

Governor's Recommendations 2004-2006 Appropriation Act (HB 1500, As Adopted)

Recommendation No. 1 Item 0 – Revenues Adjustments to Revenues

General Assembly Action: The adopted budget contained the revenues included in the Governor's December revenue forecast as adjusted by the mid-Session reforecast and legislation adopted by the 2005 Session of the General Assembly.

Governor's Action: Increases general fund resources by a total of \$14.1 million. This action reflects proposals contained in recommendations 23, 25 and 27, and includes: Treasury Board debt service savings totaling \$4.75 million, the reversion to the general fund of \$6.5 million resulting from increased Virginia Health Care Fund collections used to fund Medicaid expenditures, the transfer of \$2.0 million to the general fund from the Contract Prisoners Special Fund, an additional \$500,000 in Title IV funds for Juvenile Justice Services, and \$365,000 in unused funding from the natural disaster reserve.

Recommendation No. 2 Item 90 – Department of Veterans Services (DVS) Additional Funding for Veterans Benefit Coordinators

General Assembly Action: Increased general fund support for the Department of Veterans Services by \$300,000 in the second year and six positions to meet the staffing and weekly out-of-office service requirements imposed by HB 2851, which was adopted during the 2005 Session.

Governor's Action: The proposed amendment would augment the approved general fund dollars for these six positions by \$124,258, representing the administration's estimate of the additional costs of equipment, office supplies, training, and travel costs associated with the positions.

Notes:

- The most recent fiscal impact statement supplied by the Department of Planning and Budget stated the first year costs associated with the six additional positions and weekly out-of-office service requirements contained in HB 2851 totaled \$424,258. Included in these costs were \$294,000 for salaries and fringe benefits, \$48,258 for training costs, and \$30,000 for computer and office equipment.
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Recommendation No. 3
Item 125 – Department of Minority Business Enterprise (DMBE)
Restoration of Funding and Positions

General Assembly Action: Reduced the general fund appropriation for DMBE by \$164,713 and two positions in the second year to reflect the consolidation of DMBE's financial and administrative functions into the Department of Business Assistance.

Governor's Action: Restores the funding and positions reduced by the General Assembly and includes language authorizing the Governor to determine which agency should perform the accounting and other non-program related administrative functions for DMBE.

Notes:

- As of January 2005, DMBE had a "fill rate" of its authorized positions of 57 percent. This level of filled positions has remained constant over the past few years (fill rate of 53 percent in January 2004) with the department consistently failing to utilize the positions authorized. The Department currently has a maximum employment level of 24 positions, of which 10.50 are funded from the general fund.
 - The Auditor of Public Accounts repeatedly has documented audit exceptions concerning financial management and reporting at DMBE and has recommended that the administrative and financial functions of the agency be merged with a different entity.
 - The Department of Minority Business Enterprise was created by Executive Order in 1972 and then codified as an agency in 1975. Although the agency has been in existence for over 30 years, a recently completed disparity study indicates that only 1.3 percent of state contracts were awarded to minority and women-owned businesses between FY 1997 and FY 2002; less than one-half of one percent was awarded to minority businesses.
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Recommendation No. 4
Item 136 – Department of Education, Central Office
Virginia Schools for the Deaf, Blind, and Multi-disabled

General Assembly Action: Adopted language permitting the use of the Public-Private Education Facilities and Infrastructure Act (PPEA) for the construction of a new facility for the two existing Schools for the Deaf, Blind, and Multi-disabled. The amendment charges the State Board of Education with the final site selection for the new location for the consolidated schools by July 31, 2005.

Authority is provided to the Department of General Services to enter into an agreement of not more than \$61.5 million for the construction project if a PPEA option is chosen.

Governor's Action: Adds language that would allow for the inclusion and consideration of using either existing campus in Hampton or Staunton for renovations, additions, or new construction for the consolidation of the two schools.

Recommendation No. 5
Item 247- Virginia State University
Administrative Information Systems

General Assembly Action: Provided \$347,000 GF, as contained in the introduced budget, to supplement Virginia State University's efforts to upgrade its campus wiring and computing infrastructure.

Governor's Action: The proposed amendment would allow the Director of the Department of Planning and Budget to transfer the general fund appropriations from two new capital outlay items for Virginia State University (C-125.07 and C-125.09) totaling \$1,439,000 GF to Item 247 to finance installation of network infrastructure and administrative information system software. The amendment further allows the Director of the Department of Planning and Budget to increase the nongeneral fund appropriation for Item C-125.07 to offset the general fund transfer.

Notes:

- Virginia State University claims that without this transfer a 20 percent tuition and fee increase on in-state undergraduate students would be required in order to finance the administrative system upgrades.

- The source of the nongeneral fund for Item C-125.07 has not been determined by the institution.
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Recommendation No. 6
Item 286 – Department of Taxation
Small Tobacco Manufacturers Incentive Payment Language

General Assembly Action: Pursuant to HB 2919 adopted during the 2005 Session, the adopted budget included language authorizing the Department of Taxation to make tax incentive payments to small tobacco product manufacturers that do not participate in the tobacco master settlement agreement and choose to assign their tobacco escrow funds to the Commonwealth.

Governor's Action: Strikes references to HB 2919 and substitutes SB 1332.

