

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 1, Make adjustments to page one resources

Item 0

Revenues

Revenues

Language

Language:

Page 1, Line 45, strike "\$91,519,218" insert "\$90,031,868".
Page 1, Line 45, strike "\$253,627,972" insert "\$229,805,544".
Page 1, Line 45, strike "\$345,147,190" insert "\$319,837,412".
Page 1, Line 47, strike "\$15,574,486,810" insert "\$15,595,236,810".
Page 1, Line 47, strike "\$30,292,973,539" insert "\$30,313,723,539".
Page 1, Line 49, strike "\$422,603,371" insert "\$423,136,445".
Page 1, Line 49, strike "\$891,178,813" insert "\$891,711,887".
Page 2, Line 1, strike "\$15,723,853,318" insert "\$15,722,899,042".
Page 2, Line 1, strike "\$16,296,690,224" insert "\$16,293,617,796".
Page 2, Line 1, strike "\$32,020,543,542" insert "\$32,016,516,838".
Page 2, Line 18, strike "\$43,749,329,460" insert "\$43,748,375,184".
Page 2, Line 18, strike "\$41,427,697,487" insert "\$41,424,625,059".
Page 2, Line 18, strike "\$85,177,026,947" insert "\$85,173,000,243".

Explanation:

(This amendment makes adjustments to the resources shown on page one of the budget bill. Specifically, these adjustments include the following: 1) a reduction in additions to balance of \$25,000 in the first year from the reversal of funds that were carried forward to establish a grants management web site; 2) a reduction in additions to balance of \$952,135 in the first year from the reversal of a reversion associated with the Department of Agriculture and Consumer Services Local Purchase of Development Rights programs; 3) a reduction in additions to balance of \$439,280 in the first year associated with the reversal of reversion of Virginia Community College System workforce development funds; 4) a reduction in additions to balance of \$500,000 in the first year from a reversal in the reversion of Productivity Investment Fund amounts; 5) a reduction in additions to balance of \$23,241,576 in the second year resulting from the increase of employer retirement contributions to Chapter 874 agency funded levels; 6) an increase in additions to balance of \$234,456 in the first year from the reversion of unobligated balances in necessary repairs and improvements (project 16170); 7) an increase in additions to balance of \$239,822 in the first year from the reversion of general fund maintenance reserve balances; 8) a reduction in additions to balance of \$45,213 the first year and \$180,852 the second year related to fiscal relief associated with Chapter 618, 2010 Acts of Assembly; 9) a reduction in additions to balance of \$400,000 in the second year from changing the payment schedule to VRS from quarterly to monthly; 10) an increase in resources of \$7,000,000 in the second year from recordation taxes; 11) an increase in revenue of \$5,000,000 in the second year from refunds; 12) an increase in resources of \$8,750,000 in the second year related to the sale of Brunswick Prison; and 13) an increase in transfers of \$533,074 in the first year from various state agency nongeneral fund accounts.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 2, Correct the director's salary

Item 30

Legislative Department

Joint Legislative Audit and Review
Commission

Language

Language:

Page 18, line 32, strike "\$145,969" and insert "\$145,729".
Page 18, line 32, strike "\$153,267" and insert "\$153,015".

Explanation:

(This amendment corrects the salary for the director of the Joint Legislative Audit and Review Commission as intended by the General Assembly.)

Amendment 3, Deferment of disposition

Item 49

Judicial Department

Virginia Criminal Sentencing Commission

Language

Language:

Page 33, line 37, before "For" insert "A."
Page 33, after line 41, insert:

"B. The Virginia Criminal Sentencing Commission shall collect information on the number and nature of criminal cases deferred by each circuit court, except those deferred pursuant to §§ 4.1-305, 15.2-1812.2, 18.2-57.3, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-251, or 19.2-303.2, Code of Virginia, and maintain a database of the information obtained. This shall apply to those cases where, upon a plea of guilty or nolo contendere or after a plea of not guilty when the facts found by the court would justify a finding of guilt, such court defers entry of a judgment of conviction at the conclusion of the evidence, including a deferral of the case upon the completion of terms and conditions where such deferral is not pursuant to §§ 4.1-305, 15.2-1812.2, 18.2-57.3, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-251, or 19.2-303.2. The Commission shall promulgate forms to be completed by the judge hearing the case both at the time of such deferral and upon the conclusion of the case.

C.1. For any criminal case that has been deferred by a circuit court, except those deferred pursuant to §§ 4.1-305, 15.2-1812.2, 18.2-57.3, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-251, or 19.2-303.2, the judge in the circuit court hearing the case shall file a report at the time of such deferral, and a second report upon the conclusion of the case, on a form promulgated by the Virginia Criminal Sentencing Commission. This shall apply to those cases where, upon a plea of guilty or nolo contendere or after a plea of not guilty when the facts found by the court would justify a finding of guilt, such court defers entry of a judgment of conviction at the conclusion of the evidence, including a deferral of the case upon the completion of terms and conditions where such deferral is not pursuant to §§ 4.1-305, 15.2-1812.2, 18.2-57.3, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-251, or 19.2-303.2.

2. In any report prepared per the requirements of subsection C.1., the judge shall include a written explanation of such deferral.

3. For any report prepared per the requirements of subsection C.1, the clerk of the circuit court in which the case was heard shall cause the report, including any explanation prepared pursuant to subsection C.2., to be forwarded to the Virginia Criminal Sentencing Commission within 30 days."

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Explanation:

(This amendment authorizes the Virginia Criminal Sentencing Commission to distribute a form for the collection of information about criminal cases in which disposition has been deferred by circuit courts and requires circuit court judges to report on those cases deferred. This data is needed to assist the Crime Commission in its study of the implications of the recent decision of the Virginia Supreme Court in the Hernandez case.)

Amendment 4, Create plan for reduction in dues

Item 51

Judicial Department

Virginia State Bar

Language

Language:

Page 34, strike lines 38 through 40, and insert:

"C. The Virginia State Bar shall 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. The goal of the plan is to ensure that revenues are within ten percent of actual item expenditures and working capital balances are sufficient for three months of item operations. The plan shall be submitted to the Chief Justice of the Virginia Supreme Court, the Chairmen of House Appropriations and Senate Finance Committees, and the Governor by October 1, 2011."

Explanation:

(This amendment directs the State Bar to develop a plan for the potential reduction of dues paid by its members by keeping revenues within ten percent of the State Bar's actual operating costs. The Bar is to submit its plan to the Chief Justice of the Virginia Supreme Court, the Chairmen of House Appropriations and Senate Finance Committees, and the Governor by October 1, 2011.)

Amendment 5, Judgeship vacancy resulting from appointment to another court

Item 52

Judicial Department

Judicial Department Reversion Clearing
Account

Language

Language:

Page 36, line 38, strike "a higher court" and insert "another Virginia court, provided such appointment is to another authorized judgeship which is funded as provided herein or by existing law".

Explanation:

(This amendment is a technical amendment to provide for lateral judgeship appointments within the district court system.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 6, Authorize yearend balances for sheriffs

Item 67.20

Administration

Compensation Board

Language

Language:

Page 49, after line 3, insert:

"P. After satisfying the provisions of Item 96.J.5. of this act, there is hereby appropriated in the second year an amount not to exceed \$7,373,722 from that portion of the general fund balance designated by the State Comptroller on June 30, 2011, for nonrecurring expenditures pursuant to §2.2-1514B., Code of Virginia."

Explanation:

(This amendment provides a supplemental appropriation to support sheriffs provided sufficient funds are designated by the State Comptroller on the June 30, 2011, general fund balance sheet for nonrecurring expenditures after meeting the provisions of Item 96.J.5.)

Amendment 7, Collect Federal HAVA funding

Item 79

Administration

State Board of Elections

FY 10-11

\$367,235

FY 11-12

\$0 GF

Language:

Page 70, line 13, strike "\$6,876,682" and insert "\$7,243,917".

Explanation:

(This amendment adds \$367,235 from the general fund to the State Board of Elections. These funds would allow the agency to collect \$6.97 million in additional federal election funds with the \$367,235 serving as matching funds. These funds will be used to pay for federal mandates on elections.)

Amendment 8, Increase funding for the Governor's Motion Picture Opportunity Fund

Item 96

Commerce and Trade

Economic Development Incentive Payments

FY 10-11

\$0

FY 11-12

\$1,500,000 GF

Language:

Page 83, line 3, strike "\$52,650,384" and insert "\$54,150,384".

Page 84, line 30, strike "\$1,500,000" and insert "\$3,000,000".

Explanation:

(This amendment increases funding for the Governor's Motion Picture Opportunity Fund by \$1.5 million in FY 2012. The Virginia Tourism Corporation (VTC) is pursuing over 15 active film projects, which, if filmed in the Commonwealth, would have a significant economic impact to the state. This additional funding will allow the VTC to aggressively work to secure as many of these projects to the Commonwealth as possible.)

Amendment 9, Address 2005 Base Realignment and Closure Commission recommendations

Item 96

Commerce and Trade

Economic Development Incentive Payments

Language

Language:

Page 85, line 15, after "state" insert "funds appropriated in paragraph J.1. of this Item"

Page 85, after line 32, insert:

"5. There is hereby appropriated in the second year an amount not to exceed \$7,500,000 from that portion of the general fund balance designated by the State Comptroller on June 30, 2011, for nonrecurring expenditures pursuant to §2.2-1514B., Code of Virginia, to address the Commonwealth's commitment in response to the recommendations of the 2005 Base Realignment and Closure Commission to assist any locality in which a United States Navy Master Jet Base is located to mitigate the adverse affects on any military operation caused by the encroachment of incompatible land uses. These funds shall be used only to mitigate adverse impacts in Accident Potential Zone 1 and Clear Zone areas. On or before November 1, 2011, the locality shall report to the Chairmen of House Appropriations, Senate Finance Committees, and the Governor on the specific properties purchased and the balance of monies remaining."

Explanation:

(This amendment will allow up to \$7.5 million of any amount designated by the State Comptroller on the June 30, 2011, general fund balance sheet to be used to meet the Commonwealth's commitments resulting from the recommendations of the 2005 Base Realignment and Closure (BRAC) Commission regarding the encroachment of incompatible land uses at the United States Navy Master Jet Base at Oceana. This payment will move the Commonwealth one step closer to completing this commitment prior to another potential BRAC in the next several years. Also, requires any locality that receives such funds to report to the General Assembly and the Governor by November 1, 2011, on the properties purchased with the funds.)

Amendment 10, Modify allocation of funding for commercialization and research

Item 96

Commerce and Trade

Economic Development Incentive Payments

Language

Language:

Page 86, line 6, after "Virginia." strike the remainder of line 6.

Page 86, strike lines 7 through 8.

Explanation:

(This amendment strikes the language dedicating \$2.0 million of the funding provided for the Commonwealth Research Commercialization Fund for a Small Business Innovation Research (SBIR) Matching Fund Program for Virginia-based technology businesses. Recently, the number of SBIRs awarded is small. This amendment will allow the Commonwealth to maximize the benefits associated with the legislatively expanded CRCF.)

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Amendment 11, Supplant funding for industrial site revitalization

Item 100

Commerce and Trade	FY 10-11	FY 11-12
Department of Housing and Community Development	\$0	\$2,000,000 GF

Language:

Page 90, line 6, strike "\$56,127,473" and insert "\$58,127,473".

Page 92, line 53, strike "\$1,000,000" and insert "\$3,000,000".

Page 92, line 53, strike "and" .

Page 92, strike lines 54 through 55.

Page 93, line 1, strike "general fund, provided such amount does not exceed \$2,000,000".

Explanation:

(This amendment supplants \$2.0 million in nongeneral funds, to be generated from the future sale of surplus property, with \$2.0 million from the general fund for deposit to the Derelict Structures Fund. This amendment does not change the total appropriation; however, the use of general fund dollars will provide a stable, dependable source of funding. The Department of Housing and Community Development has identified over 90 potential projects in over 40 localities statewide that could benefit from the program.)

Amendment 12, Increase funds for the Virginia Main Street Program

Item 100

Commerce and Trade	FY 10-11	FY 11-12
Department of Housing and Community Development	\$0	\$500,000 GF

Language:

Page 90, line 6, strike "\$56,127,473" and insert "\$56,627,473".

Page 93, after line 3, insert:

"N. Out of the amounts in this Item, \$500,000 the second year from the general fund shall be provided for the Virginia Main Street Program. This amount shall be in addition to other appropriations for this activity."

Explanation:

(This amendment provides additional funding to promote economic and physical revitalization of historic downtowns and neighborhood commercial districts through the Virginia Main Street Program. The additional funds will allow the Department of Housing and Community Development to add four new communities to the program, and increase technical assistance to communities currently participating in the program.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 13, Provide clarifying language on energy contracts, grants and loans

Item 111

Commerce and Trade

Department of Mines, Minerals and Energy

Language:

Page 96, after line 41, insert:

"E. To defray the costs of implementing the Virginia Energy Management Program, the Department of Mines, Minerals and Energy is authorized to have included in state fuel oil, natural gas and similar energy contracts a provision for suppliers to collect from using agencies and remit to the department an administrative surcharge. The surcharge shall reflect the department's actual costs to administer the program. Additionally, the department is authorized, consistent with federal funding rules, to distribute energy-related federal funds as grants or as loans to other state or nonstate agencies for use in financing energy-related projects, and to recover from the recipient an administrative service charge to recover the department's costs of administering such grant or loan programs."

Explanation:

(This technical amendment provides clarifying language affirming that the Department of Mines, Minerals and Energy (DMME) may continue to assess surcharges related to its work managing and administering statewide energy contracts and that the agency is authorized to manage programs related to federal energy-related grants and loans. Specifically, this amendment clarifies the agency's authority to include a current assessment in state fuel oil, natural gas or similar energy contracts. These revenues are included in the agency's reduction plan as a supplant of general fund dollars. Without the continued legal authorization to assess these current surcharges, DMME risks losing a revenue source. The loss of the revenue would leave the agency without funding to support the position responsible for negotiating the statewide energy contracts, contracts that result in significant savings for all state agencies. In addition, this amendment clarifies DMME's authority to manage the distribution and oversight of federal energy monies disbursed to other state agencies as loans or grants.)

Amendment 14, Reference relocation of the Virginia Commercial Space Flight Authority

Item 114

Commerce and Trade

Virginia Economic Development Partnership

Language

Language:

Page 99, line 12, after "Authority.", insert:

"Oversight of the Virginia Commercial Space Flight Authority is transferred to the Secretary of Transportation in Item 436 of this act and funding for the second year is also addressed in such Item."

Explanation:

(This amendment is technical and includes clarifying language under the Virginia Economic Development Partnership to ensure that the reader will know that funding from the Commonwealth for the Virginia Commercial Space Flight Authority is located in the budget of the Secretary of Transportation for oversight and budgetary purposes.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 15, Increase funding for the tourism marketing partnership grant program

Item 120

Commerce and Trade	FY 10-11	FY 11-12
Virginia Tourism Authority	\$0	\$1,000,000 GF

Language:

Page 103, line 3, strike "\$18,658,135" and insert "\$19,658,135".

Page 103, line 39, strike "\$1,425,000" and insert "\$2,425,000".

Explanation:

(This amendment provides additional funding for direct, matching marketing grants for local and regional tourism authorities. Tourism is a major sector of the Virginia economy and its promotion should pay concrete dividends as the economy recovers. Tourism awards grants twice a year and the demand for the program exceeds funds specifically appropriated for this purpose.)

Amendment 16, Release of higher education funding

Item 121

Education

Secretary of Education	Language
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Language:

Page 106, after line 51, insert:

"E. Funds provided to the individual higher education institutions to enhance student enrollment, retention, and graduation, with a focus on increasing the number of students majoring in science, technology, engineering, and mathematics (STEM) and health care, as well as to strengthen institutional base operations, shall be released once the Secretary of Education has certified to the Director, Department of Planning and Budget, the successful completion of the review of the six-year plan submissions as required by HB2510/SB1459 of the 2011 Session of the General Assembly."

Explanation:

(This amendment requires that funds supporting the Governor's higher education goals not be released until review of the six-year plans as required under the Virginia Higher Education Opportunity Act of 2011 is completed. This is to ensure that the institutions of higher education have formally identified the ways they can best address the goals, reforms and recommendations of the Governor's Commission on Higher Education Reform, Innovation and Investment.)

