial Department Reversion Clearing Account Judgeship Vacancies (Item 52)

General Assembly Action: Added \$3.0 million GF the second year to reduce the savings required in the Judicial Department Reversion Clearing Account and restored 21 judgeships which were previously required to be held vacant. The language in the enrolled budget also exempted judgeships from the freeze when the judge is appointed to a higher court.

Governor's Action: Clarifies the exemption to the hiring freeze when the judge is appointed to a higher court. Instead of a "higher" court, the revised language clarifies that this exemption refers to an appointment to "another Virginia court, provided such appointment is to another authorized judgeship which is funded as provided herein or by existing law."

Notes:

- This is a technical amendment which is intended to provide for lateral judgeship appointments within the district courts. There was concern as to whether a move from a juvenile court to a general district court would be considered a move to a “higher” court or not, so the clarifying language was needed.

**Amendment No. 6
Compensation Board
Sheriffs' Funding
(Item 67.20)**

General Assembly Action: Provided an additional \$8.3 million GF in FY 2011 and \$14.3 million GF in FY 2012 to replace amounts for law enforcement and courtroom security proposed to be supplanted during the 2010 session by a new public safety fee. The proposed public safety fee was not adopted by the General Assembly, which left local sheriffs with a budget shortfall of \$30.0 million (\$8.3 million in FY 2011 and \$21.7 million in FY 2012.) In addressing the shortfall the 2011 General Assembly attempted to provide funding for both sheriffs and police departments funded under HB 599.

Governor's Action: Provides an additional \$7.4 million GF from year-end balances to replace amounts for law enforcement and courtroom security. When combined with the \$22.6 million GF already approved by the General Assembly, this fully addresses the sheriffs' shortfall.

Notes:

- Funding for the \$7.4 million GF proposed in the amendment is appropriated from year end general fund balances, if any. This is one of three prioritized uses for year-end general fund balances within the category of "Nonrecurring expenditures" set out in Amendment # 59.

- Amendment No. 6 directly appropriates the amount identified should the Comptroller designate a balance for nonrecurring expenditures.
- This amendment brings the total provided for sheriffs to \$30.0 million GF, which fully restores the amount proposed to be funded from the Public Safety Fund.
- No additional funding is provided for police departments funded under HB 599.

**Amendment No. 7
State Board of Elections
General Fund Match for Federal Funds
(Item 79)**

General Assembly Action: No action.

Governor's Action: Proposes an additional \$367,235 GF to match \$6.9 million of federal funds available from the Help America Vote Act (HAVA).

Notes:

According to the NCSL, federal Help America Vote Act (HAVA) funds may be used only to "...meet HAVA Title III requirements":

- Procuring voting systems that comply with the requirements of HAVA;
- Developing, operating, and/or maintaining a computerized statewide voter registration list;
- Providing required information to voters at the polling place for Federal elections;

- Implementing and/or operating a system of provisional voting during Federal elections; and,
- Implementing identification requirements for first-time voters who register to vote by mail.

Amendment No. 8
Economic Development Incentive Payments
Governor's Motion Picture Opportunity Fund
(Item 96)

General Assembly Action: Provided an additional \$500,000 GF in FY 2012 to the Governor's Motion Picture Opportunity Fund (MPOF). HB 1500, as introduced, proposed an additional \$2.0 million GF in FY 2012 for the MPOF.

Governor's Action: Proposes to increase funding by \$1.5 million GF in FY 2012, the level proposed in the introduced budget.

Notes:

- The base budget for the MPOF is \$1.0 million GF in FY 2012, so with the increase approved by the General Assembly, there is \$1.5 million available for this purpose. The Governor's proposed amendment would increase this amount to \$3.0 million.
- The amount provided by the General Assembly was consistent with current commitments made to the fund.

Amendment No. 9
Economic Development Incentive Payments
Base Realignment and Closure Funding
(Item 96)

General Assembly Action: Rejected the Governor's amendment proposed in the introduced budget to provide \$7.5 million GF in FY 2012 to the City of Virginia Beach for continued mitigation of encroachment around the U.S. Navy Master Jet Base at Oceana as part of the 2005 Base Realignment and Closure Commission (BRAC) recommendations.

Governor's Action: Proposes to appropriate up to \$7.5 million in FY 2012 for BRAC related payments to the City of Virginia Beach from unobligated FY 2011 general fund agency balances and general fund revenues in excess of the official forecast.

Notes:

- The General Assembly has provided \$7.5 GF million in each of the last five fiscal years to the City of Virginia Beach for mitigation of encroachment around Oceana. Through FY 2011, a total of \$37.5 million GF has been provided for this purpose.
- Amendment No. 9 directly appropriates the amount identified should be Comptroller designate a balance for nonrecurring expenditures.
- The 2005 legislation approved by the General Assembly to authorize the mitigation of encroachment provided no metric to determine how long these payments would need to continue.
- To date the U.S. Navy has given no assurance to the General Assembly that Oceana will still not be the subject of any future BRAC actions.

Amendment No. 10
Economic Development Incentive Payments
Small Business Innovation Research Funding
(Item 96)

General Assembly Action: Provided a total of \$10.0 million GF in FY 2012 for funding for commercialization and research. Out of this amount, \$6.0 million was deposited in the Commonwealth Research Commercialization Fund (CRCF), of which \$2.0 million was provided specifically for the Small Business Innovation Research (SBIR) Matching Fund Program for small Virginia-based technology businesses.

Governor's Action: Proposes to strike the language that provides the specific appropriation to the SBIR Matching Fund.

Notes:

- The explanation for the amendment indicates the number of SBIR grants has been small and eliminating the amount required for the SBIR will give greater flexibility for the CRCF.
- With this amendment, an unspecified amount could still be provided to the SBIR from the \$6.0 million in the CRCF.

Amendment No. 11
Department of Housing and Community Development
Derelict Structures Fund
(Item 100)

General Assembly Action: Provided \$1.0 million GF in FY 2012 for the Virginia Removal or Rehabilitation of Derelict Structures Fund for industrial site revitalization, and authorized that up to an \$2.0 million NGF be provided from the general fund portion of proceeds from sale of surplus state properties. HB 1500, as introduced, proposed \$4.0 million GF in FY 2012 for Derelict Structures.

Governor's Action: Proposes to increase the appropriation by an additional \$2.0 million GF in FY 2012 (for a total of \$3.0 million GF) and eliminate the authorization for the \$2.0 million NGF from the sale of surplus properties.

Notes:

- The explanation to the Governor's amendment indicates that DHCD has identified over 90 potential projects in 40 localities across the state that would be eligible for the funding.
- The \$2.0 million NGF provided by the General Assembly would be contingent on the sale of surplus property.

**Amendment No. 12
Department of Housing and Community Development
Virginia Main Street Program
(Item 100)**

General Assembly Action: Rejected a proposed amendment in the introduced budget to provide \$500,000 GF in FY 2012 for the Virginia Main Street Program.

Governor's Action: Adds \$500,000 GF in FY 2012 for the program.

Notes:

- Current funding for the Main Street Program is \$139,000 GF in each year of the biennium.
- The explanation to the Governor's amendment indicates that this will allow DHCD to add four new communities to the program but does not specify which communities would receive the funding.

Amendment No. 13
Department of Mines, Minerals and Energy
Energy Contracts, Grants and Loans Language
(Item 111)

General Assembly Action: No action.

Governor's Action: Proposes a language amendment that affirms that DMME may continue to assess surcharges in state fuel oil, natural gas and other energy contracts to support the cost of administering statewide energy contracts. The amendment also clarifies that DMME shall have the authority to manage the distribution and oversight of federal energy loans and grants distributed to other state agencies.

Notes:

- DMME has been assessing surcharges on state agencies included in the statewide fuel oil, natural gas and similar energy contracts. These statewide contracts reduce the cost to the individual agencies, even after the surcharge is added. The language limits the surcharge to the amount actually needed to administer the program.

Amendment No. 14
Virginia Economic Development Partnership
Virginia Commercial Space Flight Authority (VCSFA)
(Item 114)

General Assembly Action: Transferred funding and oversight in FY 2012 for the VCSFA to the Department of Aviation under Secretary of Transportation.

Governor's Action: Proposes a technical amendment to provide a reference to indicate that the funding in the second year is now in the Department of Aviation.

Notes:

- A corresponding amendment (#49) to Item 447 provides that funding for VCSFA shall be from the Transportation Trust Fund as opposed to Aviation Funds.

**Amendment No. 15
Virginia Tourism Authority
Tourism Marketing Partnership Grant Program
(Item 120)**

General Assembly Action: Approved an increase of \$1.0 million GF in FY 2012 to expand tourism marketing but also added language authorizing that up to \$1.0 million of these funds could be used to support an international tourism event in the Commonwealth.

Governor's Action: Proposes an additional \$1.0 million GF in FY 2012 for tourism marketing.