Notes:

- Originally, both HB 2919 and SB 1332 contained identical language regarding the authorization for the payment of tax incentive payments to small tobacco product manufacturers. However, during the deliberations of the committee of conference on these two bills, certain language added to SB 1332 concerning prior year escrow payments made by these small tobacco product manufacturers was not incorporated into HB 2919.
 - The language contained in SB 1332 that was not incorporated into HB 2919 states, “The amount paid into a qualified escrow account in calendar year 2005 shall also include the amount that the small tobacco product manufacturer paid into a qualified escrow account for all calendar years prior to 2005 net of any escrow funds released and reverted back to the manufacturer for such years pursuant to subdivision B 2 of § 3.1-366.2 as it was in effect on June 30, 2005.”
 - In the absence of the omitted language, the total revenues that would be collected from the assignment to the Commonwealth of tobacco manufacturers’ rights to escrow fund payments could be diminished.
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Recommendation No. 7
Item 303 - Department for the Aging
Distribution of Federal Older Americans Act Funding

General Assembly Action: No action taken.

Governor's Action: The proposed amendment would allow the Department for the Aging to distribute state general fund and federal Older Americans Act funding in FY 2006 to local Area Agencies on Aging (AAAs) based on federal FY 2005 percentages pending an evaluation of the impact of the 2000 census data on funding allocations. Language requires the Commissioner to convene a task force to evaluate and make recommendations on any changes by September 15, 2005, and report on a funding formula to be used for the distribution of federal FY 2007 Older Americans Act funding.

Recommendation No. 8
Item 310 - Department of Health
Submission of Tuberculosis Samples to Designated Laboratory

General Assembly Action: Provided \$5,000 GF the first year and \$67,000 GF the second year for the Division of Consolidated Laboratory Services to establish a library of isolates from persons with active tuberculosis disease for the purpose of disease strain analysis as indicated by epidemiological investigations.

Governor's Action: The proposed amendment directs laboratories in Virginia to submit tuberculosis samples to the Virginia Division of Consolidated Laboratory Services or a laboratory designated by the Board of Health for disease strain analysis in lieu of submitting a report of the tuberculosis test results to the local health director.

Recommendation No. 9
Item 326 – Department of Medical Assistance Services
Appeals Process for Collection of Provider Overpayments

General Assembly Action: Added language to eliminate conflicting terminology in the collection of Medicaid provider overpayments and the process for reviewing appeals involving provider reimbursement. The language also revised the timelines for notification to providers of Medicaid overpayments.

Governor's Action: Technical. The proposed amendment clarifies the process for an appeals decision to collect overpayments from Medicaid-reimbursed health care providers. Language is added to clarify that if the “informal fact-finding conference” decision -- not the “director’s final agency case” decision -- is not made within 180 days of the receipt of an appeal, the overpayment decision is deemed to be in favor of the provider. The amendment also eliminates the use of the word “determination” as a modifier of the term “agency case decision” to avoid confusing terminology.

Recommendation No. 10
Item 378 – Secretary of Natural Resources
Authority to Transfer Virginia Council on Indians Funding from Nonstate
Agency Appropriations

General Assembly Action: Approved a nonstate agency appropriation for \$25,000 for use by the Virginia Council on Indians in developing an American Indian Heritage Trail project, similar in design to the African-American Heritage Trail project sponsored by the Virginia Tourism Authority.

Governor's Action: The proposed amendment includes language authorizing the Director of the Department of Planning and Budget to transfer the nonstate agency appropriation to the Secretary of Natural Resources, which is responsible for overseeing the activities of the Virginia Council on Indians. As a subdivision of a state agency, the council is not required to provide matching funds for this appropriation.

Notes:

- The Secretary of Natural Resources assumed responsibility for the Council on Indians from the Secretary of Health and Human Resources pursuant to Chapter 142, 2004 Acts of Assembly.
 - During the 2005 Session, the General Assembly approved both a transfer of \$16,689 each year from the Jamestown-Yorktown Foundation to support the Council on Indians' operations and a general fund appropriation of \$50,000 and one position to provide a full-time administrator for the council.
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Recommendation No. 11
Item 397 - Department of Historic Resources
Review of Historic Resources on Military Installations

General Assembly Action: Eliminated a general fund proposal for \$100,000 for conducting historic property assessments on military installations.

Governor's Action: The proposed amendment directs the department to collaborate with the Department of Defense on historic reviews of military projects, especially those being undertaken in response to the Base Realignment and Closure (BRAC) process. The proposed amendment further directs the agency to allocate any resources necessary to ensure that these historic review projects are completed as efficiently as possible.

Notes:

- Federal law requires the military to consult with the Department of Historic Resources on modernization or renovation projects affecting structures of historical importance. The department catalogues these structures and advises the military on techniques that should be used to maintain these structures' historic character.
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Recommendation No. 12
Item 436 – Department of Fire Programs
Fire Program Fund Payments to Localities

General Assembly Action: Increased the nongeneral fund appropriation for the Fire Programs Fund by \$2.0 million each year to more accurately reflect revenues collected.

Governor's Action: Proposes language authorizing the Virginia Fire Services Board to continue providing a higher minimum payment to localities as revenues to the Fire Programs Fund increase until the governing statute can be amended.

Notes:

- Section 38.2-401 of the Code of Virginia authorizes the Fire Services Programs Board to provide a minimum of \$4,000 for towns and \$10,000 for cities and counties.
 - The Office of the Attorney General in 2001 advised the Board that it had the power to increase these minimums to \$6,000 and \$12,000 and payments have been made at that level since that time.
 - A recent re-interpretation from the Office of the Attorney General concluded that the Board cannot pay higher amounts without legislative authority.
 - The proposed amendment would give the Board the authority to continue providing payments to affected localities at the higher minimums until amendments can be made to the Code of Virginia.
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Recommendation No. 13
Item 454 – Department of State Police
Transfer of Virginia Criminal Information Network Positions to
Virginia Information Technologies Agency (VITA)

General Assembly Action: The introduced budget reflected the administrative transfer of the Virginia Criminal Information Network (VCIN) positions from the State Police to the Virginia Information Technologies Agency. The adopted budget includes language transferring the VCIN activities, equipment, and five positions from VITA to the Department of State Police.