Amendment 17, Restore reduction to public broadcasting

Item 123

Education	FY 10-11	FY 11-12
Secretary of Education	\$0	(\$1,654,832) GF

Language:

Page 107, line 39, strike "\$2,645,337" and insert "\$990,505".

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Explanation:

(This amendment restores the original reduction in the introduced budget bill proposed by the Governor to Financial Assistance for Educational Telecommunications. The Governor is proposing a two-year phase out of state funding for public broadcasting as a non-core governmental service given the many educational alternatives available through the internet and other media outlets.)

Amendment 18, Remove language limiting K-12 virtual school programs

Item 132

Education: Elementary and Secondary

Direct Aid to Public Education

Language

Language:

Page 117, strike lines 39 through 51.

Explanation:

(This amendment removes language that freezes the membership of the Carroll County virtual school program at 350 and establishes state funding parameters based on a student's residence. This language places at risk the development of virtual schools in Virginia. Virtual schools help provide student access to programs that might not be available in all school districts, while saving school construction costs.)

Amendment 19, Provide operating funds for the balance of FY 2011

Item 225

Education: Other

FY 10-11

FY 11-12

Frontier Culture Museum of Virginia

\$500,000

\$0 GF

Language:

Page 204, line 45, strike "\$1,800,216" and insert "\$2,300,216".

Page 205, line 3, before "Any", insert "A."

Page 205, after line 7, insert:

"B. Out of the amounts appropriated for this Item, up to \$500,000 the first year from the general fund is provided to help ensure the continued operation of the Frontier Culture Museum of Virginia through FY 2011. Prior to release of this funding, the Frontier Culture Museum shall develop and initiate an operating and marketing plan that will effectively maximize museum revenue generation and efficiently utilize existing nongeneral fund and general fund operating revenue to ensure future operating viability of the museum. The plan should include measures the Frontier Culture Museum will take to address any outstanding and future financial obligations to the Virginia Information Technologies Agency. The museum shall present its plan to the Secretary of Education no later than June 1, 2011, with funding released only to the amount required for the agency to operate through FY 2011."

Explanation:

(This amendment provides funding support to ensure the Frontier Culture Museum of Virginia can continue operations through FY 2011, with a condition of submitting a plan on how the museum intends to remain operationally viable.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 20, Provide additional funding for medical education

Item 236

Education: Other	FY 10-11	FY 11-12
Eastern Virginia Medical School	\$0	\$1,098,679 GF

Language:

Page 210, line 15, strike "\$19,484,299" and insert "\$20,582,978".

Explanation:

(This amendment provides additional funding to Eastern Virginia Medical School to support its medical education curriculum. In addition, the funding will support an increase in the school's class size to help meet the demands of the physician shortage, as well as facilitate reaccreditation of the institution. The amount of funding provided will allow the school to meet 50 percent of its base adequacy requirements as recently calculated by the State Council of Higher Education for Virginia.)

Amendment 21, Provide line of duty benefits for Fort Pickett firefighters

Item 258

Finance

Department of Accounts Transfer Payments

Language

Language:

Page 223, after line 52, insert:

"E. A member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard shall be eligible to receive benefits according to the provisions under the Line of Duty Act, Title 9.1, Chapter 4, Code of Virginia. Funding for the inclusion of a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard will be paid by the Department of Military Affairs out of its appropriation in Item 404 of this act."

Explanation:

(This amendment includes under the coverage of the Line of Duty Act (Title 9.1, Chapter 4, Code of Virginia), individuals employed as fire company personnel for the Virginia Air National Guard or the Virginia National Guard's Fort Pickett Reserve. Any costs incurred by this amendment will be provided for by the Department of Military Affairs.)

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Amendment 22, Expeditious payment of funeral costs for line of duty benefit recipients

Item 258

Finance

Department of Accounts Transfer Payments

Language

Language:

Page 223, after line 52, insert:

“D. It is the intent of the General Assembly that expeditious payments for funeral expenses be made for persons whose death is determined to be a direct and proximate result of their performance in the line of duty. The State Comptroller is hereby authorized to release, at the request of the family of a person who may be subject to the line of duty death benefits, payments to a funeral service provider for costs directly related to funeral expenses, these payments would be advanced from the death benefit that would be due to the beneficiary of the deceased person if it is determined that the person qualifies for line of duty coverage. In the event a determination is made that the death is not subject to the line of duty benefits, the Virginia Retirement System or other retirement fund to which the deceased is a member, will deduct from benefit payments otherwise due to be paid to the beneficiaries of the deceased, payments previously paid for funeral expenses and return such funds to the State Comptroller.”

Explanation:

(This amendment provides language for expeditious payments to cover the funeral costs for all persons who are killed under the Line of Duty Act pursuant to Title 9.1, Chapter 4, Code of Virginia, and whose death is the direct result of the performance of his duty.)

Amendment 23, Restore funding for independent management audits

Item 273

Health & Human Resources

FY 10-11

FY 11-12

Secretary of Health and Human Resources

\$0

\$700,000 GF

Language:

Page 241, line 4, strike "\$1,480,700" and insert "\$2,180,700".

Page 242, after line 37, insert:

"I. Out of the appropriation, \$700,000 the second year from the general fund shall be used to contract with a independent entity to perform up to four audits of the Departments of Medical Assistance Services, Health, Social Services, and Behavioral Health and Developmental Services."

Explanation:

(This amendment restores funding necessary to conduct up to four independent operational and programmatic reviews of the Departments of Medical Assistance Services, Health, Social Services, and Behavioral Health and Developmental Services. Such audits in other areas of state government have identified significant additional resources and savings as well as improving the overall operation of the organization.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 24, Reclassify therapeutic foster care as a residential services

Item 274

Health & Human Resources	FY 10-11	FY 11-12
Comprehensive Services for At-Risk Youth and Families	\$0	(\$7,500,000) GF

Language:

Page 242, line 46, strike "\$322,668,561" and insert "\$315,168,561".

Page 245, line 19, after "base." insert:

"For services provided after June 30, 2011, the definition of "residential services" shall include therapeutic foster care."

Explanation:

(This amendment increases the local match rate on therapeutic foster care services to equal the rate for all other residential services beginning in the second year. Beginning in FY 2008, a series of changes in match rates for different types of services was instituted over several years in order to encourage localities to use the least restrictive setting. In FY 2009, the State Executive Council moved therapeutic foster care, which had previously been classified as a residential service (which would have an increased local match) to the "base" rate category, meaning no increase in local contribution. The average gross cost of caring for a child in therapeutic foster care has now surpassed the cost of providing care in a residential or group home setting. Reclassifying these services as "residential" will return them to their historical classification.)

Amendment 25, Provide funding for federal abstinence grant

Item 286

Health & Human Resources	FY 10-11	FY 11-12
Department of Health	\$0	\$382,688 GF
	\$0	\$507,285 NGF

Language:

Page 254, line 40, strike "\$113,332,002" and insert "\$114,221,975".

Explanation:

(This amendment provides the Department of Health with \$382,688 general fund support and \$507,285 nongeneral fund support by way of federal matching funds for the Title V State Abstinence Education Grant Program.)

Amendment 26, Eliminate TANF support for CHIP of Virginia

Item 288

Health & Human Resources	FY 10-11	FY 11-12
Department of Health	\$0	(\$500,000) NGF

Language:

Page 257, line 17, strike "\$13,667,793" and insert "\$13,167,793".

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Page 257, line 26, after "fund" strike "and \$500,000 from the federal Temporary Assistance for".

Page 257, line 27, before "is" strike "Needy Families block grant".

Explanation:

(This amendment eliminates the allocation of \$500,000 Temporary Assistance for Needy Families (TANF) dollars for the Comprehensive Health Investment Project (CHIP) of Virginia. Although there is an anticipated TANF block grant surplus of \$49,735 at the end for FY 2012, it is estimated that the FY 2013 TANF budget will have \$14.9 million structural deficit (FY 2012 on-going spending vs. the amount of the annual block grant). Much of the spending in the 2010-2012 biennium is predicated on the utilization of prior year program balances. The introduced budget begins to curb TANF spending by lowering expenditures by over \$10 million from FY 2011 to FY 2012. Removing the on-going commitment to CHIP will lessen the potential TANF shortfall next year and minimize the number of cuts needed to fully balance the 2012-2014 biennial TANF plan. In addition, legislation passed by the 2011 General Assembly (SB 1223) creates a TANF funding pool and a mechanism for providers of expanded TANF services to obtain TANF funding through a competitive Request for Proposals process.)

Amendment 27, Restore Medicaid funding related to Plan First

Item 297

Health & Human Resources	FY 10-11	FY 11-12	
Department of Medical Assistance Services	\$0	\$1,467,956	GF
	\$0	\$1,467,956	NGF

Language:

Page 265, line 7, strike "\$7,400,121,703" and insert "\$7,403,057,615".

Explanation:

(This amendment restores the Medicaid savings assumed from an expansion of Plan First, the Medicaid family planning waiver. However, there is no planned expansion of Plan First. Additional funding was proposed in the introduced budget for the Virginia Department of Health, which is planning to enhance outreach efforts to increase enrollment in the program. To the degree that a significant increase in enrollment occurs and additional births are averted, there would be savings in the Medicaid program. However, it will take some time before the outreach efforts begin to have an effect, so it is unlikely that any savings to the Medicaid program will occur in FY 2012. Therefore, the savings assumed creates a shortfall in Medicaid funding.)

Amendment 28, Suspension of Medicaid payment delays

Item 297

Health & Human Resources	FY 10-11	FY 11-12	
Department of Medical Assistance Services	\$113,618,329	(\$131,568,712)	GF
	\$149,732,249	(\$131,781,866)	NGF

Language:

Page 265, line 7, strike "\$6,896,770,300" and insert "\$7,160,120,878".

Page 265, line 7, strike "\$7,400,121,703" and insert "\$7,136,771,125".

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Page 273, line 32, after "NN." insert "1."

Page 273, after line 38, insert:

"2. Notwithstanding paragraph NN.1. in this Item, the department shall pay, in the last quarter of the first year, the last quarterly hospital payment amounts of that year that are for Indirect Medical Education and Direct Medical Education. Disproportionate Share Hospital payments shall be paid as directed in paragraph NN.1.

Page 273, line 39, after "OO." insert "1."

Page 273, after line 43, insert:

"2. Notwithstanding paragraph OO.1. in this Item, the department shall pay in June of 2011 the monthly capitation payment to managed care organizations for the member months of June 2011."

Page 273, line 44, after "PP." insert "1."

Page 273, after line 50, insert:

"2. Notwithstanding paragraph PP.1. in this Item, the department shall pay the final remittance of June 2011 in the first year.

3. The Department of Planning and Budget is authorized to transfer amounts, as needed, between this Item and Items 295, 296, and 299 to address the changes in appropriation necessary to fund the programs impacted by a suspension of the final weekly remittance payment delay as required in paragraph PP. of this Item."

Explanation:

(This amendment generates \$18 million in general fund savings in Medicaid by temporarily suspending, for FY 2011, the Medicaid payment delays that are included in the 2010 Appropriation Act. The budget requires the fourth quarter lump sum hospital payment, the June managed care organization capitation payment, and the final weekly Medicaid claims remittance in FY 2011 to be paid in FY 2012. The increased Federal Medical Assistance Percentage (FMAP) rate, due to federal stimulus, expires on June 30, 2011. Making the payments in FY 2011 will allow the Commonwealth to claim an FMAP of 56.88 percent rather than the 50 percent in FY 2012. The final weekly claims remittance also includes FAMIS, Medicaid Expansion and Temporary Detention Order claims, because the Medicaid payment system cannot exclude those programs. However, there are no general fund savings from those other programs because their federal match rates are not changing.)

Amendment 29, Correct respite care limit for Assistive Technology waiver

Item 297

Health & Human Resources

Department of Medical Assistance Services

Language

Language:

Page 274, line 28, after "amend", strike "the" and insert "certain".

Page 274, line 32, after "Intellectual Disabilities," strike "Technology".

Page 274, line 33, before, "and HIV/AIDS" strike "Assisted,".

Explanation:

(This technical amendment does not change the intent of General Assembly action. This amendment corrects the limit on the number of respite care hours allowed in the Assistive Technology (TECH) waiver. The General Assembly restored a budget reduction for respite care hours in the Medicaid waivers and increased them all to 480 hours from 240 hours. However, the TECH waiver originally had a limit of 360 hours and it was an oversight to increase the limit to 480 hours. This action eliminates the reference to the TECH waiver in the language, which will leave in place the original limit of 360 hours per year.)

Amendment 30, Modify children's mental health assessment language

Item 297

Health & Human Resources

Department of Medical Assistance Services

Language

Language:

Page 285, line 19, after "OOOO." insert "1."

Page 285, after line 30, insert:

"2. The Director, Department of Planning and Budget is authorized to transfer amounts, as needed, from Medicaid Program Services (45600), Medical Assistance Services for Low Income Children (46600) and Children's Health Insurance Program Delivery (44600), to Administrative and Support Services (49900), to fund administrative expenditures associated with contracts between the department and community services boards and/or their organization providing assessment services for Medicaid and FAMIS recipients in need of community mental health rehabilitative services."

Explanation:

(This amendment provides authority to move funding within the Department of Medical Assistance Services from the medical to the administrative budget so the agency can pay assessment fees to Community Services Boards (CSBs). This action is necessary to allow the agency to limit independent assessments for children's behavioral health services to only CSBs. The action is necessary to comply with federal requirements.)

Amendment 31, Correct personal care language

Item 297

Health & Human Resources

Department of Medical Assistance Services

Language

Language:

Page 287, line 14, after "waivers", strike "and the Children's Mental Health demonstration grant".

Page 287, line 16, after "include the", strike "Alzheimer's Assisted".

Page 287, line 17, before "Elderly", strike "Living,".

Explanation:

(This technical amendment removes references to the Children's Mental Health demonstration grant and Alzheimer's Assisting Living waiver in the language that applies a limit on personal care hours. These two waivers do not offer personal care as a service and the language should not reference them.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 32, Upgrade licensing system

Item 301

Health & Human Resources

Department of Behavioral Health and
Developmental Services

FY 10-11

\$0

FY 11-12

\$50,000 GF

Language:

Page 290, line 6, strike "\$1,880,728" and insert "\$1,930,728".

Page 290, line 12, before "The Director", insert: "A."

Page 290, after line 13, insert:

"B. The department shall post on its website information concerning (i) any application for initial licensure of or renewal of a license, denial of an application for an initial license or renewal of a license, or issuance of provisional licensure of for any residential facility for children located in the locality and (ii) all inspections and investigations of any residential facility for children licensed by the department, including copies of any reports of such inspections or investigations. Information concerning inspections and investigations of residential facilities for children shall be posted on the department's website within seven days of the issuance of any report and shall be maintained on the department's website for a period of at least six years from the date on which the report of the inspection or investigation was issued."

Explanation:

(This amendment provides funds to upgrade the Department of Behavioral Health and Developmental Services' existing licensing system, including analysis, design, development and testing to allow for expedited posting of inspection and investigations reports on the agency's web site.)

Amendment 33, Promulgate Early Intervention case management regulations

Item 304

Health & Human Resources

Department of Behavioral Health and
Developmental Services

Language

Language:

Page 293, after line 44, insert:

"Q. The Department of Behavioral Health and Developmental Services, in consultation with the Department of Medical Assistance Services, shall promulgate regulations to certify early intervention case managers to provide case management services to Medicaid and FAMIS children enrolled in early intervention services provided under Part C of the Individuals with Disabilities Education Act (IDEA) of 2004. The Department of Behavioral Health and Developmental Services shall promulgate these regulations within 280 days or less from the enactment date of this act."

Explanation:

(This amendment instructs the department to promulgate emergency regulations to certify providers of Early Intervention (Part C) case management services.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 34, Provide funds to operate sexually violent predator facility

Item 319

Health & Human Resources

	FY 10-11	FY 11-12
Virginia Center for Behavioral Rehabilitation	\$0	\$2,500,000 GF

Language:

Page 300, line 39, strike the second "\$13,196,113" and insert "\$15,696,113".