Notes:

- The explanation to the amendment indicates demand for the program exceeds the amount of funds available.

**Amendment No. 16
Secretary of Education
Release of Higher Education Funding
(Item 121)**

General Assembly Action: Reallocated the \$50 million GF included in the budget as introduced (in central appropriations) that allowed for distributions toward the goals of the Governor's Higher Education Commission through a grant-like process. The General Assembly reallocated this funding by providing individual distributions to higher education institutions for goals that embraced the ideals of the Commission in a number of areas including: base

adequacy, enrollment growth, new undergraduate seats, increasing full-time faculty, operations and maintenance for new facilities, STEM initiatives, and undergraduate student financial aid. The enrolled budget included \$63.9 million GF for these categories.

Governor's Action: The Governor's amendment would not release the new higher education funding related to enrollment, retention, graduation, STEM initiatives, and base operations until the successful completion of the review of the six-year plan submissions (October 1, 2011). It appears that the only new funding that would be released would be for operations and maintenance of new facilities and undergraduate financial aid (\$26.9 million GF).

Notes:

- The Virginia Higher Education Opportunity Act of 2011 references the six-year plan process (HB 2510/SB 1459) but does not contain provisions to delay funding during FY 2012.
- This amendment would delay the release of these funds (\$37.1 million GF) for at least four months of the fiscal year, potentially causing cash-flow issues for the higher education institutions. Based on funding delays in the past, it is likely that these funds would be delayed longer than four months.

**Amendment No. 17
Secretary of Education
Reduce Public Broadcasting
(Item 123)**

General Assembly Action: Provided a total of \$3.6 million for public broadcasting, down from \$4.1 million total in Chapter 872, and directed over 70 percent of the funds to educational telecommunications services provided by public television stations through regional school contracting planning committees. The introduced budget had proposed reducing state funding for public

broadcasting by a total of \$2.1 million GF in FY 2012, a 50 percent reduction, with the intention of phasing out state support completely during the next biennium.

Governor's Action: Reiterates the proposed action in the introduced budget. The proposed amendment would reduce funding approved by the General Assembly for educational telecommunications services by \$1.6 million.

FY 2012 (\$ in millions)	Ch. 874	Intro.	Senate	House	Conf.	Gov.
CSGs-TV	\$1.4	\$0.5	\$1.2	\$0.7	\$0.5	\$0.5
CSGs-Radio	\$0.5	\$0.5	\$0.5	\$0.2	\$0.5	\$0.5
Educational Telecomm. (TV)	\$2.1	\$1.0	\$2.9	\$1.0	\$2.6	\$1.0
Radio Reading Service	\$0.1	\$0.1	\$0.0	\$0.0	\$0.0	\$0.0
TOTAL	\$4.1	\$2.1	\$4.6	\$1.9	\$3.6	\$2.0

Notes:

- Educational telecommunications includes video content correlated to SOL's, locally produced content, technology training for teachers, and internet safety training for children.
- The radio reading services program was transferred to the Department for the Blind and Visually Impaired.

**Amendment No. 18
Direct Aid to Public Education
Full-Time Multi-Division Virtual Education Programs
(Item 132)**

General Assembly Action: Adopted language that (1) for FY 2011 caps the 100 percent state-funded enrollment in the full-time on-line program currently operating through Carroll County at no more than 350 students, consistent with its enrollment level as of January 2011

and (2) for FY 2012 specified that state SOQ per pupil funding provided for out-of-division students enrolled in full-time virtual programs will be based on the composite index of the student's locality of residence.

Governor's Action: Proposes to strike the language regarding funding policy for virtual education.

If this language is stricken, the Department of Education will calculate state funding for out-of-division students enrolled in full-time on-line programs based on the composite index of the enrolling division. If enrollment increases and/or additional programs are established in school divisions with low composite indices, there would be additional, potentially significant, state costs in FY 2012.

Notes:

- The virtual education landscape in Virginia schools includes a wide variety of programs, such as the state-run Virtual Virginia program that offers online AP, world language and elective courses; regional programs such as virtual Governor's Schools; locally-developed programs for supplemental courses or credit recovery; and locally-based full-time programs fully administered by a third party vendor that enrolls students from across the state.
- The ability through technology to enroll a student in a school division that may be hundreds of miles from a student's place of residence raises funding questions not previously contemplated by state funding formulas.
 - Example: As of January, Carroll County's (LCI = 0.2573) full-time on-line program had enrolled 4 Carroll County students and 353 students from across the state (122 were prior home schooled and 31 were prior enrolled in private schools) according to the K12, Inc., the provider

contracted to operate Carroll's Virtual Virginia Academy for grades K through 8.

- It is not known what magnitude of costs could materialize for FY 2012 and beyond from potential additional students in such programs unless the General Assembly clarifies its intention regarding 1) what per pupil amount should be recognized, and 2) how state/local shares should be determined.
- The 2011 General Assembly specified that state per pupil funding would be based on the composite index of the school division in which the student resides. Other possible funding models include development of a statewide per pupil amount based on a staffing model approach, such as is currently the basis for regional Alternative Education programs based on a fixed number of student slots; a fixed or prorated per pupil amount based on costs of a virtual program as compared to "bricks and mortar" programs; or models used in other states.
- According to 2010 *Keeping Pace with K-12 Online Learning: An Annual Review of Policy and Practice*:
 - As of fall 2010, 27 states had at least one full-time on-line school operating across multiple school divisions, often organized as a charter school, including Oregon, Washington, Georgia, Minnesota, Pennsylvania, and Ohio. (Florida's program is run by the state education agency rather than by local school divisions.)
 - National education management organizations (EMOs) operate schools that collectively make up more than 75 percent of the total enrollment in full-time on-line schools.
 - Most of about 11 states where full-time statewide schools operated under a clear policy have open enrollment, allowing a student to choose an online school outside his

or her district of residence. Enrollments in this group of states range from 3,900 students in Wisconsin to 32,000 students in Ohio.

- The remaining 16 states either have some factor limiting online school enrollment at this time or have no full-time statewide schools.
 - Michigan allowed two schools, but has an enrollment cap of 400 students.
 - Georgia's funding situation appears to be in flux (out-of-division students pay a tuition fee of \$3,000 per year).
 - Oregon capped growth of online charter schools.
 - Arkansas has one school, limited to 500 students.
 - Indiana has a limited pilot program.
- K12 Inc. is also the vendor for Agora Cyber Charter School in Pennsylvania with 2009-10 enrollment between 5,000 and 7,499 students; Arizona Virtual Academy with enrollment of 6,400 students; and Georgia Cyber Academy (the online arm of the Odyssey Charter School) with enrollment of 5,000 students.

**Amendment No. 19
Frontier Culture Museum
Additional Operating Funds
(Item 225)**

General Assembly Action: No action.

Governor's Action: Proposes to add up to \$500,000 GF in FY 2011 "to help ensure the continued operation of the Frontier Culture Museum of Virginia through FY 2011." Prior to the release of funds, this amendment also requires a plan to be submitted to the Secretary of Education no later than June 1, 2011 on how the museum intends to remain operationally viable, including measures the museum will take to address any outstanding and future obligations to VITA.

Notes:

- The museum's cumulative outstanding balance to VITA is \$185,000, going back to February 2009.

**Amendment No. 20
Eastern Virginia Medical School
Funding for Medical Education
(Item 236)**

General Assembly Action: Provided \$3.0 million GF additional base operating support for medical education. The introduced budget and the Senate budget had included \$5.0 million GF for this purpose. The House budget had reduced the funding to \$1.2 million GF to match what they believed to be the average general fund per student support for in-state medical students at the University of Virginia and Virginia Commonwealth University.

Governor's Action: Provides an additional \$1.1 million GF to support the medical education curriculum, increase class size as previously promised, and facilitate reaccreditation.

Notes:

- Budget amendment explanation states that the funding provided will allow the school to meet 50 percent of its base adequacy requirements.

Amendment No. 21
Department of Accounts Transfer Payments
Line of Duty Act Coverage
(Item 258)

General Assembly Action: No action.

Governor's Action: Proposes language that would include individuals employed as fire company personnel for the Virginia Air National Guard or the Virginia National Guard's Fort Pickett Reserve under the Line of Duty Act.

Notes:

- The Senate passed SB 1407 (Ruff), which would have included individuals employed as fire company personnel for the Virginia Air National Guard or the Virginia National Guard's Fort Pickett Reserve under the coverage of the Line of Duty Act. SB 1407 was left in the House Appropriations Committee.
- The Department of Military Affairs (DMA) reports that 20 individuals would qualify for coverage under this bill; 16 as full-time employees and four as part-time.
- The annual cost of this action is estimated at \$3,836 GF, which would be paid by the Department of Military Affairs.

Amendment No. 22
Department of Accounts Transfer Payments
Line of Duty Act Benefits
(Item 258)

General Assembly Action: No action.