Governor's Action: Eliminates the language restoring the VCIN function, equipment, and five positions to the Department of State Police. All equipment, personnel, and activities related to the Virginia Criminal Information Network would remain with VITA.

Notes:

- VCIN provides a means of communications for criminal justice agencies throughout the Commonwealth of Virginia.
 - In addition to VCIN data files, the system also provides user access to data bases maintained by the Virginia Department of Motor Vehicles and the National Crime Information Center.
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Recommendation No. 14
Item 463 – Virginia Information Technologies Agency (VITA)
VITA Loan Recovery

General Assembly Action: Included language limiting the treasury loan issued to VITA to costs incurred as of the effective date of the Appropriation Act and required VITA to repay the loan from rates charged to agencies for VITA services.

Governor's Action: Eliminates the language regarding the VITA loan repayment and proposes that such repayment will come from balances available in the general fund.

Notes:

- The introduced budget proposed repayment of the VITA treasury loan from general fund balances. When the General Assembly adopted Chapter 4 last Session, it rejected amendment requests to provide general fund support for VITA start-up costs and instead authorized VITA to obtain a Treasury loan to fund improvements, assuming repayment would come from charges to agencies.
 - Because of concerns that all purchases proposed by VITA could not be covered by adjustments to internal service fund rates, the adopted conference budget limited the \$6.1 million loan to those amounts already expended, estimated to be about \$1.5 million. The proposed language would allow VITA to expend a full \$6.1 million, to be repaid from the general fund.
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Recommendation No. 15
Item 469 – Secretary of Transportation
Fulton Bottom Land Exchange

General Assembly Action: Adopted language, requested by the Administration, authorizing VDOT to transfer some property it owns in the Fulton Bottom area of Richmond/Henrico County in exchange for privately owned property across Route 5 from such location to facilitate the construction of the Virginia Capital Trail.

Governor's Action: Technical. Includes technical clarifying language recommended by the Office of the Attorney General regarding the transfer of property between VDOT and the Lehigh Cement Company for the development of the Virginia Capital Trail. The proposed changes are purely technical and do not impact the intent of the General Assembly.

Recommendation No. 16
Item 482 - Department of Rail and Public Transportation (DRPT)
Flexibility in Year of Appropriation

General Assembly Action: Adopted the Transportation Initiative of 2005 which provided a total of \$848.1 million in additional funding for transportation over the biennium. The adopted language implementing the initiative specified both the year of each appropriation and the fund source, whether it be state nongeneral fund transportation dollars, federal transportation dollars or an appropriation from the general fund for transportation.

Governor's Action: Proposes language removing the reference to whether funding for the mass transit capital purchase authorized by the General Assembly is in the first or second year. This is the first of four amendments (also see Recommendations 18, 20 and 21) that proposes to eliminate references to year or fund source for the separate elements in the Transportation Initiative of 2005. These amendments seek to provide VDOT the flexibility to fund separate elements of the initiative in such a manner as to maximize the flexibility it has to program its federal revenues.

Recommendation No. 17
Item 488 - Virginia Department of Transportation
Application of Funds from Sale of Residual Property

General Assembly's Action: Adopted language included in the introduced budget relating to the use of proceeds from the sale of residual property parcels. The intent of the language is to clarify that such proceeds shall be applied to projects in the same locality and on the same system where the residual property is located.

Governor's Action: Technical. Includes technical clarifying language recommended by the Office of the Attorney General regarding the application of revenues derived from the sale of residual property parcels.

Recommendation No. 18
Item 491 – Virginia Department of Transportation (VDOT)
Flexibility in Year of Appropriation

General Assembly Action: Adopted the Transportation Initiative of 2005 which included \$23.6 million to be transferred to the Transportation Partnership Opportunity Fund in the second year.

Governor's Action: Proposes language removing reference to whether funding to be transferred to the Transportation Partnership Opportunity Fund would be provided in the first or second year. This is one of four proposed amendments (also see Recommendations 16, 20 and 21) that proposes to eliminate reference to year or fund source for the separate elements in the Transportation Initiative of 2005, thus allowing VDOT to fund separate elements of the initiative in such a manner as to maximize the flexibility it has to manage the Six Year Improvement Program.

Recommendation No. 19
Item 492 – Virginia Department of Transportation (VDOT)
Extend Availability of Local Partnership Program Funding

General Assembly Action: As part of the Transportation Initiative of 2005, the General Assembly authorized a local partnership program to incentivize localities to play a larger role in the management of their construction programs and provided \$40.0 million for this program.

Governor's Action: Changes language referring to the date by which projects eligible for funding under this new program must be advertised from July 1, 2006 to July 1, 2007 to expand the pool of projects and localities that can participate in this new program.

Recommendation No. 20
Item 492 – Virginia Department of Transportation (VDOT)
Flexibility in Year of Appropriation

General Assembly Action: Adopted the Transportation Initiative of 2005, which included \$40.0 million for the new local partnership program in the second year.