Explanation:

(This amendment provides the estimated funding needed to continue to properly operate the sexually violent predator facility through April 2012 so as to reconsider this issue in the caboose budget bill during the 2012 General Assembly session. It is anticipated that the Department of Behavioral Health and Disability Services (DBHDS) will review various operating strategies for the Virginia Center for Behavioral Rehabilitation (VCBR), including PPEAs. Further, it is anticipated that following the Joint Legislative Audit and Review Commission's (JLARC) November 1, 2011 report, DBHDS will work to implement the report's recommendations.)

Amendment 35, Allow flexibility to retrofit existing facility for additional capacity

Item 319

Health & Human Resources

Virginia Center for Behavioral Rehabilitation	Language
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Language:

Page 301, line 17, strike "to double bunk up to 150" and insert: "to accommodate additional".

Page 301, line 18, after "(VCBR)." insert: "Such plan may include double-bunking dormitory-style, repurposing existing space, or the addition of new housing units at the current VCBR site."

Page 301, line 22, after "facilities" insert "at a new site".

Page 301, line 25, strike "double bunk" and insert "accommodate additional capacity".

Page 301, line 25, after "population." insert:

"The department may make necessary capital renovations to the facility in Nottoway County to accommodate the increased capacity in order to ensure resident safety."

Page 301, line 28, strike "after double bunking 150 beds".

Page 301, line 32, strike "double bunking and".

Explanation:

(This amendment clarifies that the department may not undertake a capital project to construct a new facility for sexually violent predators. In addition, the amendment allows the flexibility to renovate the existing facility to provide for adequate food service, additional beds, and treatment space.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 36, Eliminate TANF support for Healthy Families of Virginia

Item 333

Health & Human Resources	FY 10-11	FY 11-12
Department of Social Services	\$0	(\$500,000) NGF

Language:

Page 313, line 31, strike "\$31,676,448" and insert "\$31,176,448".

Page 314, line 16, strike "\$2,855,501" and insert "\$2,355,501".

Explanation:

(This amendment eliminates the allocation of an additional \$500,000 Temporary Assistance for Needy Families (TANF) dollars for Healthy Families of Virginia. Although there is an anticipated TANF block grant surplus of \$49,735 at the end for FY 2012, it is estimated that the FY 2013 TANF budget will have a \$14.9 million structural deficit (FY 2012 on-going spending vs. the amount of the annual block grant). Much of the spending in the 2010-2012 biennium is predicated on the utilization of prior year program balances. The introduced budget begins to curb TANF spending by lowering expenditures by over \$10 million from FY 2011 to FY 2012. Removing the on-going commitment to Healthy Families will lessen the potential TANF shortfall next year and minimize the number of cuts needed to fully balance the 2012-2014 biennial TANF plan. In addition, legislation passed by the 2011 General Assembly (SB 1223) creates a TANF funding pool and a mechanism for providers of expanded TANF services to obtain TANF funding through a competitive Request for Proposals process.)

Amendment 37, Eliminate TANF support for community action agencies

Item 333

Health & Human Resources	FY 10-11	FY 11-12
Department of Social Services	\$0	(\$500,000) NGF

Language:

Page 313, line 31, strike "\$31,676,448" and insert "\$31,176,448".

Page 313, line 52, after "first year" strike "and \$500,000 the second year".

Explanation:

(This amendment eliminates the allocation of an additional \$500,000 Temporary Assistance for Needy Families (TANF) dollars for community action agencies. Although there is an anticipated TANF block grant surplus of \$49,735 at the end for FY 2012, it is estimated that the FY 2013 TANF budget will have a \$14.9 million structural deficit (FY 2012 on-going spending vs. the amount of the annual block grant). Much of the spending in the 2010-2012 biennium is predicated on the utilization of prior year program balances. The introduced budget begins to curb TANF spending by lowering expenditures by over \$10 million from FY 2011 to FY 2012. Removing the on-going commitment to community action agencies will lessen the potential TANF shortfall next year and minimize the number of cuts needed to fully balance the 2012-2014 biennial TANF plan. In addition, legislation passed by the 2011 General Assembly (SB 1223) creates a TANF funding pool and a mechanism for providers of expanded TANF services to obtain TANF funding through a competitive Request for Proposals process.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 38, Amend Water Quality Improvement Fund language

Item 351

Natural Resources

Department of Conservation and Recreation

Language

Language:

Page 322, line 29, after "act.", insert:

"Additionally, the Governor may use, as needed, any uncommitted balance in the reserve fund as of June 30, 2011, to meet the provisions of the Watershed Implementation Plan filed with the Environmental Protection Agency on November 29, 2010."

Explanation:

(This amendment revises language pertaining to the reserve for the Water Quality Improvement Fund (WQIF). Specifically, this amendment authorizes the Governor to utilize uncommitted balances in the WQIF reserve as of June 30, 2011, as needed to meet the Watershed Implementation Plan filed with the Environmental Protection Agency on November 29, 2010.)

Amendment 39, Reduce newly-appropriated funding for agency programs

Item 351

Natural Resources

Department of Conservation and Recreation

FY 10-11

\$0

0.00

FY 11-12

(\$400,000) GF

(2.00) FTE

Language:

Page 323, line 11, strike "\$64,706,830" and insert "\$64,306,830".

Page 327, line 2, strike "436.50" and insert "434.50".

Page 327, line 5, strike "537.00" and insert "535.00".

Explanation:

(This amendment reduces, by half, additional funding and positions provided for the Natural Heritage Program.)

Amendment 40, Modify exemption of "impounding structure" to exclude certain dams

Item 351

Natural Resources

Department of Conservation and Recreation

Language

Language:

Page 324, line 8, strike "F." and insert "F.1."

Page 324, after line 14, insert:

"F.2. Notwithstanding § 10.1-604, Code of Virginia, impounding structures shall not include dams operated primarily for agricultural or agricultural preservation and conservation purposes that are less than 30 feet in height or that create a maximum impoundment capacity smaller than 100 acre-feet."

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Explanation:

(This amendment modifies the exemption of "impounding structure" to exclude dams that are operated primarily for agricultural preservation and conservation purposes as described above.)

Amendment 41, Evaluate repair costs for dams

Item 351

Natural Resources

Department of Conservation and Recreation

Language

Language:

Page 325, after line 18, insert:

"N. It is the intent of the General Assembly that based on the Commonwealth's commitment to safe dams in Virginia, the Department of Conservation and Recreation, with cooperating agencies, shall evaluate the costs to repair regulated dams owned by the state, Soil and Water Conservation Districts, local governments, and the private sector in order to upgrade them to state safety standards. A prioritization of known high hazard dams in need of repairs to meet minimum safety standards based on hazard to life and property from a dam failure shall be considered. The results of the evaluation shall be submitted to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by September 30, 2011."

Explanation:

(This amendment is self-explanatory.)

Amendment 42, Reduce newly-appropriated funding for agency program

Item 352

Natural Resources

Department of Conservation and Recreation

FY 10-11

\$0

0.00

FY 11-12

(\$600,000) GF

(7.00) FTE

Language:

Page 325, line 20, strike "\$55,142,744" and insert "\$54,542,744".

Page 327, line 2, strike "436.50" and insert "429.50".

Page 327, line 5, strike "537.00" and insert "530.00".

Explanation:

(This amendment reduces, by half, additional funding and positions provided for the state park system.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 43, Restore funding for land conservation

Item 352

Natural Resources	FY 10-11	FY 11-12
Department of Conservation and Recreation	\$0	\$1,000,000 GF

Language:

Page 325, line 20, strike "\$55,142,744" and insert "\$56,142,744".

Page 326, line 8, strike "\$500,000" and insert "\$1,500,000".

Explanation:

(This amendment restores \$1.0 million for deposit to the Virginia Land Conservation Fund to be used for land preservation grants.)

Amendment 44, Fund additional legal costs for environmental regulations and other laws

Item 358

Natural Resources	FY 10-11	FY 11-12
Department of Environmental Quality	\$60,000	\$240,000 GF

Language:

Page 330, line 2, strike "\$22,885,712" and insert "\$22,945,712" and strike "\$22,628,784" and insert "\$22,868,784".

Page 330, after line 21, insert:

"C. Out of this appropriation, \$60,000 the first year and \$240,000 the second year from the general fund is designated for additional legal costs for enforcement of, and compliance with, environmental regulations and other applicable laws. In the event other agencies have litigation costs associated with the enforcement of environmental regulations and other applicable laws, funding may be transferred with approval from the affected secretaries."

Explanation:

(This amendment provides funding for additional legal costs associated with the enforcement of environmental regulations and other laws. At this time, it is anticipated that these legal costs will impact work done on the behalf of the Department of Environmental Quality (DEQ) and the Department of Mines, Minerals and Energy (DMME). This amendment appropriates additional general fund dollars to DEQ and includes language authorizing transfer of these funds to other agencies, as needed.)

Amendment 45, Restore funding for payment to localities in lieu of taxes

Item 380

Public Safety	FY 10-11	FY 11-12
Department of Corrections	\$1,221,830	\$0 GF

Language:

Page 347, line 37, after "H.", strike "Notwithstanding" and insert "Effective July 1, 2011, notwithstanding".

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Explanation:

(This amendment delays the exemption of the Department of Corrections from having to pay service charges in lieu of taxes to local governments until FY 2012. It provides the funds needed to make the payments in the current fiscal year. The localities affected did not receive sufficient notice during the development of their FY 2011 budgets in the spring of 2010 to plan for this loss of state payments and this amendment would enable the Commonwealth to meet this outstanding obligation.)

Amendment 46, Increase state trooper overtime funding

Item 408

Public Safety	FY 10-11	FY 11-12
Department of State Police	\$0	\$2,988,795 GF

Language:

Page 365, line 32, strike "\$215,696,974" and insert "\$218,685,769".

Explanation:

(This amendment provides additional funding to pay state troopers for overtime hours worked instead of providing compensatory leave. This action is intended to provide more troopers on the road instead of taking compensatory leave earned for working overtime.)

Amendment 47, Add language to move committed trooper school funding to the second year

Item 408

Public Safety

Department of State Police	Language
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Language:

Page 367, after line 41, insert:

"S. Notwithstanding § 4-1.05 of this Act, the Director, Department of Planning and Budget, is authorized to carry forward into the second year an amount not to exceed \$575,208 from the general fund to support unfunded commitments made on behalf of the 117th trooper basic academy. The Department of State Police may request the Director, Department of Planning and Budget, to carry forward funding for unfunded one-time commitments and shall identify such commitments to the Director when making its carry forward request."

Explanation:

(This amendment overrides language that restricts the carrying forward of general fund balances to allow the State Police to utilize funds provided for the 117th trooper school in FY 2011 to be spent in FY 2012, if the school starts later than anticipated.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 48, Amend state match requirement

Item 436

Transportation

Secretary of Transportation

Language

Language:

Page 399, line 11, strike "shall" and insert "may".

Page 399, line 17, strike "shall" and insert "may".

Explanation:

(This amendment provides the Commonwealth Transportation Board (CTB) the option to rescind the state-provided match for Regional Surface Transportation Program funding for urbanized areas greater than 200,000 when funds have not been expended within the given time period. The current language requires the board to rescind the matching funds. The CTB needs the flexibility to work with the Metropolitan Planning Organizations to utilize the federal funds.)

Amendment 49, Transfer funding responsibility for Commercial Space Flight Authority

Item 436

Transportation

Secretary of Transportation

Language

Language:

Page 400, line 47, strike "Out of the amounts included in Item 437" and insert "Prior to its modal allocation pursuant to § 33.1-23.03:2., Code of Virginia".

Page 400, line 47, strike "aviation".

Page 400, line 48, strike "nongeneral fund sources" and insert "the Transportation Trust Fund".

Explanation:

(This amendment shifts the funding responsibility for the Virginia Commercial Space Flight Authority from Department of Aviation funds to the Transportation Trust Fund. Providing \$1.5 million annually to the Authority from aviation nongeneral fund sources would seriously deplete revenues currently designated for aviation-related purposes.)

Amendment 50, Direct an appointment to the WMATA board of directors

Item 447

Transportation

Department of Rail and Public Transportation

Language

Language:

Page 406, line 10, after "Department." insert:

"In appointing the Virginia members of the board of directors of the Washington Metropolitan Area Transit Authority (WMATA), the Northern Virginia Transportation Commission shall include the Secretary of Transportation or his designee as a principal member on the WMATA board of directors."

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Explanation:

(This amendment requires the Northern Virginia Transportation Commission to appoint the Secretary of Transportation or his designee to the Board of Directors of the Washington Metropolitan Area Transit Authority (WMATA). In providing matching funds to a federal funding program for WMATA's capital needs, the Commonwealth now provides a significant portion of WMATA's funding. Prior to the federal program, nearly all funds for WMATA were provided by local governments. As a result, Virginia's representation on WMATA's board of directors was comprised entirely of local officials. With the significant new source of state funding, it is appropriate that a representative of the Commonwealth has a seat on WMATA's board.)

Amendment 51, Authorize funding for rail infrastructure improvements

Item 448

Transportation

Department of Rail and Public Transportation

Language

Language:

Page 407, strike lines 9-35 and insert:

"G.1. Prior to July 1, 2011, the director, Department of Rail and Public Transportation, with the approval of CSX Transportation, shall initiate infrastructure improvement projects which reduce the average dwell times of hazardous material shipments subject to regulation under Title 49 CFR Part 174 et seq. within rail yards, depots, sidings, and other intermediate terminals or facilities and properties located in the City of Fredericksburg to not longer than 24 hours. These improvements may include, but are not limited to, those that (i) increase capacity at existing storage facilities terminating near Fredericksburg; (ii) increase the physical distance between commodity storage areas and residential communities; and (iii) transfer intermediate storage of commodities to locations closer to terminus of the shipment.

2. Out of the funds available for Rail Industrial Access pursuant to § 33.1-22.1:1, Code of Virginia, up to \$450,000 in the first year and up to \$450,000 in the second year is hereby authorized for associated infrastructure improvements in the City of Fredericksburg and Spotsylvania County. Such funds may be awarded to CSX Transportation or other entities or political subdivisions identified by the Department as having responsibility for implementing the associated infrastructure improvement. In the allocation of funds for this project by the Commonwealth Transportation Board, the requirements of § 33.1-22.1:1, Code of Virginia, with the exception of § 33.1-22.1:1 F., are waived.

3. Not later than September 1, 2011, and December 31, 2011, the director, Department of Rail and Public Transportation, shall report to the Chairmen of the Senate Finance and House Appropriations Committees on the progress in implementing these improvements. The report shall include specific dates by which infrastructure improvements or other means of reducing average dwell times of hazardous material shipments are anticipated to be implemented or placed in service. In addition, this report shall also assess the adequacy of training provided by CSX Transportation to local first responders and regional hazmat response teams and establish a plan for enhanced training on addressing railroad and hazmat incidents including the development of a comprehensive emergency response plan.

4. In implementing this report, the Director, Department of Rail and Public Transportation, shall solicit the input and involvement of the affected jurisdictions. All agencies of the Commonwealth, upon request, shall provide necessary technical expertise."

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Explanation:

(This amendment authorizes the use of industrial rail access program funds for infrastructure improvements to support the reduction of average dwell times for hazardous material shipments within rail yards, depots, siding, and other intermediate terminal or facilities and properties owned by CSX Transportation and located in the City of Fredericksburg to not longer than 24 hours.)

Amendment 52, Strike language defining maintenance payments to localities

Item 455

Transportation

Department of Transportation

Language

Language:

Page 412, strike lines 24 through 27.

Explanation:

(This technical amendment strikes language detailing the maintenance program payments in order to allow changes in the Code of Virginia to take effect. The 2011 General Assembly passed SB 1004 and HB 2233, sponsored by the Governor, which amends the formula in the Code of Virginia used by the Department of Transportation to calculate payments to cities and towns for road maintenance activities. The amended formula will use changes to a maintenance cost index to calculate payments to localities. The Code of Virginia is overridden by Item 455 A. of the Appropriation Act which dictates that the payments be adjusted by an inflation factor. The Governor's amendment eliminates the language in the Appropriation Act so that the amendments to the Code passed by the General Assembly may be in effect.)

Amendment 53, Restores Funding for the Productivity Investment Fund

Item 466

Central Appropriations

Central Appropriations

Language

Language:

Page 424, strike lines 13 through 15.