Governor's Action: Proposes language that would allow payments to cover funeral costs for all persons who are believed to have been killed under circumstances that would qualify for payments under

the Line of Duty Act, but whose death has not yet been officially certified as the direct result of the performance of his or her duty.

Notes:

- All claims for Line of Duty benefits are investigated by the State Police. If the death is found not to have qualified the individual for Line of Duty death benefits, the payment for funeral expenses would be recovered from normal life insurance proceeds, or other sources.

**Amendment No. 23
Secretary of Health and Human Resources
Funding for Independent Management Audits
(Item 273)**

General Assembly Action: Rejected a one-time appropriation request of \$1.4 million in FY 2012 to conduct four operational and programmatic review audits at the largest HHR agencies.

Governor's Action: Adds \$700,000 GF in FY 2012 to perform up to four performance audits for the Departments of Medical Assistance Services, Health, Social Services and Behavioral Health and Developmental Services.

Notes:

- The introduced budget included \$1.4 million GF to fund performance audits at four of the five largest HHR agencies.
- The Senate eliminated funding for the performance audits for two reasons 1) DMAS, VDH, DSS and DBHDS have sufficient resources to fund the audits out of their base funding and 2) no other Secretariat received funding to perform these audits.

- The Governor's amendment adds \$700,000 GF to be used for as few as one or as many as four audits.
- Chapter 828 of the 2010 Acts of Assembly (Lingamfelter) required operational and programmatic audits of agencies under the Secretary of Health and Human Resources, Public Safety and Education prior to December 1, 2011.

Amendment No. 24
Comprehensive Services Act
Reclassify Therapeutic Foster Care as a Residential Service
(Item 274)

General Assembly Action: Rejected a proposal that was included in the introduced budget that would have increased the local share of Comprehensive Services Act funding by \$7.5 million in FY 2012 by redefining therapeutic foster care (TFC) as a residential service.

Governor's Action: Re-proposes language to reclassify therapeutic foster care as a residential service. This change would effectively increase the local share of TFC costs for children and adolescents from 34 cents on the dollar to 46 cents, on average. As a result of increasing costs to localities for TFC, the amendment assumes general fund savings of \$7.5 million.

Notes:

- The Senate budget rejected two of three Governor's proposals that shifted CSA costs to localities.
- The approved budget included language to require additional reporting on the use of therapeutic foster care and adopted language requested by the Administration to better manage TFC.

Amendment No. 25
Department of Health
Provide Funding for Federal Abstinence Education Grant
(Item 286)

General Assembly Action: Rejected funding for the Title V State Abstinence Education Grant Program that required \$382,688 GF to match \$507,285 in federal funding in FY 2012.

Governor's Action: Re-proposes \$382,688 GF to match \$507,285 NGF from federal grants included in the Patient Protection and Affordability Care Act (federal health care reform) for pregnancy prevention activities that must be based on abstinence-only education.

Notes:

- The Senate budget eliminated the general fund match for a pregnancy prevention program targeted at adolescents that is based on an “abstinence-only” curriculum.
- Instead, the Senate included \$1.3 million from a federal grant that requires no general fund match that comprehensively addresses pregnancy prevention and the transmission of sexually transmitted infections by teaching a curriculum based on abstinence and contraception.
- Unlike the abstinence-only approach, the federal grant included in the Senate’s budget required a more comprehensive approach that must use evidence-based strategies.
- Federal funding for abstinence-based pregnancy prevention was eliminated in 2008 based on longitudinal studies that questioned the effectiveness of this approach.
- The conferees agreed to reject both the House (Governor’s proposal) and Senate’s approach to this funding.

Amendment No. 26
Department of Health
Eliminate TANF Support for CHIP of Virginia
(Item 288)

General Assembly Action: Restores \$500,000 in FY 2012 from the federal TANF block grant for CHIP of Virginia. Without funding, CHIP Of Virginia was slated to be reduced by \$843,000.

Governor's Action: Eliminates funding from the federal TANF block grant for CHIP of Virginia. Amendments No. 36 and 37 to Item 333 in DSS reduce \$500,000 each from the federal TANF block grant for Healthy Families and Community Action Agencies.

Notes:

- The Comprehensive Health Improvement Program (CHIP) of Virginia works to increase access to primary care providers (medical homes) for low-income children and families through 10 sites in 30 communities.

Amendment No. 27
Department of Medical Assistance Services
Restore Medicaid Funding Related to "Plan First"
(Item 297)

General Assembly Action: Estimated savings of \$1.5 million GF and \$1.5 million NGF from federal Medicaid matching funds in FY 2012 as a result of the expansion of the Medicaid family planning waiver known as "Plan First" included in the Governor's introduced budget.

Governor's Action: Restores \$1.5 million GF and \$1.5 million NGF from federal Medicaid matching funds. The explanation of the amendment questions whether the Medicaid savings assumed in the conference agreement will materialize.

Notes:

- The approved budget endorsed funding to enable the Commissioner of Health to expand enrollment in the “Plan First” (i.e. Medicaid family planning waiver) program. When the program was created in 2006, the Department of Medical Assistance Services assumed effective implementation of the program would discourage women on Medicaid from having repeat births while enrolled on the program, resulting in general fund savings.
- If enrollment in the “Plan First” program doubles as projected in the Governor’s original request, it is assumed that general fund savings will once again materialize in Medicaid.
- The general fund base for the Medicaid program in FY 2012 is \$3.5 billion.

Amendment No. 28
Department of Medical Assistance Services
Supplant GF with Enhanced Federal Medicaid Funding
(Item 297)

General Assembly Action: No action.

Governor’s Action: Proposes \$18.0 million in general fund savings in FY 2012 by shifting a) quarterly payments to hospitals for direct and indirect medical education, b) monthly capitation payments to Medicaid managed care organizations, and c) final Medicaid claim remittances from FY 2012 to FY 2011 in order to generate additional federal Medicaid funding and reduce the general fund commitment in FY 2011. The one-time suspension of a delay in Medicaid provider payments allows the Commonwealth to take advantage of a more generous federal match rate of 56.88 percent in FY 2011 and temporarily shift \$18.0 million in Medicaid costs to the federal government. The current federal match rate in FY 2012 is 50 percent.

Notes:

- Chapter 781, 2009 Acts of Assembly, delayed payments to Medicaid managed care organizations, hospitals that receive quarterly Medicaid special payments, low-income Medicaid beneficiaries who are eligible for payment of Medicare Part A and Part B premiums, and all other Medicaid providers.
- The one-time general fund savings from delaying these payments from FY 2009 to FY 2010 was \$126.5 million.

**Amendment No. 29
Department of Medical Assistance Services
Correct Budget Language for Respite Care Services
(Item 297)**

General Assembly Action: Restored the number of respite care hours that could be provided to caregivers of home- and community-based Medicaid waiver recipients from 240 to 480 hours per year effective July 1, 2011.

Governor's Action: Proposes language to clarify that the restoration of respite care hours to 480 hours per year does not apply to the Assistive Technology waiver, which is limited to 360 hours per year.

Notes:

- Chapter 874, 2010 Acts of Assembly reduced the number of respite care hours that could be provided under Medicaid home- and community-based waiver programs from 720 to 240 hours beginning July 1, 2010. The six-month extension of federal medical assistance percentage (FMAP) funding delayed implementation until July 1, 2011.

Amendment No. 30
Department of Medical Assistance Services
Modify Children’s Mental Health Assessment Language
(Item 297)

General Assembly Action: Authorized regional pilot programs to address the rising cost and quality of community mental health rehabilitative services provided to children, including intensive in-home services, therapeutic day treatment, mental health supports and residential care. The pilots are designed to ensure appropriate utilization, measure outcomes, and increase the cost effectiveness of the services provided by requiring that children be evaluated by a licensed or licensed-eligible mental health professional of the community services boards or behavioral health authorities prior to the provision of service.

Governor’s Action: Proposes language authorizing the Department of Medical Assistance Services to move funding from the medical services to administrative budget to pay for the independent assessments that will be conducted by community services boards.

Amendment No. 31
Department of Medical Assistance Services
Correct Personal Care Language
(Item 297)

General Assembly Action: Approved language limiting the number of personal care hours that can be provided under Medicaid home- and community-based waivers to 56 hours per week, with exceptions based on individual circumstances.

Governor’s Action: Proposes language to delete references to the Children’s Mental Health demonstration grant and Alzheimer’s Assisted Living waivers since these programs do not currently offer personal care as an authorized service and are therefore not subject to this limitation.

Amendment No. 32
Department of Behavioral Health and Developmental Services
Provide Funding for Licensing System Upgrade
(Item 301)

General Assembly Action: No action.

Governor's Action: Adds \$50,000 GF in FY 2012 to pay for one-time costs associated with upgrading the Department's licensing system to allow for the expedited posting of children's residential facility inspection and investigation reports on the agency's website.