Governor's Action: Proposes language removing the reference to whether local partnership program funding would be provided in the first or second year and whether it would be funded from general or nongeneral funds. This is one of four proposed amendments (also see Recommendations 16, 18 and 21) that proposes to eliminate reference to year or fund source for the separate elements in the Transportation Initiative of 2005, thus allowing VDOT to fund separate elements of the initiative in such a manner as to maximize the flexibility it has to manage the Six Year Improvement Program.

Recommendation No. 21
Item 493.10 – Virginia Department of Transportation (VDOT)
Flexibility in Year and Fund Source of Appropriation

General Assembly Action: Adopted the Transportation Initiative of 2005 which provided a total of \$848.1 million in additional funding for transportation over the biennium. The adopted language implementing the initiative specified both the year of appropriation and the fund source, whether it be state nongeneral fund transportation dollars, federal transportation dollars or an appropriation from the general fund for transportation, for each element in the initiative.

Governor's Action: Proposes language removing the references to which elements of the initiative would be funded from first or second year revenues and which would be financed from general, state nongeneral or federal funds. This is one of four proposed amendments (also see Recommendations 16, 18 and 20) that proposes to eliminate reference to year or fund source for the separate elements in the Transportation Initiative of 2005, thus allowing VDOT to fund separate

elements of the initiative in such a manner as to maximize the flexibility it has to manage the Six Year Improvement Program.

Recommendation No. 22
Item 493.10 – Virginia Department of Transportation (VDOT)
Use of Welcome Center Improvement Funding

General Assembly Action: As part of the Transportation Initiative of 2005, the adopted budget provided \$20.0 million for improvements to rest areas and Welcome Centers along the Interstate System. Language specified that improvements along the Interstate 95 and 64 corridors would be prioritized to ensure that such improvements would be made in advance of the 2007 commemoration in the areas where increases in tourism are expected to be most robust.

Governor's Action: Includes language stating that the Commonwealth Transportation Board may consider the needs along the Interstate 81 corridor when determining how to budget these funds.

Recommendation No. 23
Item 506 – Central Appropriations
Economic Contingency

The Governor's recommendation includes 15 separate actions requiring additional general fund spending of \$3.2 million the first year and \$12.6 million the second year as well as a number of language changes. These actions include: \$5.1 million for components of the "Virginia Works" program; \$3.0 million to provide the State Police, the Capitol Police, and local sheriffs with compression-related pay increases; and \$1.2 million for the school breakfast initiative. The individual actions are described below.

Item 506 Program Title Change

General Assembly Action: No action taken.

Governor's Action: Proposes to change the program title for Item 506 from "Economic Contingency" to "Economic Contingency and Unallocated Amounts."

Notes:

- This title change is necessary to accurately reflect the fact a number of the proposed amendments are not directly related to the intent of the economic contingency program.

State Fair of Virginia Road Improvements

General Assembly Action: No action taken.

Governor's Action: Proposes to authorize the Commonwealth Transportation Board to provide funds in accordance with Chapter 655 of the Acts of Assembly of 2005 for road improvements for the State Fair of Virginia for costs that exceed funding available through existing road programs and private contributions.

Notes:

- Chapter 655 of the Acts of Assembly of 2005 authorizes the use of Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes.

Virginia Horse Center Debt Service

General Assembly Action: Approved an additional \$720,349 in the second year to provide a total of \$890,000 for the Horse Center Foundation to meet the annual debt service payment for the original debt issued to support construction of the facility.

Governor's Action: Proposes to provide an additional \$10,000 in operating support for the Horse Center Foundation, increasing the total appropriation from \$890,000 to \$900,000.

Notes:

- The \$890,000 approved in the budget reflects the amount necessary to meet the Commonwealth's commitment to pay the original debt service issued to establish the Virginia Horse Center.

Paragraph N.2.: Grace E. Harris Leadership Institute at Virginia Commonwealth University

General Assembly Action: Eliminated \$100,000 in the introduced budget in Item 225 for the Grace Harris Leadership Institute.

Governor's Action: Provides \$100,000 for the Grace Harris Institute.

Notes:

- The Institute was established by the VCU Board of Visitors in 1999.
- \$200,000 in funding has been provided by the University since 1999. This action results in a 50 percent increase for the institute.
- The Institute provides leadership development programs for VCU staff and faculty.

Paragraph Q.2.: Virginia Biotechnology Research Park

General Assembly Action: Approved budget language authorizing the Virginia Biotechnology Research Park Authority to enter into agreements for the acquisition of land.

Governor's Action: Provides \$3.2 million in the first year to the Virginia Biotechnology Research Park Authority for land acquisition and related costs associated with an economic development prospect.

Paragraph R: Appomattox River Dredging Project

General Assembly's Action: Provided \$500,000 in general fund support for dredging the Appomattox River. The funding provided was conditioned upon the City of Petersburg entering into a long-term repayment agreement with the Virginia Economic Development Partnership. The proceeds of the loan repayment were to be deposited to the Governor's Development Opportunity Fund.

Governor's Action: The proposed amendment eliminates the language requiring repayment of the funds appropriated for the project.

Paragraph S: Salary Increase for Sheriffs, Deputies, Regional Jail Officers and Sworn State Police and Capitol Police Officers

General Assembly Action: Approved a three percent salary increase for sworn State Police and Capitol Police officers effective November 25, 2005 and a three percent salary increase for sheriffs, deputy sheriffs, and regional jail officers effective December 2005.

Governor's Action: The proposed amendment would provide \$3.0 million GF to effect:

- A 4.4 percent salary increase for sheriffs, deputy sheriffs, and regional jail officers effective December 1, 2005.
- An additional \$50 for each full year of state service for sworn officers of the Virginia State Police and Capitol Police and communications officers of the Division of Capitol Police who have five or more years of continuous state service.