Explanation:

(This amendment removes the language requiring DPB to unallot and transfer an amount estimated at \$500,000 by June 30, 2011. The Productivity Investment Fund's mission is to partner with Virginia Commonwealth agencies to identify, catalyze and implement innovative solutions which enable a more efficient and cost effective government for the benefit of the citizens of the Commonwealth. Examples of projects currently underway include an Online Campaign Filing System for the State Board of Elections and a grant to the Department of Education to examine the use of portable technological devices to replace paper textbooks. Projects funded by the PIF and already completed include helping ODU move to online courses (this project was a \$500,000 loan which has already been repaid - the University also saved an additional \$2 million which was used in budget reductions) and helping create the Business One Stop portal.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 54, Make monthly payments to VRS

Item 469

Central Appropriations

Central Appropriations

Language

Language:

Page 429, line 4, after "year." insert:

“Beginning July 1, 2011, such payments shall be made no later than the tenth day following the close of each month.”

Explanation:

(This amendment increases the frequency of payments to the Virginia Retirement System (VRS) from a quarterly to a monthly basis. Changing this schedule will enable VRS to invest the funds in a more timely fashion. According to an analysis by VRS, this would generate approximately \$1.7 million annually in additional earnings for the VRS Trust Fund. A companion amendment to Item 483 makes a similar change.)

Amendment 55, Increase employer retirement contributions to Chapter 874 rates

Item 469

Central Appropriations

Central Appropriations

Language

Language:

Page 429, line 6, strike “by 1.71%” and insert:

“to 6.58 percent for Regular VRS, 21.16 percent for SPORS, 13.09 percent for VaLORS, and 42.58 percent for JRS”

Page 429, line 15, strike “\$247,391,055” and insert “\$224,149,479”.

Explanation:

(This amendment increases the employer retirement contribution rates for the fourth quarter (final five pay periods) of FY 2012 to levels included in Chapter 874 . This action restores the fully funded rate included in Chapter 874 one quarter early. A portion of these amounts have been deferred since the beginning of this biennium. This increase in rates is intended to bolster the solvency of the retirement system going forward. The restored rates for the employer portion will be as follows: Regular VRS (6.58 percent), SPORS (21.16 percent), VaLORS (13.09 percent), and JRS (42.58 percent). This would increase funding going to the retirement system by \$27.8 million in FY 2012.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 56, Provide flexibility to localities for employee retirement contributions

Item 469

Central Appropriations

Central Appropriations

Language

Language:

Page 430, strike lines 46 through 49 and insert:

“P. Notwithstanding the provisions of § 51.1-144.F., each county, city, town, local public school board, or other local employer who has elected to pay an equivalent amount in lieu of the member contributions required of an employee who is not a person who becomes a member on or after July 1, 2010, may require such employee to pay member contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code, in whole percentages, up to five percent of the creditable compensation otherwise required of such employee, provided that the employer pays the same percentage of creditable compensation for all such employees. Any portion of the five percent of creditable compensation required that is not paid by such employee shall be paid by the county, city, town, local public school board, or other local employer. Such employer may pay all or a portion of the member contributions required of an employee who is not described in this paragraph, as provided in § 51.1-144.F.2., which portion may be different than that paid by the employer for an employee who is described in this paragraph.”

Explanation:

(This language allows a local employer who is currently paying all member contributions for certain employees to elect to have those employees pay member contributions up to a fixed percent of compensation.)

Amendment 57, Technical correction to existing “5 and 5” language

Item 469

Central Appropriations

Central Appropriations

Language

Language:

Page 432, strike line 54.

Page 433, strike lines 1 through 8 and insert:

" T.1. Every:

(i) “state employee,” as defined in § 51.1-124.3, Code of Virginia, except an elected official, who is a member covered by the defined benefit plan of the Virginia Retirement System established under Chapter 1 of Title 51.1 (§ 51.1-100 et seq.),

(ii) member of the State Police Officers' Retirement System under Chapter 2 of Title 51.1 (§ 51.1-200 et seq.), or

(iii) member of the Virginia Law Officers' Retirement System under Chapter 2.1 of Title 51.1 (§ 51.1-211 et seq.),

who is not a “person who becomes a member on or after July 1, 2010,” as defined in § 51.1-124.3, Code of Virginia, shall be required to pay member contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code in the amount of five percent of creditable compensation, effective June 25, 2011.”

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Explanation:

(This language makes a technical change to the enrolled text that requires Plan 1 state employees to pay a five percent VRS contribution and provides a corresponding five percent increase in salary. The definition of "state employee" in § 51.1-124.3 does not include members of SPORS and VaLORS. Accordingly, this amendment harmonizes the intent of the budget with the language in Title 51.1.)

Amendment 58, Change comprehensive IT assessment due date

Item 470

Central Appropriations

Central Appropriations

Language

Language:

Page 435, line 43, strike "July" and insert "September".

Explanation:

(This amendment delays a due date for agencies to perform a comprehensive information technology assessment. The date change from July 1, 2011, to September 1, 2011, will allow affected agencies the time to prepare an effective and thorough assessment.)

Amendment 59, Provide language for use of year-end surplus

Item 470.10

Central Appropriations

Central Appropriations

Language

Language:

Page 435, after line 53, insert:

"Item 470.10. Any amounts designated by the State Comptroller from the June 30, 2011, general fund balance for the Virginia Water Quality Improvement Fund pursuant to § 10.1-2128, Code of Virginia and for transportation or nonrecurring expenditures pursuant to §2.2-1514B., Code of Virginia, are hereby appropriated. The appropriation for the Water Quality Improvement Fund shall be paid into the Water Quality Improvement Fund Reserve pursuant to paragraph B. of Item 349 of this Act. The appropriation for transportation shall be paid into the Virginia Transportation Infrastructure Bank created by legislation enacted by the 2011 General Assembly (HB2527/SB1446). The remaining appropriation for nonrecurring expenditures, after satisfying the provisions of Item 96.J.5. first and Item 67.20.P. second of this act, shall be used to pay the general fund share of a supplemental employer contribution rate increase to the Virginia Retirement System (VRS) for state employees which is hereby authorized for the pay periods beginning on or after March 25, 2012. The amount of the supplemental employer contribution rate increase shall be determined by the Department of Planning and Budget working in conjunction with the Board of Trustees of the Virginia Retirement System based on equating the estimated general fund cost of the supplemental rate increase to the general fund amount available from this appropriation. The Director, Department of Planning and Budget is authorized to transfer any general fund appropriation in this Item to VRS in advance of the effective date of the supplemental employer contribution rate increase and to establish procedures to provide a credit to state agencies to offset the added general fund cost of the supplemental employer contribution rate increase once such rate increase goes into effect. State

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

agencies and institutions shall pay the supplemental employer contribution rate increase implemented pursuant to this Item to VRS for all covered state employees regardless of fund source."

Explanation:

(This amendment will allow any amounts designated for the Water Quality Improvement Fund, transportation, or nonrecurring expenditures on the June 30, 2011, general fund balance sheet to be appropriated immediately rather than sitting idle pending appropriation by the 2012 General Assembly. The amount appropriated for nonrecurring expenditures will be used to make a supplemental employer retirement contribution to VRS.)

Amendment 60, Eliminate double count of Southern Governors' Association savings

Item 473

Central Appropriations	FY 10-11	FY 11-12
Central Appropriations	\$0	\$20,439 GF

Language:

Page 436, line 36, strike "\$1,099,539" and insert "\$1,079,100".

Page 437, line 27, strike "\$426,829" and insert "\$406,390".

Explanation:

(This amendment corrects an inadvertent double-count of savings associated with the proposed withdrawal of the Commonwealth's membership in the Southern Governor's Association. The savings were included in both Interstate Organization Contributions and this reversion clearing account in Central Appropriations.)

Amendment 61, Remove Ohio River Valley Water Sanitation Commission from savings

Item 473

Central Appropriations	FY 10-11	FY 11-12
Central Appropriations	\$0	\$48,500 GF

Language:

Page 436, line 36, strike "\$1,099,539" and insert "\$1,051,039".

Page 437, line 27, strike "\$426,829" and insert "\$378,329".

Explanation:

(This amendment removes savings associated with the proposed withdrawal of the Commonwealth's membership to the Ohio River Valley Water Sanitation Commission. The Commonwealth cannot withdraw from membership in the commission, which is an interstate compact, without congressional approval.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 62, Make monthly payments to VRS

Item 483

Independent Agencies

Virginia Retirement System

Language

Language:

Page 443, line 33, after "basis." insert:

“Beginning July 1, 2011, state agencies and institutions of higher education shall make payments to the Virginia Retirement System (VRS) for VRS-administered benefits no less often than monthly.”

Explanation:

(This amendment increases the frequency of payments to the Virginia Retirement System (VRS) from a quarterly to a monthly basis. Changing this schedule will enable VRS to invest the funds in a more timely fashion. According to an analysis by VRS, this 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 63, Evaluate options for VRS to invest funds

Item 484

Independent Agencies

Virginia Retirement System

Language

Language:

Page 443, after line 48, insert:

"The Virginia Retirement System shall conduct an evaluation examining the issue and underlying factors of whether the Virginia Retirement System should assume a broader role or mandate that would include the investment by the Virginia Retirement System, or an instrumentality thereof, of any or all other pools of capital otherwise managed by any (i) component part of the legislative, executive or judicial branches of state and local government in the Commonwealth (excluding institutions of higher education), (ii) independent agency of the Commonwealth, (iii) political entity, subdivision, branch, or unit of the Commonwealth, or (iv) commission, public authority, or body corporate created by or under an act of the General Assembly. The evaluation shall be provided to the Governor, the Chairmen of the Senate Finance and House Appropriations Committees, and the Director, Department of Planning and Budget, by November 15, 2012. Upon request, all affected agencies of the Commonwealth shall participate and provide assistance to the Virginia Retirement System for this evaluation."

Explanation:

(This amendment would require that VRS evaluate the potential for investing pools of capital for other entities. Examples of investment pools that would be covered by this evaluation include the Virginia College Savings Plan and the Virginia School for the Deaf and Blind Foundation.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 64, Revert unobligated balances

Item 2-0

Capital General Conditions

Capital General Conditions

Language

Language:

Page 450, after line 45, insert:

"Central Capital (949) 0100 16170 \$234,456"

Explanation:

(This amendment reverts unobligated balances from the Necessary Repairs and Improvements project.)

Amendment 65, Revert unexpended general fund maintenance reserve balances

Item 2-0

Capital General Conditions

Capital General Conditions

Language

Language:

Page 450, after line 46, insert:

"Department for the Blind and Vision Impaired (702)	0100	13942	\$20,934
Department of Forensic Science (778)	0100	16320	\$50,000
Department of Juvenile Justice (777)	0100	15081	\$37,493
Marine Resources Commission (402)	0100	16498	\$5,779
Radford University (217)	0100	12731	\$37,725
Science Museum of Virginia (146)	0100	13634	\$231
Department of State Police (156)	0100	10886	\$2,258
Department of Veterans Services (912)	0100	17073	\$85,402"

Explanation:

(This amendment reverts unexpended general fund balances from maintenance reserve projects. Beginning with FY 2009, agency maintenance reserve projects have been funded with tax supported debt rather than cash.)

Amendment 66, Remove bond authorization for capital project

Item 2-0

Capital General Conditions

Capital General Conditions

Language

Language:

Page 451, after line 15, insert:

"U. The authorization provided under Chapter 1, 2008 Acts of Assembly, Special Session 1, for bond funding from the Virginia Public Building Authority for the Woodrow Wilson Rehabilitation Center capital project 16969, Renovate Harold E. Watson Kitchen and Dining Hall, is rescinded."

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Explanation:

(This amendment removes the Woodrow Wilson Rehabilitation Center kitchen and dining hall renovation capital project from the list of capital projects authorized for funding from the Virginia Public Building Authority by Chapter 1, 2008 Acts of Assembly, Special Session I. The authority is no longer required as a stand alone item was provided for this capital project in Chapter 781, 2009 Acts of Assembly.)

Amendment 67, Enhance Fairfax Campus Dining

Item C-24.50

Education: Higher Education

George Mason University

FY 10-11

\$17,000,000

FY 11-12

\$0 NGF

Language:

Page 455, after line 46, insert:

"C-24.50. Enhance Fairfax Campus Dining (17917)

\$17,000,000

Fund Sources: Bond Proceeds

\$17,000,000"

Explanation:

(This amendment provides 9(d) bond appropriation for improvements to the dining facilities on the university's Fairfax campus. The improvements will allow the university to offer a new concept in dining services called "anytime dining", which provides students with access to dining venues as frequently or infrequently as they wish based on their individual needs and class schedules. The bonds issued to support this project will be repaid through the revenues generated from students utilizing the dining facilities. This approach is expected to generate more than sufficient revenue to repay the debt issued by the university for this project. None of this debt is tax-supported debt of the Commonwealth.)

Amendment 68, Renovate the Rotunda

Item C-50.05

Education: Higher Education

University of Virginia

FY 10-11

\$0

FY 11-12

\$4,690,000 NGF

Language:

Page 459, after line 28, insert:

"C-50.05. Improvements: Renovate the Rotunda (17915)

\$4,690,000

Fund Sources: Higher Education Operating \$2,000,000

Bond Proceeds \$2,690,000

This Item authorizes the capital project listed above to be financed pursuant to Article X, Section 9(d) of the Constitution of Virginia. This paragraph shall constitute the authority for the Virginia College Building Authority to finance the project by the issuance of revenue bonds in aggregate principal amounts not to exceed \$2,690,000, plus amounts to fund related issuance costs, reserve funds, and other financing expenses, in accordance with § 2.2-2263 of the Code of Virginia."

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Explanation:

(This amendment provides funding to support roof and dome repairs on the Rotunda at the University of Virginia. The project will be funded from the issuance of Virginia College Building Authority bonds, as well as nongeneral funds (private donations) from the University of Virginia. This project is intended to address life and safety issues at the Rotunda resulting from roof leakage and weathering of the roof support structure.)

Amendment 69, Amend life safety language to include sexually violent predator facility

Item C-76.15

Health & Human Resources

Department of Behavioral Health and
Developmental Services

Language

Language:

Page 464, after line 12, insert:

"C-76.15 Life Safety Code and Major Mechanical Repairs

In furtherance of the provisions of Item 319 pertaining to the Virginia Center for Behavioral Rehabilitation in Nottoway County, the Secretary of Finance is authorized to transfer an amount not to exceed \$7,000,000 of the appropriation of Virginia Public Building Authority bond funds for project 17596 to a new separate subproject to be used to address capital costs related to the increased capacity, including equipment, furnishings, and renovations. With the cooperation and support of the Department of Behavioral Health and Developmental Services and the Secretary of Health and Human Resources, the Department of General Services is authorized to manage such funds transferred by the Secretary of Finance."

Explanation:

(This amendment allows funds in an existing capital project to be used for the Virginia Center of Rehabilitation in the case that capital deficiencies pose a threat to residents or staff.)

Amendment 70, Clarify intent of project preserving land for conservation

Item C-76.81

Natural Resources

Department of Conservation and Recreation

Language

Language:

Page 464, after line 20, insert:

"C-76.81. In furtherance of the intent of Item C-110 of Chapter 781 of the 2009 Acts of Assembly, the authorization for the acquisition of open space land or land for conservation purposes may include the acquisition of interests in land, or other rights, including conservation easements and development rights."