Notes:

- The Senate budget included \$50,000 in FY 2012 to update the Department's website to post information related to children's residential facilities pursuant to Senate Bill 1451 (Deeds). Because the bill was left in House Appropriations Committee the approved budget did not include funding for the bill.

Amendment No. 33
Department of Behavioral Health and Developmental Services
Promulgate Early Intervention Case Management Regulations
(Item 304)

General Assembly Action: Approved language authorizing the Department of Medical Assistance Services (DMAS) in consultation with the Department of Behavioral Health and Developmental Services to implement case management for Part C early intervention services. Emergency regulatory authority was also included to allow for expedited rule-making.

Governor's Action: Proposes language authorizing the Department of Behavioral Health and Developmental Services to expedite rule-making related to the certification of early intervention case management services that parallels the authority granted to DMAS.

Amendment No. 34
Department of Behavioral Health and Developmental Services
Provide Funds to Operate the VCBR Facility
(Item 319)

General Assembly Action: Appropriated \$14.3 million GF to address the growth in commitments of sexually violent predators to the Virginia Center for Behavioral Rehabilitation (VCBR), located in Burkeville. The introduced budget requested \$24.9 million GF for the program. Language directs the Commissioner of the Department of Behavioral Health and Developmental Services to develop a plan to double-bunk residents at the facility.

Governor's Action: Proposes an additional \$2.5 million GF in FY 2012 to ensure funding is available for current operations through April 2012. At that time, it is expected that the Department of Behavioral Health and Developmental Services will have developed strategies to restrain growth in the current program based on the JLARC report due by November 30, 2011.

Amendment No. 35
Department of Behavioral Health and Developmental Services
Allow Flexibility to Retrofit VCBR for Additional Capacity
(Item 319)

General Assembly Action: Added language to the request for additional funding for the operations of the Virginia Center for Behavioral Rehabilitation (VCBR) requiring the Commissioner to implement a plan to double-bunk residents at the facility, prohibiting the Commissioner from re-opening the original facility in Dinwiddie, and directing the Commissioner to not proceed with any capital projects pending a comprehensive review of the sexually violent predator program.

Governor's Action: Adds language to specify that the plan to double-bunk residents at VCBR may include dormitory-style arrangements, "repurposing" existing space, or providing new

housing units at the facility. Proposed budget language also deletes references to “double-bunking” and replaces it with “accommodate additional capacity.”

Amendment No. 36
Department of Social Services
Eliminate TANF Support for Healthy Families of Virginia
(Item 333)

General Assembly Action: Restored \$500,000 in FY 2012 from the federal TANF block grant for Healthy Families of Virginia.

Governor’s Action: Reduces funding in FY 2012 from the federal TANF block grant for Healthy Families of Virginia. Amendment 26 to Item 288 in the Department of Health and Amendment 37 to Item 333 in the Department of Social Services reduce \$500,000 each from the federal TANF block grant for CHIP of Virginia and Community Action Agencies.

Notes:

- The Governor’s amendment cites ongoing concerns about TANF’s structural imbalance as the primary reason for eliminating this \$500,000 appropriation.
- The introduced budget allocated \$14.0 million more from the federal TANF block grant than revenues in FY 2012. The approved budget allocates \$15.0 million more in federal TANF block grant revenues than in FY 2012.
- The introduced budget and approved budget both leave a balance of \$49,735 at the end of FY 2012.
- The introduced budget reduces \$10.0 million from FY 2011 to FY 2012 while the approved budget reduces \$9.4 million from FY 2012.

- Healthy Families supports at-risk parents to reduce child abuse and neglect and increase access to health care and immunizations.

Amendment No. 37
Department of Social Services
Eliminate TANF Support for Community Action Agencies
(Item 333)

General Assembly Action: Restored \$500,000 from the federal TANF block grant in FY 2012 for community action agencies. Funding from the federal TANF block grant for community action agencies was eliminated by Chapter 874, 2010 Acts of Assembly.

Governor's Action: Eliminates funds from the federal TANF block grant for community action agencies. In addition, Amendment No. 26 to Item 288 (Department of Health) and Amendment No. 36 to Item 333 (Department of Social Services) reduce \$500,000 each from the TANF block grant for CHIP of Virginia and Healthy Families.

Notes:

- The Governor's amendment cites ongoing concerns about TANF's structural imbalance as the primary reason for eliminating this \$500,000 appropriation.
- The introduced budget allocated \$14.0 million more from the federal TANF block grant than revenues in FY 2012. The approved budget allocates \$15.0 million more in federal TANF block grant revenues than in FY 2012.
- The introduced budget and approved budget both leave a balance of \$49,735 at the end of FY 2012.

- The introduced budget cut \$10.0 million from FY 2011 to FY 2012 while the approved budget cut \$9.4 million from FY 2012.
- Community action agencies receive flexible funding, primarily from the federal Community Services Block Grant, to support a range of social service needs as defined by individual localities.

Amendment No. 38
Department of Conservation and Recreation
Water Quality Improvement Fund Language
(Item 351)

General Assembly Action: Provided that 15 percent of the deposit to the Water Quality Improvement Fund (WQIF) be placed in the WQIF reserve fund for future use.

Governor's Action: Proposes a language amendment that would allow the Governor to use any uncommitted balances in the WQIF reserve fund to meet the provisions of the Watershed Implementation Plan filed with the EPA if all available funds in the WQIF were exhausted within FY 2011.

Notes:

- A total of about \$5.4 million is available in the Water Quality Improvement Fund (WQIF) reserve fund.

Amendment No. 39
Department of Conservation and Recreation
Natural Heritage Program
(Item 351)

General Assembly Action: Provided \$800,000 GF in FY 2012 and 5.0 FTE positions to meet the critical needs of the Natural Heritage Program.

Governor's Action: Proposes to reduce this amount by \$400,000 and to eliminate 2.0 of the new FTE positions.

Notes:

- The total appropriation approved by the General Assembly for the Natural Heritage Program in FY 2012 is \$3.9 million, so the Governor's recommendation would be more than a ten percent reduction.
- Due to inadequate staffing, several Natural Area Preserves have been closed to the public and there is no staff to provide resource protection or management of these areas.

**Amendment No. 40
Department of Conservation and Recreation
Dam Safety Language
(Item 351)**

General Assembly Action: No action in budget. (SB 1060, which passed the General Assembly made several related amendments to the dam safety program)

Governor's Action: Proposes a language amendment that overrides the Code of Virginia. Specifically, the amendment would exclude from the definition of "impounding structures" any dam operated primarily for agricultural preservation and conservation purposes that are less than 30 feet in height or create an impoundment of less than 100 acre-feet. Excluding any such dams from this definition would mean that it would no longer be subject to state regulation.

Notes:

- The current definition in the Code of Virginia for "impounding structure" includes: (i) all dams that are twenty-five feet or greater in height and that create an impoundment capacity of

fifteen acre-feet or greater, and (ii) all dams that are six feet or greater in height and that create an impoundment capacity of fifty acre-feet or greater.

- DCR estimates that 1,521 dams will be affected by this change.
- Similar language was originally included in SB 1406, which was incorporated into SB 1060. However, SB 1060 -- as adopted by the General Assembly -- did not include this language.

Amendment No. 41
Department of Conservation and Recreation
Evaluate Dam Repair Costs
(Item 351)

General Assembly Action: No action.

Governor's Action: Proposes a language amendment that requires DCR to evaluate the costs to repair regulated dams owned by the state, Soil and Water Conservation Districts, local governments, and the private sector to bring them up to current safety standards.

Notes:

- A report on this evaluation to the Chairmen of the Senate Finance and House Appropriation Committees would be required by September 30, 2011.

Amendment No. 42
Department of Conservation and Recreation
Funding for State Parks
(Item 352)

General Assembly Action: Restored \$1.2 million GF in FY 2012 and 15.0 FTE positions previously cut from State Parks.

Governor's Action: Proposes to reduce the restoration by \$600,000 GF in FY 2012 and 7.0 FTE positions.

Notes:

- HB 1500, as introduced included a reduction of \$200,000 GF for State Parks in FY 2012, so the net effect of the General Assembly action was to restore \$1.0 million of prior year budget cuts.
- The amount of funding restored by the General Assembly represented about 20 percent of the cumulative cuts to State Park funding over the past three years.
- State Park visitation in 2010 was at a record high of over eight million visitors. This level of visitation requires additional staffing for law enforcement, interpretive programs, visitor center staffing and increased maintenance needs.

**Amendment No. 43
Department of Conservation and Recreation
Virginia Land Conservation Fund
(Item 352)**

General Assembly Action: Provided \$1.0 million GF in FY 2012 for land conservation, which is to be transferred to the Department of Historic Resources for Civil War battlefield preservation. HB 1500, as introduced, provided an additional \$1.0 million GF in FY 2012 for the Virginia Land Conservation Fund (VLCF).