In addition, the proposed amendment would authorize the State Police Superintendent and the Chief of the Capitol Police to receive a 4.4 percent salary increase effective November 25, 2005.

Notes:

- The proposed amendment would make the compensation for sworn State Police officers, Capitol Police, and sheriffs, deputy sheriffs, and regional jail officers consistent with compensation actions for other employee groups addressed in Item 505 of the adopted budget.
- The budget as adopted already provides a 4.4 percent increase effective November 25, 2005 for both the Chief of the Capitol Police (Item 4) and the Superintendent of the Virginia State Police (4-6.01).

Paragraph T: Payment of Life Insurance Premiums for Deployed Members of National Guard

General Assembly Action: No action taken.

Governor's Action: The proposed amendment would provide \$350,220 in the second year from the general fund to pay the premium for Servicemembers' Group Life Insurance (SGLI) for deployed members of the Virginia National Guard.

Notes:

- The proposed amendment requires that guidelines for administering the program be developed by the Secretary of Finance and Public Safety.
- The adopted budget includes \$650,000 for tuition assistance and \$95,200 for a recruitment bonus for the National Guard in Items 448 and 450.

Paragraph U: Workforce Certification Scholarships and Industry Certification

General Assembly Action: The General Assembly eliminated \$1.1 million GF in the second year from the introduced budget that provided scholarships for non-college bound students in technical training programs in community colleges.

Governor's Action: Overturns the legislative action and provides \$1.1 million GF in the second year for technical training certification for non-college bound students. In addition, the amendment provides \$350,000 to reimburse the costs to public schools that offer career and technical training, testing, and certification to students. The Path to Industry Certification program is a part of the Governor's Senior Year Plus initiative to encourage students who are not planning to attend college to work certified technical training.

Paragraph V: Virginia Works

General Assembly Action: Approved \$12.4 million GF in economic development spending of which approximately \$5.7 million funded elements of the Governor's Virginia Works Initiative proposed in the introduced budget.

Governor's Action: Provides \$5.1 million GF in additional funding for elements of the proposed Virginia Works initiative that were not adopted by the General Assembly including regional consortium grants, development of a rail to trails network in Southside Virginia, and at least one additional regional artisan center.

Notes:

- Both the House and Senate budgets did not fund the proposed Rail to Trails program.
- The language is broadly written and use of the additional funding is not limited to any specific initiative listed in the amendment.

- The Governor would be authorized to transfer these funds to any agency and use them for any purpose provided he reports on the uses to the House Appropriations and Senate Finance Committees.
- In both the introduced budget and the adopted budget, spending items for these purposes were included in Item 112.10 -- Economic and Community Development Services.

Paragraph W: School Breakfast Reimbursement Initiative

General Assembly Action: Both the House and Senate budgets eliminated the \$1.5 million GF in the second year of the introduced budget that would have provided supplemental payments of 5-cents per breakfast meal served to reimburse school divisions for a portion of the total cost.

Governor's Action: Restores \$1.2 million GF of the introduced amount in the second year to provide public schools with up to 20-cents reimbursement per breakfast meal served to students. Funding will be distributed based on the increased number of breakfast meals served that are above the baseline totals calculated by the Department of Education. The 20-cents per meal amount will be prorated down as needed if the total reimbursements for the number of new breakfast meals served exceed the appropriation amount.

Notes:

- This new state supported initiative was designed to encourage school divisions to increase the number of students who would participate in a breakfast program. Currently, school divisions that offer breakfast programs are eligible to participate in the federal breakfast initiative and subsequently may qualify for federal funds for each meal served that would be based on student eligibility: 23-cents regular priced, 93-cent reduced priced and \$1.23 free meal.
- In order to receive these state funds, school divisions must certify that the reimbursements will be used to supplement, not supplant, any existing revenues budgeted for the purposes of providing a breakfast program and increase student participation.

Paragraph X: Virginia Modeling, Analysis and Simulation Center (VMASC)

General Assembly Action: No action taken.

Governor's Action: Provides \$1.5 million GF in the second year for several possible items to include additional faculty, network infrastructure, and facilities expansion. The amendment

requires the Governor to report to the Chairman of House Appropriations and Senate Finance Committees on the specific allocation of the funding prior to actual distribution or disbursement.

Notes:

- The amendment does not specify how the funds will be used, it lists several possible uses and a requirement to report to the Chairmen of the House Appropriations and Senate Finance Committees prior to disbursement.
- No specific reporting dates or time frames are provided in the amendment.

Paragraph Y.1.: Debt Service Savings in Treasury Board

General Assembly Action: Approved \$32 million of debt service savings proposed by the Governor in the introduced budget.

Governor's Action: Requires the reversion by the State Comptroller of \$4.8 million GF of additional anticipated debt service savings in the Treasury Board.

Notes:

- A companion amendment in Item #0 increases revenue for the addition to balance created by the debt service reversion.
- The debt service savings are attributable to four items:
 - lower than anticipated rates related to the Virginia Public Broadcasting Board variable rate debt
 - debt savings from authorized but unissued debt
 - savings in bond refunding escrow accounts
 - savings in accrued interest costs on refunding and bond issuance activities

Paragraph Y.2.: Medicaid GF Reversion/Virginia Health Care Fund

General Assembly Action: Appropriated \$1.6 million NGF from the Virginia Health Care Fund for Medicaid provider rate increases effective May 1, 2006. The additional revenue in the VHCF is based on anticipated receipt of new revenues from the assignment of escrow funds by small tobacco manufacturers who do not participate in the tobacco Master Settlement Agreement.