Explanation:

(This amendment is self-explanatory.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 71, Construct wastewater treatment plant to support Augusta prison

Item C-78

Public Safety

	FY 10-11	FY 11-12
Department of Corrections	\$0	\$11,500,000 NGF

Language:

Page 465, line 8, strike lines 8 through 25 and insert:

"New Construction: Construct Craigsville Wastewater Treatment Plant (17637) \$11,500,000

Fund Sources: Special	\$2,384,191
Trust and Agency	\$3,301,400
Bond Proceeds	\$2,339,557
Dedicated Special Revenue	\$3,474,852

A. The Department of Corrections shall construct and operate a wastewater treatment facility for use by the Augusta Correctional Center and the Town of Craigsville. Service fees collected by the Department of Corrections from the town shall be deposited to the general fund. This project shall consist of five funding sources: (i) a transfer of \$3,474,852 from the Water Quality Improvement Fund (WQIF) by the Department of Environmental Quality, in furtherance of improving the health of the Chesapeake Bay, to the Department of Corrections; (ii) an up to 20-year interest-free loan in a principal amount of up to \$2,384,191 or such other amount as authorized by the State Water Control Board or its delegate to the Town of Craigsville from the Virginia Water Facilities Revolving Fund, to be repaid by the Town of Craigsville through funding received from the Department of Corrections; (iii) proceeds from a federal rural development grant to the Town of Craigsville for \$1,770,000; (iv) proceeds from a federal rural development loan to the Town of Craigsville of \$1,531,400; and, (v) Virginia Public Building Authority (VPBA) bonds, which are hereby authorized to be issued in a principal amount of \$2,339,557, plus amounts needed to fund issuance costs, reserve funds, original issue discount, and other financing expenses with respect to VPBA bonds.

B. Prior to the Department of Corrections' construction of the wastewater treatment plant, by September 1, 2011, the Town of Craigsville shall convey sufficient suitable property for the construction of the wastewater treatment plant adjacent to the Augusta Correctional Center at no cost and shall continue to provide wastewater treatment for the Augusta Correctional Center at such costs as are currently in place until such time as the Department of Corrections has completed construction of its wastewater treatment plant. Upon the completion of the construction of the Department of Corrections' wastewater treatment plant, the Town of Craigsville shall transfer, at no cost, the town's individual wastewater discharge permit and its coverage under the nutrient Watershed General Permit (9VAC25-820) to the Department of Corrections.

C. The Department of Corrections shall provide an annual payment to the Town of Craigsville for the debt service on the loan provided to the town by the Virginia Water Facilities Revolving Fund."

Explanation:

(This amendment directs the Department of Corrections to construct necessary upgrades to the Craigsville wastewater treatment plant to meet environmental regulations. At present, 56 percent of the capacity of this treatment plant is utilized by the Augusta Correctional Center. Both for efficiency in construction and operation of this facility, the Department of Corrections is also directed to take ownership and operate this facility. The sources of funding for this project had already been previously authorized, except for an additional \$1,339,557 in state VPBA bonds, \$1,770,000 from a federal rural development grant, \$1,531,400 from a federal rural development loan, and an additional \$774,853 in WQIF grant funding.)

Amendment 72, Replace windows and mechanical systems

Item C-78.30

Public Safety

Department of Corrections

Language

Language:

Page 465, after line 32, insert:

"C-78.30. A total of \$6,031,000 the second year is hereby authorized for issuance by the Virginia Public Building Authority pursuant to § 2.2-2263, Code of Virginia, for a capital project for the Department of Corrections to replace windows and mechanical systems at Greensville and Keen Mountain Correctional Centers. The Director, Department of Planning and Budget, shall establish such project and shall transfer appropriations from the following projects in the amounts shown to the new project. Furthermore, the authority previously granted to the Virginia Public Building Authority to issue bonds for the following projects is reduced by the amounts shown.

Project	Amount
15200	\$628,000
17610	\$3,500,000
17612	\$400,000
17614	\$881,000
17616	\$622,000"

Explanation:

(This amendment establishes a new capital project to replace the windows and mechanical systems at Greensville and Keen Mountain Correctional Centers and to transfer existing appropriation for bond proceeds from currently established projects to the new project. The Department of Corrections has determined that the replacement of windows and mechanical systems at those two major facilities is a higher priority than the previously authorized projects. Establishing the project now will enable the agency to realize significant cost savings over the projected cost of the work a year from now. Because the funding for the project will consist of the transfer of previously authorized bond authority, no additional debt is authorized by this amendment.)

Amendment 73, Provide support to construct the Castlewood BCI office building

Item C-78.40

Public Safety

Department of State Police

FY 10-11

FY 11-12

\$0

\$350,000 GF

\$0

\$190,000 NGF

Language:

Page 465, after line 34, insert:

"§ 2-20.1. DEPARTMENT OF STATE POLICE (156)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

C-78.40. Construct State Police Castlewood BCI Office (17918)	\$540,000
Fund Sources: General	\$350,000
Dedicated Special Revenue	\$190,000

In accordance with § 4-2.01.a.1., the Department of State Police is hereby authorized to accept a parcel of land on which the department's Castlewood BCI Office will be built."

Explanation:

(This amendment provides the authorization to accept donated land and provides \$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 the donated land. A court award of \$190,000 was made to the department for its involvement in a gambling operation in southwest Virginia with the restriction that the funding be used for constructing a new BCI office. In a separate amendment that transfers 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.)

Amendment 74, Construct chemical domes

Item C-82.10

Transportation	FY 10-11	FY 11-12
Department of Transportation	\$0	\$15,000,000 NGF

Language:

Page 466, after line 38, insert:

"C-82.10. New Construction: Chemical Storage Facilities (16369) \$15,000,000
Fund Sources: Commonwealth Transportation \$15,000,000"

Explanation:

(This amendment allows the Department of Transportation to utilize existing revenues to construct fifteen chemical domes around the state to better address winter weather conditions. In addressing major snow and ice events the last two years, the agency has identified areas where having additional domes to store the chemicals used to treat the roads during winter weather conditions would allow for more effective and timely actions to allow safer passage on Virginia's highways.)

Amendment 75, Correct maintenance reserve appropriation

Item C-84

Central Appropriations	FY 10-11	FY 11-12
Central Capital Outlay	\$250,000	(\$250,000) NGF

Language:

Page 467, line 11, strike "\$68,459,718" and insert "\$68,709,718".
Page 467, line 11, strike "\$55,129,207 " and insert "\$54,879,207".

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Explanation:

(This amendment makes a technical correction to the total appropriation for Central Maintenance Reserve. Specifically, amendment C-84 #1c made language changes that reflect the movement of \$250,000 in bond proceeds appropriation from FY 2012 to FY 2011. However, the amendment did not change the actual appropriated amounts for both years. This amendment moves the appropriation from FY 2012 to FY 2011, consistent with the intent of amendment C-84 #1c.)

Amendment 76, Provide emergency funding for water intrusion

Item C-84

Central Appropriations	FY 10-11	FY 11-12
Central Capital Outlay	\$0	\$436,000 NGF

Language:

Page 467, line 11, strike "\$55,129,207" and insert "\$55,565,207".

Page 467, line 14, strike "\$54,879,207" and insert "\$55,315,207".

Page 468, after line 9, insert:

"Roanoke Higher Education Center 17916 \$0 \$436,000"

Page 468, line 31, strike "\$54,879,207" and insert "\$55,315,207"

Explanation:

(This amendment provides emergency funding to repair water intrusion issues at the Roanoke Higher Education Center facility.)

Amendment 77, Reduce debt authorization

Item C-86

Central Appropriations	FY 10-11	FY 11-12
Central Capital Outlay	(\$15,200,000)	\$0 NGF

Language:

Page 473, line 7, strike "\$35,200,000" and insert "\$20,000,000".

Page 473, line 18, strike "\$35,200,000" and insert "\$20,000,000".

Explanation:

(This amendment reduces tax-supported debt authorization for the Commonwealth. This change will have no practical effect since it is anticipated that these bonds will not be issued.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 78, Adds a new capital project to the 9(d) bond table

Item C-89

Central Appropriations

9(D) Revenue Bonds

Language

Language:

Page 474, line 51, strike "\$298,164,293" and insert "\$315,164,293".

Page 475, after line 20, insert "Enhance Fairfax Campus Dining C-24.50 17917 \$17,000,000".

Page 476, line 4, strike "\$298,164,293" and insert "\$315,164,293".

Explanation:

(This amendment adds a new capital project for George Mason University to the list of projects to be funded with 9(d) bonds. A companion amendment under Item C-24.50 provides the 9(d) appropriation authority.)

Amendment 79, Transfer of additional NGF cash balances

Item 3-1.01

Transfers

Interfund Transfers

Language

Language:

Page 481, after line 27 insert:

"Transfer nongeneral fund cash balances 0261 \$342,411 \$0

Transfer nongeneral fund cash balances 0286 \$801 \$0"

Page 481, line 28, strike "\$291" insert "\$7,079"

Page 481, after line 41 insert:

"Economic Development Incentive Payments (312)

Transfer nongeneral fund cash balances 0910 \$11,458 \$0"

Page 481, after line 47 insert:

"Jamestown-Yorktown Foundation (425)

Transfer nongeneral fund cash balances 0217 \$23 \$0"

Page 481, after line 58 insert:

"Transfer nongeneral fund cash balances 0246 \$875 \$0

Transfer nongeneral fund cash balances 0272 \$135,948 \$0"

Page 481, line 59, strike "\$1,416" insert "\$1,983"

Page 481, line 61, strike "\$2,804" insert "\$2,844"

Page 481, after line 61 insert:

"Virginia Center for Behavioral Rehabilitation (794)

Transfer nongeneral fund cash balances 0287 \$64 \$0"

Page 482, after line 1 insert:

"Governor's Office for Substance Abuse Prevention (853)

Transfer nongeneral fund cash balances 0200 \$33,824 \$0

Higher Education Research Initiative (989)

Transfer nongeneral fund cash balances 0951 \$275 \$0"

Page 482, line 2, strike "\$6,877,912" and insert "\$7,410,986"

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Explanation:

(This amendment reverts selected nongeneral fund cash balances to the general fund.)

Amendment 80, Reestablish gubernatorial authority for unexpended appropriations

Item 4-1.05

Appropriations

Reversion of Appropriations and
Reappropriations

Language

Language:

Page 499, strike lines 31 through 44, and insert:

"1.a) General fund appropriations which remain unexpended on (i) the last day of the previous biennium or (ii) the last day of the first year of the current biennium, shall be reappropriated and allotted for expenditure where required by the Code of Virginia, where necessary for the payment of preexisting obligations for the purchase of goods or services, or where desirable, in the determination of the Governor, to address any of the six conditions listed in § 4-1.03 c.5 of this act or to provide financial incentives to reduce spending to effect current or future cost savings. With the exception of the unexpended general fund appropriations of agencies in the Legislative Department, the Judicial Department, or Independent Agencies, or institutions of higher education, all other such unexpended general fund appropriations unexpended on the last day of the previous biennium or the last day of the first year of the current biennium shall revert to the general fund.

General fund appropriations for agencies in the Legislative Department, the Judicial Department, and Independent Agencies shall be reappropriated, except as may be specifically provided otherwise by the General Assembly. General fund appropriations shall also be reappropriated for institutions of higher education, subject to § 2.2-5005, Code of Virginia."

Explanation:

(This amendment permits the Governor to determine the reappropriation of unexpended general fund appropriations in order to provide financial incentives to reduce spending or to effect current or future cost savings in Executive Department agencies. This amendment reestablishes current gubernatorial authority removed by the General Assembly.)

Amendment 81, Address security concerns involving the sale of surplus computers

Item 4-5.04

**Special Conditions and Restrictions on
Expenditures**

Goods and Services

Language

Language:

Page 519, line 27, after "officials.", insert:

"Any policies and procedures developed for this purpose shall (i) require the removal of Commonwealth data prior to sale or surplus in accordance with all applicable Commonwealth standards for information security and data removal and (ii) be approved by the Chief Information Officer of the Commonwealth or his designee prior to implementation."

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Explanation:

(This amendment addresses security needs related to disposal/sale of non-VITA computer assets. The language is expanded to state that any policies and procedures developed for this purpose will require the removal of Commonwealth data prior to sale or surplus in accordance with all applicable Commonwealth standards and requires approval by the Chief Information Officer.)

Amendment 82, Direct revenues to appropriate fund for sales of surplus computers

Item 4-5.04

Special Conditions and Restrictions on Expenditures

Goods and Services

Language

Language:

Page 519, line 28, strike "general fund" and insert "appropriate fund or funds used to purchase the equipment".

Explanation:

(This amendment directs all proceeds from the sale of surplus computers and laptops to be deposited into the fund(s) originally used to purchase the equipment. This will ensure that the proper funding source is credited with proceeds from the sale.)

Amendment 83, Provide for alternative procurement

Item 4-5.04

Special Conditions and Restrictions on Expenditures

Goods and Services

Language

Language:

Page 521, after line 5, insert:

"1. ALTERNATIVE PROCUREMENT: If any payment is declared unconstitutional for any reason or if the Attorney General finds in a formal, written, legal opinion that a payment is unconstitutional, in circumstances where a good or service can constitutionally be the subject of a purchase, the administering agency of such payment is authorized to use the affected appropriation to procure, by means of the Commonwealth's Procurement Act, goods and services, which are similar to those sought by such payment in order to accomplish the original legislative intent."

Explanation:

(This amendment permits agencies to procure goods and services with funds as appropriated by the General Assembly through the Commonwealth's Procurement Act, in circumstances where a good or service can constitutionally purchased, even if the payment is declared unconstitutional for any reason or if the Attorney General issues a formal written legal opinion that a payment is unconstitutional.)

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

Amendment 84, Move July 1, 2012 pay date to July 2, 2012

Item 4-6.01

Positions and Employment

Employee Compensation

Language

Language:

Page 533, line 11, insert "a)" after "1."

Page 533, after line 20 insert "b) Notwithstanding any other provision of law, state employees will be paid on July 2, 2012, for the work period June 10 to June 24, 2012."

Explanation:

(This amendment is technical in nature. It would 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.)

Amendment 85, Revise language to be consistent with higher education legislation

Item 4-9.02

Higher Education Restructuring

Assessment of Institutional Performance

Language

Language:

Page 544, after line 13, insert:

"g. EXEMPTION

The requirements of this section shall not be in effect if they conflict with Section 23-9.6:1.01.D. as provided in HB2510/SB1459, 2011 General Assembly Session."

Explanation:

(This amendment amends the higher education restructuring language to prevent it from being contradictory to the provisions of House Bill 2510 and Senate Bill 1459 of the 2011 Session. This exemption will apply in FY 2012; thereby ensuring a smooth transition to the performance requirements of the new Virginia Higher Education Opportunity Act of 2011.)

Amendment 86, Authorize an optional defined contribution plan for state employees

Item 5-0

Additional Enactments

Additional Enactments

Language

Language:

Page 550, after line 24, insert:

"8. That §§ 51.1-145, 51.1-201, 51.1-202, 51.1-212, 51.1-213, 51.1-301, 51.1-601.1, 51.1-1100, 51.1-1400, and 51.1-1405 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 51.1-126.5:1 and by adding in Title 51.1 a chapter numbered 11.1, containing articles numbered 1 through 4, consisting of sections numbered 51.1-1150 through 51.1-1183, as follows:

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

§ 51.1-126.5:1. Optional defined contribution retirement program.

A. For purposes of this section, "optional defined contribution retirement program" means a retirement program covering any state employee in a position covered for retirement purposes under the provisions of Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) for retirement purposes other than the Virginia Retirement System defined benefit retirement plan established under this chapter. Persons who are participants in, or eligible to be participants in, the optional retirement plans established under §§ 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, and 51.1-126.7 shall not be eligible to participate in the optional defined contribution retirement program.

The Board shall maintain this optional defined contribution retirement program, and any employer of a state employee is authorized to make contributions under such program to the plans for the benefit of its employees participating in such program. Every state employee who is (i) a person who becomes a member on or after July 1, 2010, and (ii) hired on or after January 1, 2012, shall make an irrevocable election to participate in either (a) the otherwise applicable defined benefit retirement plan established by this title and administered by the Virginia Retirement System or (b) this optional defined contribution retirement program.

Such election shall be exercised no later than 60 days from the time of the employee's entry upon the performance of his duties. If an election is not made within such 60 days, such employee shall be deemed to have elected to participate in the otherwise applicable defined benefit retirement plan established by this title and administered by the Virginia Retirement System.

B. 1. The employer shall make a mandatory contribution on behalf of an employee participating in the optional defined contribution retirement program in the amount of five percent of creditable compensation. In addition, the employer shall make a matching contribution on behalf of the employee, based on the employee's voluntary contributions under subdivision C 2, up to a maximum of 3.5 percent of creditable compensation for the payroll period, as follows: 100 percent of up to 3.5 percent of creditable compensation contributed by the employee to such plan for the payroll period, over and above the mandatory employee contribution. The matching contribution by the employer shall be made to the appropriate cash match plan established for the employee under § 51.1-608.