Governor's Action: Proposes to restore the additional \$1.0 million in FY 2012 to be deposited in the Virginia Land Conservation Fund to be used for land preservation grants to assist land owners with costs associated with placing conservation easements on their properties.

Notes:

- The current appropriation for the Virginia Land Conservation Fund (VLCF) is \$500,000 in each year of the biennium.

Amendment No. 44
Department of Environmental Quality
Legal Costs for Environmental Regulations
(Item 358)

General Assembly Action: No action.

Governor's Action: Proposes to provide \$60,000 GF in FY 2011 and \$240,000 GF in FY 2012 for additional legal costs for enforcement of and compliance with environmental regulations. The amendment would allow the funds to be transferred to other agencies that may have associated legal costs.

Notes:

- It should be noted that legal representation for DEQ is normally provided by and funded through the Office of the Attorney General.
- DEQ is not aware of any pending litigation for which this amendment is proposed.

Amendment No. 45
Department of Corrections
Payments to Localities in Lieu of Taxes
(Item 380)

General Assembly Action: No action.

Governor's Action: Adds \$1.2 million GF the first year for payments in lieu of taxes to localities in which state prisons are located.

Notes:

- In the 2010 Session, the General Assembly eliminated payments to localities in lieu of taxes as one of the budget cuts in the introduced budget for the Department of Corrections (DOC).
- In the 2011 Session, the Senate budget restored \$1.2 million for these payments in FY 2012. However, this restoration was not included in the conference committee report.
- Under the Governor's proposal, payments would be made in the first year but not in the second year. The proposed language delays the exemption from DOC having to pay these statutorily-required payments until FY 2012, thereby authorizing DOC to make the payments in FY 2011. The justification given is that the localities did not receive sufficient notice last year to plan for the loss of the revenues in FY 2011.

**Amendment No. 46
Department of State Police
State Trooper Overtime Funding
(Item 408)**

General Assembly Action: Added \$3.0 million GF the second year to pay overtime for State Troopers for hours worked between 40 and 43 hours per week, instead of the current practice of providing compensatory time off.

Governor's Action: Adds an additional \$3.0 million GF, for a total of \$6.0 million GF the second year, to pay for State Trooper overtime.

Notes:

- The House budget included the entire \$6.0 million for overtime, but the Senate budget included \$3.0 million. The conference committee agreed on \$3.0 million.
- The department has estimated the entire \$6.0 million is needed to pay for the current amount of overtime that is actually being

worked. The effect of these additional funds is to put more State Troopers on the road instead of granting compensatory leave for working overtime.

Amendment No. 47
Department of State Police
Funding for State Trooper School
(Item 408)

General Assembly Action: Approved funding to provide for the earlier opening of three Basic Trooper Schools. The 116th started in October 2010; the 117th was to begin in May 2011; and the 118th was to begin in February 2012.

Governor's Action: Overrides language that restricts the carrying forward of general fund balances in this case. The new language would allow State Police to utilize funds provided for the 117th Basic Trooper School in FY 2011 to be spent in FY 2012, if the school starts later than anticipated.

Notes:

- The proposed language authorizes the Director, Department of Planning and Budget, to carry forward into the second year an amount not to exceed \$575,208, for one-time commitments to support the 117th Basic Trooper School.

Amendment No. 48
Secretary of Transportation
State Matching Funds
(Item 436)

General Assembly Action: No action.

Governor's Action: Proposes to eliminate the requirement that the Commonwealth Transportation Board rescind state matching funds to federal Regional Surface Transportation Program (RSTP) projects in urban areas that are not expended within 36 months. Provides the CTB flexibility in making the determination to rescind state matching funds on a project-by-project basis.

Notes:

- Projects eligible for federal RSTP urban allocations are managed by local Metropolitan Planning Organizations and may take longer than the established 36 month time period to complete. The amendment would provide the CTB discretion in determining to rescind state matching funds.

**Amendment No. 49
Secretary of Transportation
Virginia Commercial Space Flight Authority
(Item 436)**

General Assembly Action: Transferred the funding and oversight of the Virginia Commercial Space Flight Authority from the Commerce and Trade secretariat to the Transportation secretariat and provided funding for the Authority from Department of Aviation program balances.

Governor's Action: Provides the \$1.5 million in authorized funding for the annual operation of the Virginia Commercial Space Flight Authority off-the-top of annual Transportation Trust Fund revenues.

**Amendment No. 50
Department of Rail and Public Transportation
WMATA Board Appointment
(Item 447)**

General Assembly Action: No action.

Governor's Action: Directs the Northern Virginia Transportation Commission (NVTC) to include the Secretary of Transportation or his designee as a principal appointee to the Washington Metropolitan Area Transit Authority (WMATA) Board of Directors

Notes:

- NVTC is comprised of 13 local elected officials, six General Assembly members, and the Director of the Department of Rail and Public Transportation. Virginia has two principal and two alternate appointments to the WMATA Board. The principal appointments are local elected officials.
- Proposed legislation that would have required NVTC to appoint the Secretary or his designee to the WMATA Board failed in the Senate Finance Committee. The budget bill conference committee rejected identical language that was included in the budget as introduced and included in HB 1500 as amended by the House.

**Amendment No. 51
Department of Rail and Public Transportation
CSX Hazardous Materials
(Item 447)**

General Assembly Action: Required DRPT and CSX to develop a plan for reducing the length of time that rail cars transporting hazardous materials are stored on rail properties located in the City of Fredericksburg.

Governor's Action: Provides up to \$450,000 in FY 11 and \$450,000 in FY 12 from existing Rail Industrial Access funding to implement improvements that reduce the length of time rail cars transporting hazardous materials can remain on intermediate rail facilities in

Fredericksburg and Spotsylvania County. Further, the amendment clarifies that DRPT may contract with either a private entity or a local government to make the appropriate infrastructure improvements.

Notes:

- The primary purpose of the amendment is to provide immediate funding to address the necessary infrastructure improvements to reduce the length of time rail cars transporting hazardous materials are idled on tracks in the City of Fredericksburg.
- If the proposed funding is not authorized, DRPT and CSX would still be required to develop a plan for reducing the average dwell time of railcars. It is likely that the request for State matching funding of these improvements would be included in the next biennium.

**Amendment No. 52
Department of Transportation
Local Road Maintenance Payments
(Item 455)**

General Assembly Action: No action.

Governor's Action: Eliminates the requirement that highway maintenance payments to localities be adjusted annually for inflation. SB 1004, as signed by the Governor, eliminated the base year of 1986 for local maintenance payments and requires VDOT to recommend a maintenance payment amount to the CTB that uses the base rate of growth for the state maintenance program.

Notes:

- Existing budget language provides that annual road maintenance payments to localities increase at least with the rate of inflation, generally measured by the Producer Price Index for Highways. The proposed amendment would tie the rate of growth in local payments to the growth in the state maintenance program.

- Should the state maintenance program have a negative growth rate, then the corresponding allocation to localities would likely be decreased.

**Amendment No. 53
Central Appropriations
Restore Productivity Investment Fund Balances
(Item 466)**

General Assembly Action: Unallotted and transferred \$500,000 in existing unexpended program balances for the Productivity Investment Fund as well as eliminated the \$250,000 proposed expenditure for this program in FY 2012.

Governor's Action: Restores \$500,000 in program balances but does not provide any additional funding to the program in FY 2012.

Notes:

- The Productivity Investment Fund (PIF) is managed by the Department of Planning and Budget for the purpose of funding efficiency improvements identified by state employees or citizens of the Commonwealth.
- While several projects have been funded through loans from the Fund that have been repaid, there are no formal reporting requirements or performance measures related to projects funded by the PIF.

**Amendment No. 54
Central Appropriations
VRS Payment Schedule
(Items 469 and 483)**

General Assembly Action: No action.

Governor's Action: Proposes to add language which increases the frequency of payments to the Virginia Retirement System (VRS) from a quarterly to a monthly basis. (A companion amendment to Item 483 makes a similar change.)

Notes:

- According to an analysis by VRS, this would generate approximately \$1.7 million annually in additional earnings for the VRS Trust Fund.

**Amendment No. 55
Central Appropriations
VRS Employer Contribution Rates
(Item 469)**

General Assembly Action: Reduced the projected general fund balances and transfers reflected on the revenue page of the budget by a total of \$10.9 million for FY 2012. This reflects a reduction in the savings from deferral of state employer VRS contributions in FY 2012. This proposal does not affect employee cash compensation.

Governor's Action: Proposes to reduce general fund balances and transfers reflected on the revenue page of the budget by an additional \$23.2 million in FY 2012. This will further reduce the savings from deferral of state employer VRS contributions in FY 2012 by \$27.8 million (all funds). This proposal does not affect employee cash compensation.