Governor's Action: Requires the reversion of \$6.5 million GF in FY 2006 from the Virginia Medicaid program based on additional monies which would be available to the program from the Virginia Health Care Fund. The additional monies in the Virginia Health Care Fund are

anticipated as a result of the assignment of tobacco escrow funds by small tobacco manufacturers who do not participate in the tobacco Master Settlement Agreement.

Notes:

- The additional revenue anticipated in the Virginia Health Care Fund that would offset Medicaid general fund dollars to be reverted for spending in Item 506 will not be generated until the fourth quarter of FY 2006. However, the proposed spending would take place at the beginning of FY 2006 on July 1, 2005.
- The amount of the additional revenues available in the Virginia Health Care Fund will not be certain until December 31, 2005, the deadline for small tobacco manufacturers to assign their tobacco escrow funds.
- The intent behind the House Bill 2919 and Senate Bill 1332, passed by the 2005 General Assembly, which allow for the assignment of tobacco escrow funds to the Commonwealth was to use the additional revenue for health-related purposes, specifically to provide more equitable payments to providers of Medicaid services.
- Section 32.1-367 of the Code of Virginia stipulates that moneys deposited to the Virginia Health Care Fund shall be used solely for the provision of health care services, including Medicaid payments, disease diagnosis, prevention and control, and community health services.

Paragraph Z: Use of Sales Tax

General Assembly Action: No action taken.

Governor's Action: Includes language stating that any municipality which issued bonds on or after July 1, 2001 but prior to July 1, 2006 to pay the cost for the construction of public facility shall be entitled to all sales tax revenues generated in such facility. The change extends by one year the use of sales tax monies collected by a public facility as defined in §58.1-608.3, B. v. of the Code of Virginia.

Notes:

- This language is intended to clarify the use of sales tax monies collected by a public facility in Salem.

Recommendation No. 24
Item 531 - State Grants to Nonstate Entities-Nonstate Agencies
Additional Funding for Nonstate Agencies

General Assembly's Action: Provided \$30.6 million in general fund support for 188 nonstate agencies.

Governor's Action: The proposed amendment includes an additional \$25,000 the first year and \$3.5 million the second year from the general fund to augment existing nonstate agency appropriations and to provide funding for three additional nonstate agencies. Language is included to require nonstate agencies to provide a statement describing their economic impact on the Commonwealth in terms of visitation, payroll, or other measures.

Notes:

- The proposed amendment would provide additional funding for 20 projects, primarily those for which capital appropriations were made. These projects include:

	<u>Current Appropriation</u>	<u>Proposed Additional Sum</u>
➤ Art Museum of Western Virginia	\$2,250,000	\$180,000
➤ Chrysler Museum	\$500,000	\$40,000
➤ Fredericksburg Area Museum and Cultural Center	\$500,000	\$20,000
➤ Lynchburg Academy of Fine Arts	\$400,000	\$30,000
➤ Marine Corps Heritage Foundation	\$600,000	\$40,000
➤ Museum of the Shenandoah Valley	\$350,000	\$30,000
➤ Paramount Theatre	\$250,000	\$20,000
➤ Reston Arts Center	\$125,000	\$10,000
➤ Schooner Virginia	\$200,000	\$150,000
➤ Shenandoah Valley Discovery Museum	\$450,000	\$30,000
➤ Staunton Performing Arts Center	\$350,000	\$30,000
➤ Barter Foundation	\$1,000,000	\$90,000
➤ USS Monitor Center at the Mariners Museum	\$1,400,000	\$90,000
➤ Virginia Aquarium and Marine Science Center	\$1,000,000	\$40,000
➤ Virginia Arts Festival	\$250,000	\$20,000
➤ Virginia Beach Performing Arts Center	\$500,000	\$40,000
➤ Virginia Living Museum	\$1,400,000	\$90,000
➤ Virginia Performing Arts Foundation	\$6,500,000	\$2,000,000
➤ Wolf Trap Foundation for the Performing Arts	\$1,500,000	\$70,000
➤ Woodrow Wilson Presidential Library	<u>\$1,250,000</u>	<u>\$130,000</u>
Total:	\$20,775,000	\$3,150,000

- The proposed amendment would also add funding for two projects currently funded within the Health and Human Resources area and provide funding for three additional projects:

➤ The Air Force Museum Foundation	\$100,000
➤ Celebrating Special Children, Inc.*	\$75,000
➤ The Harrison Museum for African American Culture	\$50,000
➤ St. Mary’s Health Wagon*	\$25,000
➤ Virginia Economic Bridge, Inc.**	\$100,000
Total:	\$350,000

Note: * indicates projects already funded within Health and Human Resources area (Celebrating Special Children, Inc. – Item 332, paragraph F., and St. Mary’s Health Wagon – Item 312, paragraph J.)

Note: ** indicates a project with a first year (\$25,000) and second year appropriation (\$75,000). This would be the only project with first year funding.

Recommendation No. 25
Item C-1 - Department of General Services
Improvements at the Seat of Government

General Assembly Action: Provided \$625,000 GF in the first year to replace the west chiller in the General Assembly Office Building and \$350,000 GF the first year to replace the power transformer for Capitol Square facilities.

Governor's Action: The proposed amendment supplants \$507,000 of the general fund for the west chiller replacement and replaces it with nongeneral funds. The source of the nongeneral funds is excess proceeds of the Virginia Public Building Authority.