2. The total amount contributed by the employer under subdivision 1 shall vest to the employee's benefit according to the following schedule:

a. Upon completion of one year of continuous participation in the defined contribution retirement program, 20 percent.

b. Upon completion of two years of continuous participation in the defined contribution retirement program, 40 percent.

c. Upon completion of three years of continuous participation in the defined contribution retirement program, 60 percent.

d. Upon completion of four years of continuous participation in the defined contribution retirement program, 80 percent.

e. Upon completion of five years of continuous participation in the defined contribution retirement program, 100 percent.

If an employee terminates employment with an employer prior to the end of this vesting period, contributions made by an employer on behalf of the employee under subdivision 1 that are not vested, shall be forfeited. The Board may establish a forfeiture account and may specify the uses of the forfeiture account.

3. An employee may direct the investment of contributions made by an employer under subdivision 1.

4. No loans or hardship distributions shall be available from contributions made by an employer under subdivision 1.

C. 1. An employee participating in the optional defined contribution retirement program shall, pursuant to procedures established by the Board, make mandatory contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code in the amount of five percent of creditable compensation.

Governor's 2011 Reconvened Session Executive Amendments (HB 1500)

- 2. An employee participating in the optional defined contribution retirement program may make voluntary contributions to the program, in increments of half percentages of creditable compensation, in an amount not to exceed 3.5 percent of creditable compensation or the limit on elective deferrals pursuant to § 457(b) of the Internal Revenue Code, whichever is less. The contribution by the employee shall be made to the appropriate deferred compensation plan established by the employee under § 51.1-602.*
- 3. No loans or hardship distributions shall be available from contributions made by an employee under this subsection.*
- D. With respect to any employee who elects, pursuant to subsection A, to participate in the otherwise applicable defined benefit retirement plan established by this title and administered by the Virginia Retirement System, the employer shall collect and pay all employee and employer contributions to the Virginia Retirement System for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) for such employee.*
- E. 1. The Board shall develop policies and procedures for administering the optional defined contribution retirement program it maintains, including the establishment of guidelines for employee elections and deferrals under the program.*
- 2. No employee who is an active member in the optional defined contribution retirement program maintained by the Board shall also be (i) an active member of the retirement system or beneficiary other than a contingent annuitant or (ii) an active member of any other optional retirement plan maintained under the provisions of Chapter 1 (§ 51.1-124.1 et seq.).*
- 3. If a member of the optional defined contribution retirement program maintained under this section is at any time in service as an employee in a position covered for retirement purposes under the provisions of Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.), his benefit payments under the optional defined contribution retirement program maintained under this section shall be suspended while so employed; provided, however, reemployment shall have no effect on the payment under the optional defined contribution retirement program maintained under this section if the benefits are being paid in an annuity form under an annuity contract purchased with the member's account balance.*
- 4. Any administrative fee imposed pursuant to subdivision A 13 of § 51.1-124.22 on any employer for administering and overseeing the optional defined contribution retirement program established pursuant to this section shall be charged for each employee participating in such program and shall be for costs incurred by the Virginia Retirement System that are directly related to the administration and oversight of such program.*
- 5. The creditable compensation for any employee on whose behalf employee or employer contributions are made into the optional defined contribution retirement program shall not exceed the limit on compensation as adjusted by the Commissioner of the Internal Revenue Service pursuant to the transition provisions applicable to eligible participants under state and local governmental plans under § 401(a)(17) of the Internal Revenue Code as amended in 1993 and as contained in § 13212(d)(3) of the Omnibus Budget Reconciliation Act of 1993 (P. L. 103-66).*
- 6. The Board may contract with private corporations or institutions, subject to the standards set forth in § 51.1-124.30, to provide investment products as well as any other goods and services related to the administration of the optional defined contribution retirement program. The Virginia Retirement System is hereby authorized to perform related services, including but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping.*
- F. A state employee who participates in the otherwise applicable defined benefit retirement plan established by this title and administered by the Virginia Retirement System under this chapter may make an irrevocable election to participate in the optional defined contribution retirement program. Such election shall be exercised no later than March 31, 2012. If an election is not made by March 31, 2012, such employee shall be deemed to have elected not to participate in the optional defined contribution retirement program and shall continue to participate in his current retirement plan. The Board is authorized to allow transfers of the amount of the*

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accumulated contributions and interest of each member of the Virginia Retirement System defined benefit retirement plan.

§ 51.1-145. Employer contributions.

A. The total annual employer contribution for each employer, expressed as a percentage of the annual membership payroll, shall be determined in a manner so as to remain relatively level from year to year. Each employer shall contribute an amount equal to the sum of the normal contribution, any accrued liability contribution, and any supplementary contribution. The contribution rates for each employer shall be determined after each valuation and shall remain in effect until a new valuation is made. All contribution rates shall be computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board.

B. The normal employer contribution for any period shall be determined as a percentage, equal to the normal contribution rate, of the total covered compensation of the members employed during the period.

C. The normal contribution rate for any employer shall be determined as the percentage represented by the ratio of (i) the annual normal cost to provide the benefits of the retirement system with respect to members employed by the employer in excess of the members' contributions to (ii) the total annual compensation of the members.

D. The accrued liability contribution for any employer for any period shall be determined as a percentage, equal to the accrued liability contribution rate, of the total compensation of the members during the period.

E. The accrued liability contribution rate for any employer shall be a percentage of the total annual compensation of the members, determined so that a continuation of annual contributions by the employer at the same percentage of total annual compensation over a period of 40 years will be sufficient to amortize the unfunded accrued liability with respect to the employer.

F. The unfunded accrued liability with respect to any employer as of any valuation date shall be determined as the excess of (i) the then present value of the benefits to be provided under the retirement system in the future to members and former members over (ii) the sum of the assets of the retirement system then currently in the members' contribution account and in the employer's retirement allowance account, plus the then present value of the stipulated contributions to be made in the future by the members, plus the then present value of the normal contributions expected to be made in the future by the employer.

G. The supplementary contribution for any employer for any period shall be determined as a percentage, equal to the supplementary contribution rate, of the total compensation of the members employed during the period.

H. Until July 1, 1997, the supplementary contribution rate for any employer shall be determined as the percentage represented by the ratio of (i) the average annual amount of post-retirement supplements, as provided for in this chapter, which is anticipated to become payable during the period to which the rate will be applicable with respect to former members to (ii) the total annual compensation of the members.

I. The Board shall certify to each employer the applicable contribution rate and any changes in the rate.

J. The employer contribution for the year shall be increased to the extent necessary to overcome any insufficiency if the contributions for any employer, when combined with the amount of the retirement allowance account of the employer, are insufficient to provide the benefits payable during the year.

K. The appropriation bill which is submitted to the General Assembly by the Governor prior to each regular session that begins in an even-numbered year shall include the contributions which will become due and payable to the retirement allowance account from the state treasury during the following biennium. The amount of the contributions shall be based on the contribution rates certified by the Board pursuant to subsection I of ~~this section~~ that are applicable to the Commonwealth as an employer and the anticipated compensation during the biennium of the members of the retirement system on behalf of whom the Commonwealth is the employer.

L. In the case of all teachers whose compensation is paid exclusively out of funds derived from local revenues and appropriations from the general fund of the state treasury, the Commonwealth shall contribute to the extent specified in the appropriations act. In the case of any teacher whose compensation is paid out of funds derived in whole or in part from any special fund or from a contributor other than the Commonwealth or a political

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subdivision thereof, contributions shall be paid out of the special fund or by the other contributor in proportion to that part of the compensation derived therefrom. In the case of all state employees whose compensation is paid exclusively by the Commonwealth out of the general fund of the state treasury, the Commonwealth shall be the sole contributor, and all contributions shall be paid out of the general fund. In the case of a state employee whose compensation is paid in whole or in part out of any special fund or by any contributor other than the Commonwealth, contributions on behalf of the employee shall be paid out of the special fund or by the other contributor in proportion to that part of the employee's compensation derived therefrom. The governing body of each political subdivision is hereby authorized to make appropriations from the funds of the political subdivision necessary to pay its proportionate share of contributions on behalf of every state employee whose compensation is paid in part by the political subdivision. In the case of each person who has elected to remain a member of a local retirement system, the Commonwealth shall reimburse the local employer an amount equal to the product of the compensation of the person and the employer contribution rate as used to determine the employer contribution for state employees under this section. Each employer shall keep such records and periodically furnish such information as the Board may require and shall inform new employees of their duties and obligations in connection with the retirement system.

M. The employer contribution rate established for each employer may include the cost to administer any defined contribution plan administered by the Virginia Retirement System and available to the employer. The portion of such contribution designated to cover administrative costs of the defined contribution plans shall not be deposited into the trust fund established for the defined benefit plans but shall be separately accounted for and used solely to defray the administrative costs associated with the various defined contributions plans. This provision shall supplement the authority of the Board under §§ 51.1-124.22 and 51.1-602 to charge and collect administrative fees to employers whose employees have available the various defined contribution plans administered by the Virginia Retirement System.

N. *The employer contribution rate established for each employer may include the annual rate of contribution payable by such employer with respect to employees enrolled in the optional defined contribution retirement program established under § 51.1-126.5:1, to be assessed as surcharges for the amortization of unfunded liabilities of the defined benefit plans administered by the Virginia Retirement System.*

§ 51.1-201. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Employee" means a state police officer.

"Member" means any person included in the membership of the retirement system as provided in this chapter, *except that any person participating in the optional defined contribution retirement program established pursuant to § 51.1-126.5:1 shall not be considered a member.*

"Normal retirement date" means a member's sixtieth birthday.

"Retirement system" means the State Police Officers' Retirement System.

§ 51.1-202. Membership in retirement system.

Membership in the retirement system shall be compulsory for all state police officers. *However, such compulsory membership requirement shall be deemed to have been met by any employee participating in the optional defined contribution retirement program described under § 51.1-126.5:1.*

§ 51.1-212. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, (iii) conservation police officer in the Department of Game and Inland Fisheries appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.), (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and

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including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) any parole officer appointed pursuant to § 53.1-143, and (viii) any commercial vehicle enforcement officer employed by the Department of State Police.

"Member" means any person included in the membership of the Retirement System as provided in this chapter, *except that any person participating in the optional defined contribution retirement program established pursuant to § 51.1-126.5:1 shall not be considered a member.*

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.

§ 51.1-213. Membership in Retirement System.

Membership in the Retirement System shall be compulsory for all employees. *However, such compulsory membership requirement shall be deemed to have been met by any employee participating in the optional defined contribution retirement program described under § 51.1-126.5:1.*

§ 51.1-301. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Appointing authority" means the General Assembly or the Governor.

"Creditable service" means prior service plus membership service, as further defined in and modified by § 51.1-303, for which credit is allowable under this chapter.

"Judge" means any justice or judge of a court of record of the Commonwealth, any member of the State Corporation Commission or Virginia Workers' Compensation Commission, any judge of a district court of the Commonwealth other than a substitute judge of such district court, and any executive secretary of the Supreme Court assuming such position between December 1, 1975, and January 31, 1976, *except that any person participating in the optional defined contribution retirement program established pursuant to § 51.1-126.5:1 shall not be considered a judge as provided in this chapter.*

"Normal retirement date" means a member's sixty-fifth birthday.

"Previous systems" means the systems established under the provisions of Chapters 2 (§ 51-3 et seq.) and 2.2 (§ 51-29.8 et seq.) of Title 51, and, in the case of judges of regional juvenile and domestic relations courts, the Virginia Retirement System.

"Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided.

"Retirement system" means the Judicial Retirement System.

"Service" means service as a judge.

§ 51.1-601.1. Participation in plan by certain employees.

All employees of the Commonwealth and its agencies commencing employment or who are reemployed on or after January 1, 2008, in a position covered by the Virginia Retirement System, and who have not elected to participate in a plan established pursuant to (i) § 403(b) of the Internal Revenue Code of 1986, as amended, *or (ii) § 51.1-126.5:1*, shall participate in the plan described in § 51.1-602, unless such employee elects, in a manner prescribed by the Board, not to participate in such plan. The amount of the deferral for any such employee participating in the plan shall equal, on a semimonthly basis, \$20 of otherwise payable compensation, unless the employee elects to defer a different amount.

§ 51.1-1100. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Act" means the Virginia Workers' Compensation Act (§ 65.2-100 et seq.).

"Company" means an insurance company issuing a long-term disability insurance policy purchased by the Board pursuant to this chapter.

"Disability" means a partial disability or total disability.

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"Disability benefit" means income replacement payments payable to a participating employee under a short-term or long-term disability benefit program pursuant to this chapter. Disability benefits do not include benefits payable under the Act.

"Eligible employee" means (i) a state employee as defined in § 51.1-124.3 who is a member of the retirement system, (ii) an employee as defined in § 51.1-201, (iii) an employee as defined in § 51.1-212, or (iv) a qualifying part-time employee. Any person participating in a plan established pursuant to §§ 51.1-126, 51.1-126.1, 51.1-126.4, 51.1-126.5, *51.1-126.5:1*, 51.1-502.1, or § 51.1-502.3 shall not be an eligible employee. Employees of the University of Virginia Medical Center covered under the basic insurance policies purchased by the Medical Center shall not be considered eligible employees under this chapter, unless the University of Virginia Board of Visitors, or a duly authorized agent or representative of the Board of Visitors, purchases such insurance policies from the Virginia Retirement System.

"Existing employee" means an employee who elected to participate in the Virginia Sickness and Disability Program.

"Partial disability" exists during the first ~~twenty-four~~ 24 months following the occurrence or commencement of an illness or injury when an employee is earning less than ~~eighty~~ 80 percent of his predisability earnings and, as a result of an injury or illness, is (i) able to perform one or more, but not all, of the essential job functions of his own job on an active employment or a part-time basis or (ii) able to perform all of the essential job functions of his own job only on a part-time basis.

"Participating employee" means any eligible employee required or electing to participate in the program.

"Program" means the program providing sick leave, family and personal leave, short-term disability, and long-term disability benefits for participating employees established pursuant to this chapter.

"Qualifying part-time employee" means any person who would qualify as a state employee as defined in § 51.1-124.3 but, rather than being regularly employed full time on a salaried basis, is regularly employed part time for at least ~~twenty~~ 20 hours but less than ~~forty~~ 40 hours per week on a salaried basis.

"State service" means the employee's total period of state service as an eligible employee, including all periods of classified full-time and classified part-time service and periods of leave without pay, but not including periods during which the employee did not meet the definition of an eligible employee.

"Total disability" exists (i) during the first ~~twenty-four~~ 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform all of his essential job functions or (ii) after ~~twenty-four~~ 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform any job for which he is reasonably qualified based on his training or experience and earning less than ~~eighty~~ 80 percent of his predisability earnings.

"Work-related injury" means an injury, as such term is defined in § 65.2-101, to a participating employee for which benefits are payable under the Act and the Commonwealth is the employer for purposes of the Act. In addition to the definitions listed above, the definitions listed in § 51.1-124.3 shall apply to this chapter except as otherwise provided.

CHAPTER 11.1.

DISABILITY PROGRAM FOR DEFINED CONTRIBUTION RETIREMENT PROGRAM PARTICIPANTS.

Article 1.

General Provisions.

§ 51.1-1150. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Act" means the Virginia Workers' Compensation Act (§ 65.2-100 et seq.).

"Company" means an insurance company issuing a long-term disability insurance policy purchased by the Board pursuant to this chapter.

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"Continuous service" means an uninterrupted period of service as a participating employee with the same employer.

"Disability" means a partial disability or total disability.

"Disability benefit" means income replacement payments payable to a participating employee under a short-term or long-term disability benefit program pursuant to this chapter. Disability benefits do not include benefits payable under the Act.

"Eligible employee" means a person who is participating in the defined contribution retirement program established pursuant to § 51.1-126.5:1.

"Partial disability" exists during the first 24 months following the occurrence or commencement of an illness or injury when an employee is earning less than 80 percent of his predisability earnings and, as a result of an injury or illness, is (i) able to perform one or more, but not all, of the essential job functions of his own job on an active employment or a part-time basis or (ii) able to perform all of the essential job functions of his own job only on a part-time basis.