Notes:

- The reduction in the general fund balance of \$23.2 million is comprised of \$16.5 million GF and \$6.7 million that would have been transferred from NGF to the GF.

Description	2010 Session Savings (\$ in millions)	Change	Net
<u>General Assembly Action</u>			
FY 2012 VRS Deferral			
State Employees	\$ 170.1	(\$ 10.9)	\$ 159.2
Teachers	<u>\$ 126.0</u>	<u>(\$ 31.0)</u>	<u>\$ 95.0</u>
Total: VRS Deferral	\$ 296.2	(\$ 41.9)	\$ 254.2
<u>Governor's Action</u>			
FY 2012 VRS Deferral			
State Employees	\$ 170.1	(\$ 38.8)	\$ 131.3
Teachers	<u>\$ 126.0</u>	<u>(\$ 31.0)</u>	<u>\$ 95.0</u>
Total: VRS Deferral	\$ 296.2	(\$ 69.8)	\$ 226.3

- The impact on the VRS is \$27.8 million due to the increased NGF contributions that will be required by the increased employer contribution rates.

**Amendment No. 56
Central Appropriations
Local Employee VRS Contribution Rates
(Item 469)**

General Assembly Action: Rejected a language amendment that would have required local employees hired on or after July 1, 2011 to pay the 5 percent employee VRS retirement contribution, and would have permitted local employers to require local employees hired prior to July 1, 2010 to pay this employee contribution if they also provided a salary increase of at least 3 percent. Chapters 737 and 738 (2010) left the treatment of new local employees to the discretion of the local employer.

Governor's Action: Proposes a language amendment that would permit local employers to require their employees hired prior to July 1, 2010 to pay the 5 percent employee VRS retirement contribution, or any full percentage thereof.

Notes:

- The General Assembly provided a 5 percent salary increase for state employees to offset the increased employee costs.
- No salary increase is required to offset the increased employee costs that may be incurred by this provision.
- The amendment requires the employer to treat all pre-July 1, 2010 employees in the same manner with regard to payment of the 5 percent employee contribution.
- However, the amendment does not require that pre- and post-July 1, 2010 local employees be treated in the same manner with regard to payment of the 5 percent employee contribution.

**Amendment No. 57
Central Appropriations
State Employee VRS Contribution Rates
(Item 469)**

General Assembly Action: Required state employees hired before July 1, 2010 to pay the full 5 percent employee retirement contribution and provided a 5 percent salary increase to offset the increased employee costs.

Governor's Action: Proposes a technical amendment that clarifies the legal definition of state employee required to pay the 5 percent employee retirement contribution to include general state employees

covered by the VRS, state police covered under SPORS, and other public safety employees covered under VALORS.

Notes:

- This amendment is **technical only** and is consistent with the intent of the 2011 General Assembly action, and the related cost calculations.
- As provided for in Chapters 737 and 738 of the 2010 Acts of Assembly, state employees hired on or after July 1, 2010 are required to pay the employee contribution; however, pre-July 1, 2010 employees were exempted from this requirement.
- The employee share has been paid by the Commonwealth since 1983 when it was assumed in lieu of a 5 percent salary increase. The General Assembly elected to pay the 5 percent employee share of the VRS as opposed to providing a 5 percent salary increase, resulting in a savings of approximately 15 percent in fringe benefit costs.

**Amendment No. 58
Central Appropriations
Agency Comprehensive IT Assessments
(Item 466)**

General Assembly Action: No action.

Governor's Action: Technical amendment to extend the deadline for agencies to perform a comprehensive information technology assessment from July 2011 to September 2011.

Notes:

- The agency comprehensive IT review was included in the introduced budget as an effort to reduce agency data storage

consumption and other agency IT services procured through Northrop Grumman – VITA partnership.

**Amendment No. 59
Central Appropriations
Year End Balance
(Item 470.10)**

General Assembly Action: No action.

Governor's Action: Proposes new language that **would immediately appropriate** any amounts designated by the Comptroller from the June 30, 2011, GF balance for: 1) the Water Quality Improvement Fund, 2) transportation, or 3) nonrecurring expenditures rather than waiting for the amounts to be appropriated by the 2012 General Assembly.

The amount appropriated for nonrecurring expenditures will be used for three purposes: 1) BRAC funding for Virginia Beach, 2) additional sheriffs funding, and 3) an additional VRS supplemental employer rate increase, which is separate from and supplemental to the \$23.2 million authorized in Amendment #55. The BRAC funding (Amendment #9) and additional Sheriffs' funding (Amendment #6) both **are directly appropriated in the two separate, stand-alone amendments noted** and do not rest on this amendment.

Immediate Appropriations:

Water Quality Improvement Fund

Transportation (2/3 of unobligated GF balance)

Nonrecurring (1/3 of unobligated GF balance)

Priority 1. BRAC: Virginia Beach
(Amendment #9)

Priority 2. Sheriffs Funding (Amendment #6)

Priority 3. VRS Employer Rate Increase
(Amendment, #59)

Notes:

- Overrides the existing statute by directing that two-thirds of the unobligated general fund balance be deposited to the Virginia Transportation Infrastructure Bank rather than to the Transportation Trust Fund.
 - This component of the amendment was included in the introduced budget and rejected by the General Assembly.
- The amount of additional VRS prepayment would be calculated by DPB based on the amount of general fund balance available after funding the other actions.
- "Nonrecurring expenditures" is defined in §2.2-1514 of the Code of Virginia as: "...the acquisition or construction of capital outlay projects as defined in §2.2-1518, the acquisition or construction of capital improvements, the acquisition of land, the acquisition of equipment, or other expenditures of a one-time nature as specified in the general appropriation act. Such term shall not include any expenditures relating to transportation, including but not limited to transportation maintenance". It is questionable whether the sheriffs funding and VRS prepayment meet this definition.

**Amendment No. 60
Central Appropriations
Southern Governor's Association
(Item 473)**

General Assembly Action: Approved a proposal in the budget as introduced to eliminate \$20,439 GF the second year for dues for the Southern Governors Association. The budget inadvertently double-counted these savings.

Governor's Action: Eliminates the double-counting of this savings.

**Amendment No. 61
Central Appropriations
Ohio River Valley Sanitation Commission
(Item 473)**

General Assembly Action: Approved a proposal in the budget as introduced to eliminate \$48,600 GF the second year for the Commonwealth's membership in the Ohio River Valley Sanitation Commission.

Governor's Action: Proposes to restore the funding, because the Commonwealth cannot withdraw from this commission without Congressional approval.

**Amendment No. 62
Virginia Retirement System
VRS Payment Schedule
(Item 469 and 483)**

General Assembly Action: No action.

Governor's Action: Proposes to add language which increases the frequency of payments to the Virginia Retirement System (VRS) from a quarterly to a monthly basis.

Notes:

- According to an analysis by VRS, this change would generate approximately \$1.7 million annually in additional earnings for the VRS Trust Fund.
- A companion amendment to Item 469 makes a similar change.

Amendment No. 63
Virginia Retirement System
VRS Investment of Public Funds
(Item 483)

General Assembly Action: No action.

Governor's Action: Proposes language to require that the Virginia Retirement System evaluate the potential for investing pools of capital for other state and local public entities. The VRS would report its findings to the Governor, the Chairmen of the Senate Finance and House Appropriations Committees, and the Director of the Department of Planning and Budget by November 15, 2011.

Amendment No. 64
Capital Outlay: General Conditions
Revert Project Balance
(Item C-0)

General Assembly Action: No action.

Governor's Action: Proposes to revert the unobligated, general fund balance of \$234,456 from the "Necessary Repairs and Improvements" project in Capital Central Accounts to the general fund. This amount is included in adjustments to the revenues (Amendment # 1.)

Amendment No. 65
Capital Outlay: General Conditions
Revert Project Balances
(Item C-0)

General Assembly Action: No action.

Governor's Action: Proposes to revert unobligated general fund balances totaling \$239,822 from eight maintenance reserve projects to

the general fund. These amounts are included in adjustments to the revenue page (Amendment # 1.)

<u>Agency</u>	<u>Project</u>	<u>GF</u>
Department for the Blind and Vision Impaired (702)	13942	\$ 20,934
Department of Forensic Science (778)	16320	50,000
Department of Juvenile Justice (777)	15081	37,493
Marine Resources Commission (402)	16498	5,779
Radford University (217)	12731	37,725
Science Museum of Virginia (146)	13634	231
Department of State Police (156)	10886	2,258
Department of Veterans Services (912)	17073	<u>85,402</u>
Total		\$239,822

**Amendment No. 66
Capital Outlay: General Conditions
Woodrow Wilson Rehabilitation Center Dining Hall
(Item C-0)**

General Assembly Action: No action.