Notes:

- Excess proceeds are typically generated when bond proceeds are not expended as anticipated and interest is earned on the unspent portion.
- The use of the excess proceeds is limited to capital outlay purposes.

Recommendation No. 26
Item C-190 - Virginia Port Authority
Land Acquisition at Norfolk International Terminal and Portsmouth Marine Terminal

General Assembly Action: No action taken.

Governor's Action: Technical. The proposed amendment conforms the land acquisition project at Norfolk International Terminal and Portsmouth Marine Terminal to the description in the operating section of the enrolled budget.

Recommendation No. 27
Item 3-1.01 – Interfund Transfers
Department of Corrections -- Contract Prisoners Special Fund

General Assembly Action: No action taken.

Governor's Action: Proposes the transfer of \$2.0 million from the Contract Prisoners Special Fund to the general fund.

Note:

- Budget language in Item 420, as adopted by the 2004 General Assembly, authorizes the use of Contract Prisoners Special Fund revenues for the development of an Offender Management System.
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Recommendation No. 28
Part 4: General Provisions
§ 4-4.01 Capital Projects General

General Assembly Action: Provided language to implement changes included in the higher education restructuring proposals (HB 2866 / SB 1327). The language allows for the implementation of “unforeseen” nongeneral fund supported projects under a sum sufficient

appropriation provided that institutions have entered into memorandum of understanding with the Secretary of Administration.

Governor's Action: Technical. The proposed amendment makes a technical correction to reflect that the Secretary of Administration is the official that approves the delegation of authority for nongeneral fund projects. The enrolled budget listed the Secretary of Education.

Recommendation No. 29
Part 4: General Provisions
§ 4-4.01 Capital Projects General

General Assembly Action: Approved language in the introduced budget for energy-efficiency projects that stipulated that improvements to state-owned properties for the purpose of energy-efficiency are considered an operating expense provided that the total project cost does not exceed \$3 million. Projects exceeding \$3 million would be subject to the capital budgeting process.

Governor's Action: The proposed amendment adds a grandfather clause allowing existing energy performance projects underway before July 1, 2005 to continue to be treated as operating expenses. Without this clause these projects would have been required to come back through the 2006 General Assembly Session for inclusion in the budget. This delay may have resulted in the loss of potential energy savings.

Notes:

- Prior to this Session, energy-efficiency projects were implemented as operating expenses. The projects were funded by the company performing the work with the resulting energy savings serving as the source of revenue for the project financing.
 - Recent changes in Generally Accepted Accounting Procedures (GAAP) resulted in these projects being viewed as debt of the Commonwealth, thus requiring submission through the capital budget.
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Recommendation No. 30
Part 4: General Provisions
§ 4-5.01 Special Conditions and Restrictions on Expenditures

General Assembly Action: Approved language that required public colleges and universities to use general fund provided for graduate student financial aid for Virginia students. The previous policy allowed institutions to expend up to fifty percent of graduate financial aid general funds for out-of-state students.

Governor's Action: The proposed amendment strikes the policy approved by the 2005 General Assembly and reinstates the previous policy allowing institutions to expend up to fifty percent of their graduate financial aid general fund for out-of-state students. The reporting requirement, as proposed by the General Assembly, was not modified.

Notes:

- The General Assembly provided an additional \$1.2 million GF for graduate student financial aid in the 2005 Session. This brings the total for graduate financial aid to \$12.3 million GF.
- In FY 2004, SCHEV estimated that approximately 43 percent of general fund graduate financial aid grants were provided to out-of-state students at public doctoral institutions.
- In addition, institutions spend about \$35-\$37 million for graduate teaching and research assistants for compensation. When combined with FICA, the total spent on graduate compensation is about \$38-\$41 million from both GF and NGF sources.

Governor's Proposed Amendments - Bills Considered by House Appropriations Committee

HB 1738 and HB 1793 Life Insurance Benefit for State and Local Employees Called to Active Duty

General Assembly Action: Approved legislation that provides a \$20,000 death benefit for any state or local government employee called to active duty and killed in action in an armed conflict.

Governor's Action: Proposes an amendment which would make eligibility for this benefit retroactive to eligible employees killed in action in any armed conflict on or after October 7, 2001, the start of United States' armed conflict in Afghanistan.

HB 2438 Penalties for Methamphetamine Manufacture

General Assembly Action: Approved legislation that doubles the minimum penalty, from five to 10 years imprisonment, for manufacturing methamphetamine if the amount is 200 grams or more, and imposes enhanced punishment for a second or subsequent offense. The bill also provides that individuals who maintain a custodial relationship over a child under the age of 18 and who allows that child to be present during the felonious manufacture or attempted manufacture of methamphetamine shall be imprisoned for not less than 10 nor more than 40 years.

Governor's Action: Proposes an amendment which clarifies that the provisions of the legislation also apply to activities that occur in an apartment, unit of a hotel, garage, shed or vehicle.

HB 2512 Regulation of Assisted Living Facilities

General Assembly Action: Approved legislation to strengthen the oversight of assisted living facilities and the ability to sanction or suspend the license of facilities under certain circumstances. Specifically the bill:

- Increases the maximum civil penalties for assisted living facilities from \$500 to \$10,000 per license period.
- Directs that the civil penalties be paid to the newly created Assisted Living Facility Education and Technical Assistance Fund to provide education for assisted living facility staff and technical assistance.
- Permits the Commissioner of Social Services to issue an order of summary suspension of a license to operate an assisted living facility and adult day care center in cases of immediate and substantial threat to the health, safety, and welfare of residents or participants; and to require a facility to contract with a licensed long-term care administrator to administer, manage or operate the assisted living facility on an interim basis.
- Requires medication aides in assisted living facilities and adult day care centers to be registered by the Board of Nursing and establishes parameters for the administration of drugs by registered medication aides.
- Requires the Board of Nursing promulgate regulations related to the registration and standards of conduct for the medication aides and approve training programs for medication aides.