"Participating employee" means any eligible employee required to participate in the program.

"Program" means the program providing short-term disability and long-term disability benefits for participating employees established pursuant to this chapter.

"Service" means a period of service as a participating employee.

"Total disability" exists (i) during the first 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform all of his essential job functions or (ii) after 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform any job for which he is reasonably qualified based on his training or experience and earning less than 80 percent of his predisability earnings.

"Work-related injury" means an injury, as such term is defined in § 65.2-101, to a participating employee for which benefits are payable under the Act and the employer for purposes of the Act is the Commonwealth or other political subdivision through which the participating employee became eligible for the program.

In addition to the definitions listed in this section, the definitions listed in § 51.1-124.3 shall, as the context requires, apply to this chapter except as otherwise provided.

§ 51.1-1151. Sickness and disability program; disability insurance policies.

A. The Board shall develop, implement, and administer a short-term disability and long-term disability benefits program in accordance with the provisions of this chapter. The Board is authorized to delegate or assign to any person any of the duties required to be performed by the Board pursuant to this chapter. The Board is authorized to purchase long-term disability insurance policies for participating employees. The policies shall be purchased from and carried with a disability insurance company which is authorized to do business in the Commonwealth.

Each policy shall contain a provision stipulating the maximum expense and risk charges that are determined by the Board to be on a basis consistent with the general level of charges made by disability insurance companies under policies of long-term disability insurance issued to large employers. The Board may require that the policies have reinsurance with a disability insurance company incorporated or organized under the laws of and authorized to do business in the Commonwealth.

B. Notwithstanding the provisions of subsection A, the Board may self-insure long-term disability benefits in accordance with the standards set forth in § 51.1-124.30.

§ 51.1-1152. Additional powers of the Board.

In addition to any other powers granted to the Board under this title, the Board shall have the power to:

- 1. Establish policies and procedures to implement and administer the program and the provisions of this chapter;*
- 2. Contract for the provision of comprehensive case management;*
- 3. Take all other actions necessary for the implementation and administration of the program; and*

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4. Adopt rules and policies that bring the program into compliance with any applicable law or regulation of this Commonwealth or the United States.

§ 51.1-1153. Participation in the program.

A. The effective date of participation in the program for participating employees shall be their first day of employment.

B. Notwithstanding any provision to the contrary, no participating employee shall receive benefits under Article 2 (§ 51.1-1154 et seq.) (Nonwork-Related Disability Benefits) until the participating employee completes one year of continuous service.

C. Eligibility for participation in the program shall terminate upon the earliest to occur of an employee's (i) termination of employment or (ii) death. Eligibility for participation in the program shall be suspended during periods that an employee is placed on nonpay status, including leave without pay, if such nonpay status is due to suspension pending investigation or outcome of employment-related court or disciplinary action. Article 2.

Nonwork-Related Disability Benefits.

§ 51.1-1154. Applicability of article.

The provisions of this article shall apply only with respect to the disability programs providing disability benefits for disabilities not resulting from work-related injuries.

§ 51.1-1155. Short-term disability benefit.

A. Except as provided in subsection B of § 51.1-1153, short-term disability benefits for participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The waiting period shall commence the first day of a disability or of maternity leave. If an employee returns to work for one day or less during the seven-calendar-day waiting period but cannot continue to work, the periods worked shall not be considered to have interrupted the seven-calendar-day waiting period. Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the result of a catastrophic disability shall not require a waiting period.

B. Except as provided in § 51.1-1171, short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous service and (ii) thereafter, a percentage of a participating employee's creditable compensation during the periods specified below, based on the number of months of continuous service, that an employee is disabled or on maternity leave:

Months of Continuous Service	Work Days of 100% Replacement of Creditable Compensation	Work Days of 80% Replacement of Creditable Compensation	Work Days of 60% Replacement of Creditable Compensation
60-119	25	25	75
120-179	25	50	50
180 or more	25	75	25

C. Creditable compensation during periods an employee receives short-term disability benefits shall include salary increases awarded during the period covered by short-term disability benefits.

D. Short-term disability benefits shall be payable only during periods of (i) total disability, (ii) partial disability, or (iii) maternity leave.

§ 51.1-1156. Successive periods of short-term disability.

A. A participating employee's disability which is related or due to the same cause or causes as a prior disability for which short-term disability benefits were paid shall be deemed to be a continuation of the prior disability if the employee returns to his position on an active employment basis for less than 45 consecutive calendar days.

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If a participating employee, after receiving short-term disability benefits, immediately returns to work for less than 45 consecutive calendar days and cannot continue to work, the days worked shall be deemed to have interrupted the short-term disability benefits period, and such days worked shall not be counted for purposes of determining the maximum period for which the participating employee is eligible to receive short-term disability benefits. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to his position on an active employment basis for 45 consecutive calendar days or longer, any succeeding period of disability shall constitute a new period of short-term disability.

C. The period of 45 days referred to in subsections A and B shall be consecutive calendar days that the participating employee is (i) actively at work and (ii) fully released to return to work full time, full duty.

§ 51.1-1157. Long-term disability benefit.

A. Long-term disability benefits for participating employees shall commence upon the expiration of the maximum period for which the participating employee is eligible to receive short-term disability benefits under § 51.1-1155.

B. Except as provided in § 51.1-1171, long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives long-term disability benefits shall not include salary increases awarded during the period covered by long-term disability benefits.

D. Long-term disability benefits shall be payable only during periods of (i) total disability or (ii) partial disability.

E. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply for Social Security disability benefits.

§ 51.1-1158. Successive periods of long-term disability.

A. A participating employee's disability, which is related or due to the same cause or causes as a prior disability for which long-term disability benefits were paid, shall be deemed to be a continuation of the prior disability if the employee returns to a position on an active employment basis for less than 125 consecutive work days. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to a position on an active employment basis for 125 consecutive work days or longer, any succeeding period of disability shall constitute a new period of disability.

§ 51.1-1159. Adjustments to disability benefits.

A. Disability benefit payments shall be offset by an amount equal to any sums payable to a participating employee from the following sources:

1. During the first 12 months the employee receives disability benefits, an amount equal to the employee's wages and salary from any employment multiplied by the creditable compensation replacement percentage;

2. After the first 12 months the employee receives disability benefits, an amount equal to 70 percent of the employee's wages and salary from any employment;

3. Except as provided in subsection F, disability payments from the Social Security Administration, military disability benefits, local government disability benefits, federal civil service disability benefits or other similar governmental disability program benefits received by the employee or his family as a result of the qualifying disability;

4. Benefits received from any other group insurance contract provided to the participating employee by his employer for the purpose of providing income replacement; and

5. Benefits paid under any compulsory benefits law.

B. If the plan administrator deems a participating employee to be eligible for benefits from any of the sources listed in subdivisions A 3, A 4, and A 5, the plan administrator may direct the participating employee to apply for those benefits and to pursue whatever additional steps are necessary to obtain the benefits. If a participating

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employee fails or refuses to pursue the available benefits as directed by the plan administrator, disability benefit payments may be offset by amounts from any of the sources listed in subdivisions A 3, A 4, and A 5 for which a participating employee is deemed eligible by the plan administrator as if the employee received such amounts. However, if the employee has applied for such benefits, and has reapplied and appealed denials of the claim as requested by the administrator of the plan, and the claim is not approved, the employee's disability payments shall not be reduced thereby.

C. If a participating employee's disability benefit payments are reduced as the result of payments from sources listed in subdivisions A 3, A 4, and A 5 or pursuant to subsection B, the employee's disability benefits shall not thereafter be further reduced on account of cost-of-living increases in payments from such sources.

D. Participating employees shall be required to repay, with interest, to the Board or their employer, any overpayments of disability benefits on account of the failure of the employee to provide the Board or its designee with information necessary to make any of the reductions required to be made under this article.

E. Any payment to a participating employee that is later determined by the Board or by the employer to have been procured on the basis of any false statement or falsification of any record knowingly made by or on behalf of the member, or the employee's failure to make any required report of change in disability status, may be recovered from the employee by the Board, with interest, either by way of a credit against future payments due the employee, his survivor and beneficiaries or by an action at law against the employee.

F. Supplemental disability payments will not be offset for a participating employee if the employee is receiving a primary retirement benefit for service in the United States armed services, even if a percentage of that primary retirement benefit has been declared a disability payment. Any disability payment that is not a part of the primary retirement benefit will be offset.

§ 51.1-1160. Rehabilitation incentive.

Disability benefits payable to a participating employee who fails to cooperate with a rehabilitation program prescribed for the employee shall be decreased by 50 percent of the amounts otherwise payable to such employee.

§ 51.1-1161. Cessation of disability benefits.

Disability benefits shall cease to be paid to a participating employee upon the first to occur of the following:

- 1. The end of the period of disability coverage as provided in subsection D of § 51.1-1155 or subsection D of § 51.1-1157;*
- 2. The date of death of the participating employee;*
- 3. The date that the participating employee attains age 65; or*
- 4. The date that the participating employee takes an initial distribution from the defined contribution retirement plan established pursuant to § 51.1-126.5:1.*

Notwithstanding the foregoing, an employee who is approved for disability benefits (i) at age 60 through 64 shall be eligible for five years of disability benefits, (ii) at age 65 through 68 shall be eligible for disability benefits to age 70, and (iii) at age 69 or older shall be eligible for disability benefits for one year. The eligibility periods include short-term disability and long-term disability.

Article 3.

Work-Related Disability Benefits.

§ 51.1-1162. Applicability of article.

The provisions of this article shall apply only with respect to disability programs providing payment of disability benefits attributed to work-related injuries.

§ 51.1-1163. Supplemental short-term disability benefit.

A. Payments of supplemental short-term disability benefits payable under this article shall be reduced by an amount equal to any benefits paid to the employee under the Act, or which the employee is entitled to receive under the Act, excluding any payments for medical, legal or rehabilitation expenses.

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B. Supplemental short-term disability benefits for participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The waiting period shall commence the first day of a disability. If an employee returns to work for one day or less during the seven calendar days following the commencement of a disability but cannot continue to work, the periods worked shall not be considered to have interrupted the seven-calendar-day waiting period. Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the result of a catastrophic disability shall not require any waiting period.

C. Except as provided in subsection D and § 51.1-1171, supplemental short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous service and (ii) thereafter, a percentage of a participating employee's creditable compensation during the period specified below that an employee is disabled, based on the number of months of continuous service, as follows:

<i>Months of Continuous Service</i>	<i>Work Days of 100% Replacement of Creditable Compensation</i>	<i>Work Days of 80% Replacement of Creditable Compensation</i>	<i>Work Days of 60% Replacement of Creditable Compensation</i>
<i>60 to 119</i>	<i>85</i>	<i>25</i>	<i>15</i>
<i>120 or more</i>	<i>85</i>	<i>40</i>	<i>0</i>

D. Notwithstanding the provisions of subsection C, a state police officer who is a participating employee and who incurs a work-related injury in the line of duty shall receive supplemental short-term disability coverage that provides income replacement for 100 percent of the officer's creditable compensation for the first six months and, pursuant to a certification by the Superintendent of State Police, based on a medical evaluation, that the officer is likely to return to service within another six months, up to one calendar year, that the officer is disabled, without regard to the officer's number of months of state service. Upon the expiration of the one-calendar-year period, such state police officers shall be eligible for supplemental long-term disability benefits as provided in § 51.1-1165.

E. Creditable compensation during periods an employee receives supplemental short-term disability benefits shall include salary increases awarded during the period of short-term disability coverage.

F. Supplemental short-term disability benefits shall be payable only during periods of total disability or partial disability.

§ 51.1-1164. Successive periods of short-term disability.

A. A participating employee's disability, which is related or due to the same cause or causes as a prior disability for which supplemental short-term disability benefits were paid, shall be deemed to be a continuation of the prior disability if the employee (i) is eligible for benefits payable under the Act, whether or not he is receiving such benefits, and (ii) returns to his position on an active employment basis for less than 45 consecutive calendar days. If a participating employee, after receiving short-term disability benefits, immediately returns to work for less than 45 consecutive calendar days and cannot continue to work, the days worked shall be deemed to have interrupted the short-term disability benefits period, and such days worked shall not be counted for purposes of determining the maximum period for which the participating employee is eligible to receive short-term disability benefits. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to his position on an active employment basis for 45 consecutive calendar days or longer, any succeeding period of disability shall constitute a new period of short-term disability.

C. The period of 45 days referred to in subsections A and B shall be consecutive calendar days that the participating employee is (i) actively at work and (ii) fully released to return to work full time, full duty.

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§ 51.1-1165. Supplemental long-term disability benefit.

A. Supplemental long-term disability benefits for participating employees shall commence upon the expiration of the maximum period for which the participating employee is eligible to receive short-term disability benefits under § 51.1-1163.

B. Except as provided in § 51.1-1171, supplemental long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives supplemental long-term disability benefits shall not include salary increases awarded during the period covered by long-term disability benefits.

D. Payments of supplemental long-term disability benefits payable under this article shall be reduced by an amount equal to any benefits paid to the employee under the Act, for which the employee is entitled to receive under the Act, excluding any benefit for medical, legal or rehabilitation expenses.

E. Supplemental long-term disability benefits shall be payable only during periods of total disability or partial disability.

F. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply for Social Security disability benefits.

§ 51.1-1166. Successive periods of long-term disability.

A. A participating employee's disability, which is related or due to the same cause or causes as a prior disability for which supplemental long-term disability benefits were paid, shall be deemed to be a continuation of the prior disability if the employee is eligible for benefits payable under the Act, whether or not he is receiving such benefits, and returns to a position on an active employment basis for less than 125 consecutive work days. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to a position on an active employment basis for 125 consecutive work days or longer, any succeeding period of disability shall constitute a new period of disability.

§ 51.1-1167. Adjustments in supplemental disability benefits.

A. In addition to offsets equal to the amount of any benefits paid to a participating employee under the Act, supplemental disability benefit payments shall be offset by an amount equal to any sums payable to a participating employee from the following sources:

1. During the first 12 months the employee receives disability benefits, an amount equal to the employee's wages and salary from any employment multiplied by the income replacement percentage payable;

2. After the first 12 months the employee receives disability benefits, an amount equal to 70 percent of the employee's wages and salary from any employment;

3. Except as provided in subsection G, disability payments from the Social Security Administration, military disability benefits, local government disability benefits, federal civil service disability benefits or other similar governmental disability program benefits received by the employee or his family as a result of the qualifying disability;

4. Benefits received from any other group insurance contract provided to the participating employee by his employer for the purpose of income replacement;

5. Benefits paid under any compulsory benefits law; and

6. If the participating employee receives a settlement in lieu of periodic payments for a disability compensable under the Act, an amount determined by dividing the workers' compensation benefit, which such employee would have received had the lump-sum settlement not been consummated into the settlement actually accepted by the employee.

B. If the plan administrator deems a participating employee to be eligible for benefits from any of the sources listed in subdivisions A 3, A 4, and A 5, the plan administrator may direct the participating employee to apply for those benefits and to pursue whatever additional steps are necessary to obtain the benefits. If a participating employee fails or refuses to pursue the available benefits as directed by the plan administrator, supplemental

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disability benefit payments may be reduced by amounts from any of the sources listed in subdivisions A 3, A 4, and A 5 for which a participating employee is deemed eligible by the plan administrator as if the employee received such amounts. However, if the employee has applied for such benefits, and has reapplied and appealed denials of the claim as requested by the administrator of the plan, and the claim is not approved, the employee's supplemental disability payments shall not be reduced thereby.

C. If a participating employee's disability benefit payments are reduced as the result of payments from sources listed in subdivisions A 3, A 4, and A 5 or pursuant to subsection B, the employee's disability benefits shall not thereafter be further reduced on account of cost-of-living increases in payments from such sources.

D. Participating employees shall be required to repay, with interest, to the Board or the employer any overpayments of supplemental disability benefits on account of the failure of the employee to provide the Board or its designee with information necessary to make any of the reductions required to be made under this article.

E. Any payment to a participating employee that is later determined by the Board or by the employer to have been procured on the basis of any false statement or falsification of any record knowingly made by or on behalf of the employee, or the employee's failure to make any required report of change in disability status, may be recovered from the employee by the Board, with interest, either by way of a credit against future payments due the employee or by an action at law against the employee.