Governor's Action: Proposes a technical amendment to remove the Woodrow Wilson Rehabilitation Center kitchen and dining hall renovation project from the list of capital projects authorized for funding from the Virginia Public Building Authority by Chapter 1 and 2, 2008 Acts of Assembly, Special Session I.

Notes:

- The project authorization is no longer required since it duplicates a stand alone item included in Chapter 781, 2009 Acts of Assembly.

**Amendment No. 67
George Mason University
Enhance Fairfax Campus Dining Hall
(Item C-24.50 and C-89)**

General Assembly Action: No action.

Governor's Action: Proposes to provide \$17.0 million NGF from 9(d) revenue-supported bond proceeds for improvements to the dining facilities at George Mason University's Fairfax campus.

Notes:

- A technical amendment to Item C-89 (Amendment No. 78) adds this project to the list of projects funded from 9(d) bonds.

**Amendment No. 68
University of Virginia
Renovation of the Rotunda
(Item C-50.05)**

General Assembly Action: No action.

Governor's Action: Proposes to provide \$4.7 million (\$2.7 million from general fund-supported VPBA bond proceeds and \$2.0 million from private funds) for roof and dome repairs on the Rotunda at the University of Virginia.

Notes:

- The Senate budget included \$26.8 million from general fund-supported VCBA bonds for the full state share of renovation of the Rotunda. However, this project was not included in the conference report on the budget.
- The Rotunda was last renovated in the 1970s.

Amendment No. 69
Department of Behavioral Health and Developmental Services
Virginia Center for Behavioral Rehabilitation (VCBR)
(Item C-76.15)

General Assembly Action: No action.

Governor's Action: Proposes to authorize the transfer of up to \$7.0 million of general fund supported bond authorization from the Department's blanket appropriation for life safety improvements to a separate sub-project that will increase capacity at the Virginia Center for Behavioral Rehabilitation (VCBR) in Nottoway County. Planned improvements include equipment, furnishings, and renovations.

Notes:

- Chapter 879 (2008), the original 2010-12 Appropriations Act, provided \$24.0 million from general fund supported VPBA bond proceeds for life safety improvements at DBHDS facilities.
 - \$14.0 million of this amount is uncommitted.

Amendment No. 70
Department of Conservation and Recreation
Land Conservation
(Item C-76.81)

General Assembly Action: No action.

Governor's Action: Proposes to expand the definitions of open space land, or land for conservation purposes, for the purpose of Item C-110 of Chapter 781 (2009 Acts of Assembly) to include the acquisition of interests in land, or other rights, including conservation easements and development rights.

Notes:

- Chapter 781 (2009) included \$30.0 million from general fund supported VPBA bond proceeds for the acquisition of land for the purposes of conservation, open space and historic preservation.
- Approximately \$2.0 million remains from the 2009 bond authorization.
- The Commonwealth currently has a tax credit program to encourage the placement of land into conservation easements.

**Amendment No. 71
Department of Corrections
Craigsville Wastewater Treatment Plant
(Item C-78)**

General Assembly Action: No action.

Governor's Action: Proposes to provide \$11.5 million (\$2.3 million from general fund supported VPBA bond proceeds and \$9.2 million from NGF sources) to the Department of Corrections for necessary upgrades to the Craigsville wastewater treatment plant to meet environmental regulations.

Notes:

- At present, 56 percent of the capacity of this treatment plant is utilized by the Augusta Correctional Center.
- The Department of Corrections is directed to take ownership and operate this facility to provide greater efficiency in construction and operation.

- The Senate provided \$11.5 million from general fund-supported VPBA bond proceeds for this project in its 2011 capital budget, but there was no conference on the capital budget.

Amendment No. 72
Department of Corrections
Window Replacement: Greenville and Keen Mountain
Correctional Centers
(Item C-78.30)

General Assembly Action: No action.

Governor's Action: Proposes to provide \$6.0 million from general fund supported VPBA bond proceeds to the Department of Corrections for replacement of windows and mechanical systems at the Greenville and Keen Mountain Correctional Centers. These funds will be transferred from previous VPBA authorizations for renovation of five field units.

Amendment No. 73
Department of State Police
Castlewood BCI Office Building
(Item C-78.40 and Item 3-1.01)

General Assembly Action: No action.

Governor's Action: Proposes to provide \$540,000 (\$190,000 nongeneral fund and \$350,000 general fund) for the construction of the State Police's Castlewood Bureau of Criminal Investigation (BCI) Office building on donated land. Language would authorize the department to accept donated land for this purpose.

Notes:

- In a separate amendment (Amendment No. 79) to Item 3-1.01 proposes to transfer nongeneral fund balances to the general fund, the Department of State Police provides \$350,000 to offset the additional general fund support included for this project.

<u>Fund</u>	<u>Amount</u>
0261	\$ 342,411
0286	\$ 801
0287	<u>\$ 6,788</u>
Total	\$ 350,000

- The Senate included funding for this project in its 2011 capital budget, but there was no conference on the capital budget.

**Amendment No. 74
Department of Transportation
Chemical Storage Facilities
(Item C-82.10)**

General Assembly Action: No action.

Governor's Action: Proposes to provide \$15.0 million NGF to construct fifteen domes to store the chemicals used to treat the roads during winter weather conditions.

**Amendment No. 75
Central Capital Outlay
Central Maintenance Reserve
(Item C-84)**

General Assembly Action: Moved \$250,000 of VCBA bond proceeds for Central Maintenance Reserve from FY 2012 to FY 2011 to provide for maintenance of a retention pond at the Southwest Virginia Higher Education Center.

Governor's Action: Proposes a technical amendment to correct the annual totals for Central Maintenance Reserve to reflect the general Assembly's transfer of \$250,000 in VCBA bond proceeds from FY 2012 to FY 2011 to provide for maintenance of a retention pond at the Southwest Virginia Higher Education Center.

**Amendment No. 76
Central Capital Outlay
Roanoke Higher Education Center - Emergency Repairs
(Item C-84)**

General Assembly Action: No action.

Governor's Action: Proposes to provide \$436,000 from general fund-supported VPBA bonds to repair water intrusion issues at the Roanoke Higher Education Center facility.

Notes:

- The Senate included \$6.7 million in its 2011 capital budget for emergency repairs to the Roanoke Higher Education Center, but there was no conference on the capital budget.
- The Roanoke facility is a national historic landmark.

**Amendment No. 77
Central Capital Outlay
Energy Conservation Projects
(Item C-86)**

General Assembly Action: No action.

Governor's Action: Proposes to reduce the VPBA bond authorization for energy conservation projects by \$15.2 million. This will leave \$20.0 million for such projects.

Notes:

The 2010-12 budget currently provides \$35.2 million from VPBA bonds for energy conservation projects. Federal interest rate subsidies result in an effective interest rate of zero percent on these energy conservation bonds. Acceptance of this amendment would result in rejection of this federal interest rate subsidy.

<u>Project Description</u>	<u>Agency</u>	<u>Cost</u>
1 Lighting upgrades associated with projects on parking decks	VCU	\$798,000
2 Expand Bio-diesel production	DOC	\$942,500
3 Energy efficiency projects at 600 Main Street Centre	DGS	\$16,321,000
4 Projects at various sites involving lighting retrofits, water pump and aeration efficiencies	DGIF	\$250,000
5 Energy efficiency projects at the Madison Building parking deck	DGS	\$1,100,000
6 Energy efficiency projects at the 14th Street parking deck	DGS	\$1,250,000
7 Energy efficiency projects at the Virginia Distribution Center	DGS	\$1,100,000
8 Energy efficiency projects at Pocahontas Building	DGS	\$1,500,000
9 Add boiler and fuel handling and storage capabilities	VCU	<u>\$12,000,000</u>
Total		\$35,261,500

- Provisions of Internal Revenue Code §54D, and Section 1112, Title 1, Division B of the American Recovery and Reinvestment Act (ARRA) of 2009 authorized issuance of \$80.6 million of subsidized energy conservation bonds in the Commonwealth of Virginia, with \$35.2 million of those bonds available to finance projects at state-owned public facilities to reduce greenhouse gas emissions and for other conservation purposes.

**Amendment No. 78
George Mason University
Enhance Fairfax Campus Dining Hall
(Item C-24.50 and C-89)**

General Assembly Action: No action.

Governor's Action: Proposes a technical amendment to Item C-89 (Amendment No. 78) to add this project to the list of projects funded from 9(d) revenue-supported bonds.

Notes:

- An amendment proposed to Item C-24.50 (Amendment No. 68) would provide \$17.0 million NGF from 9(d) bond proceeds for improvements to dining facilities at George Mason University.

**Amendment No. 79
Part 3: Interfund Transfers
Transfer of Nongeneral Fund Balances
(Item 3-1.01)**

General Assembly Action: No action.

Governor's Action: Transfers to the general fund an additional \$533,074 in nongeneral fund balances. These balances are reflected in the adjustments to the revenues as proposed by the Governor.