F. If a participating employee's payments under the Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his disability benefits shall be computed as if he were receiving the compensation to which he would otherwise be entitled under the Act.

G. Supplemental disability payments will not be offset for a participating employee if the employee is receiving a primary retirement benefit for service in the United States armed services, even if a percentage of that primary retirement benefit has been declared a disability payment. Any disability payment that is not a part of the primary retirement benefit will be offset.

§ 51.1-1168. Rehabilitation incentive.

Supplemental disability benefits payable to a participating employee who fails to cooperate with a rehabilitation program prescribed for the employee shall be decreased by 50 percent of the amounts otherwise payable to such employee. In determining the amount of any reduction in benefits under this section, the participating employee shall be presumed to continue to receive benefits payable under the Act. Failure to comply with a vocational rehabilitation assessment process at any time the employee is receiving supplemental disability benefits may constitute a failure to cooperate for purposes of this section.

§ 51.1-1169. Cessation of supplemental disability benefits.

Supplemental disability benefits shall cease to be paid to a participating employee upon the first to occur of the following:

- 1. The end of the period of supplemental disability coverage as provided in subsection F of § 51.1-1163 or subsection E of § 51.1-1165;*
- 2. The date of death of the participating employee;*
- 3. On the date the employee attains age 65; or*
- 4. The date that the participating employee takes an initial distribution from the defined contribution retirement plan established pursuant to § 51.1-126.5:1.*

Notwithstanding the foregoing, an employee who is approved for supplemental disability benefits (i) at age 60 through 64 shall be eligible for five years of supplemental disability benefits, (ii) at age 65 through 68 shall be eligible for supplemental disability benefits to age 70, and (iii) at age 69 or older shall be eligible for supplemental disability benefits for one year. The eligibility periods include supplemental short-term disability and supplemental long-term disability.

§ 51.1-1170. Coordination of benefits.

The Board shall develop guidelines and procedures for the coordination of benefits and case management for participating employees entitled to benefits under the Act and supplemental disability benefits under this article.

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Such guidelines shall also address disability benefits for participating employees whose disability results from multiple injuries or illnesses, one or more of which is a work-related injury.

Article 4.

Administrative Provisions.

§ 51.1-1171. Supplemental benefits for catastrophic disability.

Disability benefits shall be increased to 80 percent of creditable compensation for any disabled participating employee who (i) is unable to perform at least two of the six activities of daily living due to a loss of functional capacity or (ii) requires substantial supervision to protect the employee from threats to health and safety as a result of severe cognitive impairment. Determination of whether a participating employee satisfies either of these conditions shall be made in accordance with the policies of the Board or its designee.

§ 51.1-1172. Employer contributions during disability absences.

A. Employer and employee contributions to the defined contribution retirement program pursuant to subsections B and C of § 51.1-126.5:1 on behalf of participating employees shall continue during periods of such employees' absence covered by short-term disability benefits.

However, the calculation of such contributions shall be based on the participating employee's creditable compensation multiplied by the income replacement percentage for which the participating employee is otherwise eligible under this program.

B. In lieu of the mandatory employer and employee contributions pursuant to subdivisions B 1 and C 1 of § 51.1-126.5:1, a 10 percent contribution to the defined contribution retirement program shall be paid, on behalf of participating employees during periods of such employees' absence covered by long-term disability benefits, by the Defined Contribution Retirement Program Disability Insurance Trust Fund established under § 51.1-1183. However, the calculation of such contribution shall be based on the participating employee's creditable compensation multiplied by the income replacement percentage for which the participating employee is otherwise eligible under this program.

§ 51.1-1173. Health insurance coverage during disability absences.

A. Participating employees enrolled in a health insurance plan established pursuant to § 2.2-2818 shall continue to be covered during periods of short-term disability and shall have the option of continuing to be covered by such plan during periods of absence covered by long-term disability benefits.

B. The Commonwealth shall pay the employer's share of the cost of health insurance coverage under such plan for participating employees and for the families or dependents of such employees during periods the employee is receiving short-term disability benefits to the same extent as for other state employees covered by such plan.

C. Participating employees enrolled in such plan established pursuant to § 2.2-2818 shall have the option of continuing to be covered under such plan, and shall pay the full cost for coverage under such plan for themselves and for their families and dependents during periods the employee is receiving long-term disability benefits. However, for an employee as defined in § 51.1-201 who is receiving supplemental long-term disability benefits pursuant to Article 3 (§ 51.1-1162 et seq.), the Commonwealth shall continue to pay the employer's share of the cost of health insurance coverage under such plan for the participating employee and for his family and dependents until such time as the employee is approved for continued health insurance coverage as provided under Chapter 4 (§ 9.1-400 et seq.) of Title 9.1.

§ 51.1-1174. Life and accident insurance coverage during disability absences.

A. Participating employees participating in a group life and accident insurance program established pursuant to Chapter 5 (§ 51.1-500 et seq.) shall continue to participate in such program during periods of absence covered by short-term and long-term disability benefits.

B. During periods of absence covered by short-term disability benefits, the amount of the life insurance benefit shall be based on the annual salary of the participating employee at the commencement of the disability and shall be adjusted to include salary increases awarded during the period covered by short-term disability benefits.

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C. During periods of absence covered by long-term disability benefits, the amount of the life insurance benefit shall be based on the annual salary of the participating employee at the commencement of the disability. Such amount shall not include salary increases awarded during the period covered by long-term disability benefits. § 51.1-1175. Optional insurance during disability absences.

Participating employees may continue coverage under the optional insurance for themselves and their spouses and minor dependents pursuant to §§ 51.1-512 and 51.1-513 at their own expense during periods of disability. § 51.1-1176. Exclusions and limitations.

A. Disability benefits shall not be payable to any participating employee (i) whose disability results from the employee's commission of a felony or (ii) during any period when the employee is incarcerated.

B. Long-term disability benefits shall not be payable to any participating employee whose disability results from the abuse of alcohol, the misuse of any prescribed medication, or the misuse of any controlled substance, unless the employee is actively receiving treatment and, in the judgment of the case manager, is fully complying with the treatment plan and is making substantial progress toward rehabilitation.

C. Disability benefits shall not be payable if the participating employee is determined by the Board or its designee to be noncompliant with the program.

§ 51.1-1177. Appeals.

The Board may elect to develop an alternative to the process set forth in the Administrative Process Act (§ 2.2-4000 et seq.) to allow appeals of case decisions related to the payment of disability benefits under this chapter. This alternative process shall be modeled after the claims provisions as provided for in the federal Employee Retirement Income Security Act of 1974, as amended, and shall (i) provide for adequate notice in writing to any participant whose claim for benefits has been denied setting forth the specific reasons for such denial and (ii) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a review of the decision denying the claim. Articles 3 (§ 2.2-4018 et seq.) and 4 (§ 2.2-4024 et seq.) of the Administrative Process Act shall not apply to any portion of this alternative appeals process.

However, any person aggrieved by, and claiming the unlawfulness of, a final case decision issued pursuant to this alternative appeals process, whether issued by the Board or by the Board's delegate, shall have a right to seek judicial review thereof. Such judicial review shall be in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 51.1-1178. Board authorized to provide long-term care insurance and benefits.

A. For purposes of this section, "participating employee" means the same as that term is defined in § 51.1-1150.

B. The Board is authorized to develop, implement, and administer a long-term care insurance program for participating employees. The Board may contract for and purchase such long-term care insurance or may self-insure long-term care benefits or may use such other actuarially sound funding necessary to effectuate such long-term care insurance and benefits.

C. Employers of participating employees shall pay to the Board contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be required from time to time to (i) obtain and maintain long-term care insurance and benefits for participating employees and (ii) administer the long-term care insurance program, including providing case management and cost containment programs. Contributions shall be deposited in the Defined Contribution Retirement Program Disability Insurance Trust Fund established under § 51.1-1183.

§ 51.1-1179. Limitation on coverage.

No person shall have more than one coverage under a disability benefit program. Any person employed in more than one position, which provides coverage under a disability benefit program, shall elect one position on which his coverage shall be based by written notification to the Board. No person shall receive more than one disability benefit under this chapter at the same time.

§ 51.1-1180. Keeping records and furnishing information required by Board.

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Each employer whose employees are covered under the provisions of this chapter shall keep records and furnish information required by the Board.

§ 51.1-1181. Benefits exempt from process.

The benefits provided for in this chapter and all proceeds therefrom shall be exempt from levy, garnishment, attachment, and other legal process.

§ 51.1-1182. Policies to provide for accounting to Board; advance premium deposit reserve.

A. Each insurance product purchased by the Board or contract for administrative services related to a self-funded product shall provide for an accounting to the Board not later than 120 days after the end of each product year. For an insurance product, the accounting shall include (i) the amounts of premiums actually accrued under the policy during the policy year, (ii) the total amount of all claim charges incurred during the policy year, and (iii) the amount of fees accrued under the policy during the year plus the total amount of all claim charges incurred during the policy year. For a self-insured product, the accounting shall include the total amount of all claim charges incurred during the product year, the total amount of third party administrator expenses, and the total amount of other charges for administrative services.

B. Any portion of the excess of the total of clause (i) of subsection A over clause (iii) of subsection A may, with the approval of the Board, be held by the insurance company in an advance premium deposit reserve to be used by the company for charges under the policy only. Any expenses incurred by the Board in connection with the administration of the disability benefits provisions of the program may be deducted from the advance premium deposit reserve. The advance premium deposit reserve shall bear interest at a rate to be determined in advance of each policy year by the insurance company. The rate shall be subject to Board approval as being consistent with the rates generally used by the company for similar funds held under other disability insurance policies. Any portion of the excess not held by the insurance company shall be held by the Board to be used for charges under the policy only. If the Board determines that the advance premium deposit reserve, together with any portion of the excess accumulated and held by the Board, has attained an amount estimated to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall inure to the benefit of the Commonwealth and its political subdivisions as determined by the Board.

C. For purposes of this section, the insurance company may combine and consolidate the policies issued by it as directed by the Board.

§ 51.1-1183. Funding of program; Defined Contribution Retirement Program Disability Insurance Trust Fund established.

A. The costs of providing short-term disability benefits shall be paid by the respective employers of participating employees. Employers that are state agencies shall pay such costs from funds as shall be appropriated by law to state agencies.

B. Employers of participating employees shall pay to the Board contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be required from time to time to (i) obtain and maintain long-term disability insurance policies under this chapter and (ii) administer the Program, including providing case management and cost containment programs. Employers that are state agencies shall make such contributions from funds as shall be appropriated by law to state agencies. Contributions shall be deposited in the Defined Contribution Retirement Program Disability Insurance Trust Fund.

C. There is hereby established the Defined Contribution Retirement Program Disability Insurance Trust Fund. The costs incurred by the Board in providing policies of long-term disability insurance and administering the Program and in administering the long-term care insurance program established under § 51.1-1178, including the provision of case management and cost containment programs, shall be withdrawn from time to time by the Board from the Defined Contribution Retirement Program Disability Insurance Trust Fund. The funds of the Defined Contribution Retirement Program Insurance Trust Fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth and its political subdivisions, and shall be invested and administered solely in the interests of the participating employees and beneficiaries

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thereof. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the Defined Contribution Retirement Program Disability Insurance Trust Fund.

§ 51.1-1400. Health insurance credits for retired state employees.

A. The Commonwealth shall provide a credit toward the cost of health insurance coverage for any former state employee, as defined in § 2.2-2818, who retired under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system authorized pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, *51.1-126.5:1*, or 51.1-126.7 and who (i) rendered at least 15 years of total creditable service under the Retirement System or (ii) rendered service as a temporary employee of the General Assembly in 1972 and became a member of the retirement system from 1972 to 1985 immediately following such temporary service. The amount of each monthly health insurance credit payable under this section shall be \$4 per year of creditable service, which amount shall be credited monthly to any retired state employee participating in the state retiree health benefits program pursuant to § 51.1-1405 or an alternative personal health insurance plan as provided herein. However, such credit shall not exceed the health insurance premium for retiree-only coverage as provided under such alternative personal health insurance plan. Any (i) employee participant pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, *51.1-126.5:1*, or 51.1-126.7 receiving long-term disability, or (ii) retired state employee retired under the provisions of § 51.1-156 or 51.1-307, or (iii) any participating employee receiving long-term disability pursuant to § 51.1-1112 or 51.1-1123 shall receive a maximum monthly credit which is the greater of (i) \$120, (ii) \$4 per year for each year of creditable service at the time of disability retirement, or (iii) \$4 per year for each year of creditable service at the time of eligibility for long-term disability. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) ~~of this title~~ who elects to defer his retirement pursuant to subsection C of § 51.1-153, subsection C of § 51.1-205 or subsection C of § 51.1-305 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. For those retired state employees:

1. Participating in the state retiree health benefits program, such credit shall be applied to the monthly premium deducted from benefits payable to retired state employees in accordance with Chapters 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), and 3 (§ 51.1-300 et seq.) ~~of this title~~. In the event that either no benefit is payable or the benefit payable is insufficient to deduct the entire health care premium, the payment of the credit shall be determined in the manner prescribed by the Virginia Retirement System. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

2. Not electing or eligible to participate in the state retiree health benefits program and who purchase an alternative personal health insurance policy from a carrier or organization of his own choosing, such retirees shall be eligible to receive a credit in the amount specified in subsection A. Eligibility for the credit and payment for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

C. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) ~~of this title~~ who (i) rendered at least 15 years of total creditable service as a state employee as defined in § 2.2-2818 and (ii) after terminating state service, was employed by a local government that does not elect to provide a health insurance credit under § 51.1-1401 or 51.1-1402, shall be eligible for the credit provided by subsection A, provided that the retired employee is participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection D. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a teacher, whichever is greater.

D. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided by this section to reflect the cost of such credits in the employer contribution rate pursuant to § 51.1-

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145, and prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance credit program provided for in this section shall be recovered from the health insurance credit trust fund.

E. Notwithstanding anything contained in this section to the contrary, the Virginia Commonwealth University Health System Authority shall pay the cost of coverage for employees of such Authority who (i) retired under the Virginia Retirement System or any retirement system authorized pursuant to § 23-50.16:24.1, 51.1-126, 51.1-126.1, or former § 51.1-126.2; (ii) were employed by such Authority prior to July 1, 1998, and were not subsequently rehired by such Authority on or after July 1, 1998; and (iii) served no less than 15 years of creditable service as regularly employed full-time employees of such Authority or the Commonwealth. § 51.1-1405. Participation in the state retiree health benefits program.

A. As used in this section, unless the context requires a different meaning:

"Involuntarily separated" means separated from state service as the result of any dismissal, requested resignation, or failure to obtain reappointment, excluding a separation resulting from a conviction for a felony or crime involving moral turpitude or dishonesty or a separation related to the job performance or misconduct of the state employee.

"Retiree health benefits program" or "program" means the plan for providing health insurance coverage for retired state employees provided pursuant to subsection E of § 2.2-2818.

"State employee" means the same as that term is defined in § 2.2-2818.

"State retiree" means a state employee retired under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system authorized pursuant to § 51.1-126, 51.1-126.5, or 51.1-126.5:1, who is eligible to receive a monthly retirement annuity from that retirement system.

B. A state retiree shall be eligible to participate in the retiree health benefits program only if he makes an election to participate in the program within ~~thirty-one~~ 31 days following the date of termination of employment with the Commonwealth. A retired state employee who fails to elect to participate in the state health plan within ~~thirty-one~~ 31 days of the effective date of retirement, or who, once having elected to participate, discontinues participation, is barred from participating in the state health plan thereafter.

C. Any state retiree who was involuntarily separated who on July 1, 1999, is participating in the retiree health benefits program and is receiving monthly retirement annuity payments may elect, by notifying the Virginia Retirement System and the Department of Human Resource Management before September 1, 1999, to cease receiving monthly retirement annuity payments until reapplying for such benefits at a later date and to continue participation in the retiree health benefits program."

Page 550, line 25, strike "8." and insert "9."

Page 550, line 26, after "sixth," strike "and seventh" and insert "seventh, and eighth".

Explanation:

(This amendment authorizes the provision of a optional defined contribution plan for state employee groups covered under defined benefit programs but not currently eligible for existing defined contribution plans.)