Notes:

- The additional NGF transfers include:

- Department of State Police	\$ 350,000
- Economic Development Incentive Payments	11,458
- Jamestown-Yorktown Foundation	23
- Department of Social Services	137,390
- Department of Juvenile Justice	40
- Virginia Center for Behavioral Rehabilitation	64
- Gov's Office for Substance Abuse Prevention	33,824
- Higher Education Research Initiative	<u>275</u>

TOTAL \$ 533,074

Amendment No. 80
Part 4: General Provisions
Gubernatorial Authority for Unexpended Appropriations
(Item 4-1.05)

General Assembly Action: Adopted language requiring that all agency year-end general fund balances be re-appropriated and allotted for expenditure where required by the Code of Virginia, or where necessary for the payment of pre-existing obligations for the purchase of goods and services. Remaining Executive Department balances, other than at higher education institutions, shall revert to the general fund.

Governor's Action: Permits the Governor to approve the re-appropriation of unexpended general fund balances in order to provide financial incentives to reduce spending or to achieve current or future cost savings in Executive Department agencies.

Notes:

- Under current law, the Comptroller reserves unexpended agency general fund balances at the end of a fiscal year, pending the Governor's review of the requested use of unspent funds by Executive Department agencies. Any amounts that are not returned to agencies are reverted to the general fund for reallocation in the subsequent session's introduced budget.

Amendment No. 81
Part 4: General Provisions
Sale of Surplus Computers
(Item 4-5.04)

General Assembly Action: Authorized agencies that are outside of the scope of the Northrop Grumman - VITA partnership to sell surplus computer equipment to agency employees.

Governor's Action: Proposes that policies developed for the sale of surplus computers to agency personnel must require the removal of Commonwealth data consistent with Commonwealth Information Security standards and that the policy be approved by the Chief Information Officer prior to implementation.

Amendment No. 82
Part 4: General Provisions
Sale of Surplus Computers
(Item 4-5.04)

General Assembly Action: Authorized agencies that are outside of the scope of the Northrop Grumman - VITA partnership to sell surplus computer equipment to agency employees **with the proceeds from the sales being deposited to the general fund.**

Governor's Action: Technical amendment that directs the proceeds from the sale of surplus computers to be returned to the appropriate fund used to purchase the equipment. The language, as passed, required the proceeds be returned to the General Fund. It is against federal law for equipment purchased with federal dollars to be surplused with the proceeds going to the State.

Amendment No. 83
Part 4: General Provisions
Special Conditions and Restrictions on Expenditures
Alternative Procurement of Goods and Services
(Item 4-5.04)

General Assembly Action: No action.

Governor's Action: Proposes language that authorizes state agencies to procure goods and services with an appropriation included in the Appropriations Act in circumstances where the payment is found to be unconstitutional for any reason or if the

Attorney General deems it to be unconstitutional in a “formal, written, legal opinion.”

If the appropriation can constitutionally be used for the purchase of a good or service, the agency is authorized to procure goods and services through the Procurement Act to accomplish the General Assembly’s original intent.

Notes:

- On January 28, 2011, the Attorney General issued an official advisory opinion indicating that proposed budget amendments included in the introduced budget for Operation Smile and the Virginia Federation of Food Banks were unconstitutional.
- In his opinion, the Attorney General pointed out that the Constitution prohibits “any appropriation of public funds, personal property, or real estate...to any charitable institution which is not owned or controlled by the Commonwealth.”
 - The Constitution does not define “charitable institution” nor does the Attorney General’s opinion address the definition.
- However, the Constitution does not prohibit categorically all payments to charities from the State. **The General Assembly can establish a program to provide services to its residents, and make appropriations to state agencies that, in turn, result in payments to charitable entities for goods purchased or services provided.**
- The Constitution allows appropriations to “nonsectarian institutions for the reform of youthful criminals” and authorizes “counties, cities, or towns to make appropriations to any charitable institutions or association.”

- The Constitution also allows the General Assembly to “assist non-state educational institutions of higher education with borrowing money for construction of facilities” as long as the Commonwealth is not liable for the debt.
- Since the Attorney General’s opinion was issued, the Department of Planning and Budget asked agencies to review their budgets and list appropriations that may be unconstitutional based on the opinion.
 - As questions have arisen about the constitutionality of certain general fund appropriations, state agencies consulted with counsel at the attorney general’s office for advice.
 - For agencies within the HHR Secretariat, payments to certain organizations have been withheld pending a final decision from the Office of the Attorney General, the Office of the Governor and the Secretary of Health and Human Resources as to the constitutionality of the payment.

Amendment No. 84
Part 4: General Provisions
July 1, 2012 Pay Date
(Item 4-6.01)

General Assembly Action: No Action.

Governor’s Action: Proposes a technical amendment to move the July 1, 2012, payday to July 2, 2012 to comply with lag pay requirements. In 2012, July 1 falls on a Sunday. If the payday is not moved to July 2, it will be paid on June 29, 2012 and FY 2012 will include 25 paydays.

Notes:

- In 2012, July 1 falls on a Sunday. If the payday is not moved to July 2, it will be paid on June 29, 2012 and FY 2012 will include 25 paydays, at an additional cost of about \$80.0 million GF.

**Amendment No. 85
Part 4: General Provisions
Higher Education Restructuring –
Assessment of Institutional Performance
(Item 4-9.02)**

General Assembly Action: No action.

Governor's Action: Proposes to amend the budget language under the assessment of institutional performance in the higher education restructuring section to provide an exemption for FY 2012. This amendment is technical in nature. The current budget language is in conflict with the provisions of the Higher Education Opportunity Act of 2011 (HB 2510/SB 1459). Provisions in the legislation allowed for the delay of the performance assessment for financial incentives during the process of creating new goals for which performance will be assessed. Under the legislation, the process will be suspended for two years while the new goals and performance requirements are developed. The budget language exemption will apply in FY2012; allowing a smooth transition to the performance requirements of the new Virginia Higher Education Opportunity Act of 2011.

**Amendment No. 86
Part 5: Additional Enactment
Optional Defined Contribution Retirement Program**

General Assembly Action: No action.

Governor's Action: Proposes an optional defined contribution plan for state employee groups covered under defined benefit programs, but not currently eligible for existing defined contribution plans.

Notes:

- The Senate Finance Committee rejected the versions of the proposed defined contribution retirement program on four occasions during the 2011 session. These include SB 1008, SB 1115, HB 2410, and the House's proposed amendment to Part 5 of the budget.
- The Finance Committee chairman has requested that JLARC undertake a comprehensive study of the Commonwealth's retirement programs for public employees. This study is intended to provide a sound basis for action, as well as firm estimates of the fiscal impact.
- The fiscal impact of the Governor's proposed defined contribution retirement program is unknown.
- The Governor's amendments do not include revisions to the title of HB 1500, the budget bill. This is required by Article IV, §12 of the Constitution of Virginia.

*No law shall embrace more than one object, **which shall be expressed in its title**. Nor shall any law be revived or amended with reference to its title, but the act revived or the section amended shall be reenacted and published at length.*

- The Governor has also included provisions similar to Amendment No. 86 in a substitute for HB 1795 (Tata), which is before the reconvened session.

Summary of Proposed Optional Defined Contribution Retirement Program

Overview: Amendment No. 86 establishes two new programs:

- 1) An optional defined contribution retirement program (ORP) for public employees, and
- 2) A disability program for the benefit of the employees who opt to participate in the new ORP.

Eligibility: New state employees hired after January 1, 2012. Current VRS members may elect to switch, and transfer their VRS **employee** account balance to the DC plan. Employees covered under existing ORPs for faculty, etc. are not eligible.

Contributions: A mandatory employee contribution of 5 percent, which is matched by the employer. Employers would make a matching contribution of 100 percent of the next 3.5 percent of pay contributed by the member, up to a maximum of 8.5 percent of pay each.

	Employer Contribution	Employee Contribution	
Tier 1 401(a)	5 percent	5 percent	Mandatory employer and employee contribution.
Tier 2 457(b)	Up to an additional 3.5 percent	0 to 3.5 percent	100 percent match by the employer of elective employee contributions.

Vesting: Employees would vest in the new ORP over a five year period.

New Sickness and Disability Program: Creates a scaled-back disability program for the benefit of the employees who opt to participate in the new ORP. This is necessary as the existing Virginia Sickness and Disability program is closely integrated with the defined benefit retirement program.

Interaction with Other Benefits: Group life insurance and the retiree health care credit would continue to be provided under existing law.

Fiscal Note: The cost of the proposed optional defined contribution retirement program is unknown, since the number of employees who might opt for this ORP is unknown. Other states have experienced participation rates of 10 to 20 percent. *Amendment No. 86 establishes an unspecified surcharge to be paid by the employers of participants in the new ORP to assist with the amortization of the unfunded liabilities of the existing defined benefit retirement programs.*