Governor's Action: Proposes several technical amendments to correct paragraph numbering and correct language to make criminal background checks for assisted living facility (ALF) licensees analogous to that required for ALF employment screening. Language is added to the fourth enactment clause, which implements the regulations for medication aides by the Board of Nursing, to allow the Board to accept and process applications for the registration of medication aides and charge an application fee anytime on or after July 1, 2005.

HB 2656
Pilot Programs for Prenatal, Obstetrical, and
Pediatric Care in Certain Areas

General Assembly Action: Adopted legislation permitting the Board of Health to approve pilot programs to improve access to obstetrical and pediatric care in areas of the Commonwealth where these services are severely limited. The pilot programs would be jointly developed and submitted to the Board by nurse practitioners licensed as certified nurse midwives, certain perinatal centers as determined by the Board and community obstetricians, family physicians, and pediatricians. The Department of Health is required to convene stakeholders, including certified nurse midwives, obstetricians, pediatricians, and family physicians, to establish protocols to be used in the pilot programs no later than October 1, 2005; evaluate and report on the impact and effectiveness of the pilot programs in meeting the program goals; and submit a report on the pilot programs to the Joint Commission on Health Care by November 15, 2006, and annually thereafter. The bill also requires the Boards of Medicine and Nursing, the Departments of Health Professions and Medical Assistance Services, and the Bureau of Insurance to provide assistance to the Department of Health in establishing and evaluating the pilot programs.

Governor's Action: Offers amendments which require nurse practitioners licensed by the Boards of Medicine and Nursing in the category as certified nurse midwife who participate in a pilot program to maintain professional liability insurance as recommended by the Division of Risk Management of the Department of the Treasury, instead of as determined by the Bureau of Insurance. The Governor also requests that the second enactment clause be amended to require the Division of Risk Management instead of the Bureau of Insurance to assist the Department of Health in establishing and evaluating the pilot programs.

HB 2866 / SB 1327

Restructured Higher Education Financial and Administrative Operations Act

General Assembly Action: Approved legislation that provided greater autonomy for public institutions of higher education (institutions) upon the satisfaction of various conditions. The areas of increased autonomy include capital building projects, procurement and personnel. Under the legislation, three levels of autonomy will be available to all public institutions of higher education with the level of autonomy depending on each institution's financial strength and ability to manage day-to-day operations. At the third level of autonomy, the legislation establishes a process by which each governing board can negotiate a "management agreement" through which they can assume greater responsibility for the day-to-day operations of their institutions with less

oversight from central state agencies. The Governor is required to submit his recommendations for the third level of autonomy as part the budget bill or amendments to the budget bill for review and approval by the General Assembly. The legislation requires all institutions to develop six-year academic, financial and enrollment plans that outline tuition and fee estimates as well as enrollment projections, to develop detailed plans for meeting statewide objectives, and to accept a number of accountability measures, including meeting benchmarks related to accessibility and affordability. The legislation further requires the Governor to establish an independent advisory board to develop and recommend administrative management standards for institutions.

Governor's Action: Proposes an amendment in the nature of a substitute, which includes numerous changes to the bill. Although most of the changes are relatively minor and seek to clarify legislative intent, a few of the proposed changes are substantive in nature. A summary of the major items impacting all institutions and those impacting only institutions that enter into a management agreement is provided below:

Provisions Impacting All Institutions (Level 1):

- **Operating and Capital Leases.** Requires all institutions to continue participating in the Governor's real estate lease program (Executive Order 75) for administrative/office space. The enrolled bill would have exempted institutions from this provision.
- **Sale of Real Property.** Requires all institutions to notify the Governor and General Assembly 45 days prior to selling surplus real property. (The enrolled bill only required 30 days.) Adds a new provision that allows the Governor to "postpone" a sale up to 10 days before the anticipated date of sale.
- **Higher Education Board Appointments.** Inserts the provisions of Senate Bill 1119 (2005 General Assembly), which codifies the Governor's review and nomination process for higher education board members at all institutions. The bill was tabled in the House General Laws Committee.
- **Sole Source Procurements.** Ties institutional performance to the provision in the enrolled bill that exempts institutions from paying the fee for using sole source vendors not registered with e-VA. The enrolled bill exempts all institutions from this provision, regardless of performance. The Governor's proposed amendment further requires that if institutions satisfactorily meet the performance criteria, they will be reimbursed after the fact for any out-of-pocket expenses resulting from the fees assessed for unregistered sole source vendors rather than having the fee waived initially.
- **Capital Outlay Project Delivery Method.** Allows all institutions to utilize either fixed price, design-build or construction management for capital outlay projects in lieu of the

design-bid-build process. The enrolled bill provided this authority only to those institutions with a signed memorandum of agreement with the Secretary of Administration in place.

- **Statewide Goals.** Clarifies that all institutions must commit to meeting the statewide goals and objectives for higher education as stated in the bill. Amendments to the enrolled bill make certain changes to the statewide goals many of which are clarifying in nature.

Provisions Impacting Only Institutions with Management Agreements (Level 3):

- **Amendments to Institutional Management Agreements.** Removes the provisions in the enrolled bill that would have allowed the Governor to amend an active management agreement. The enrolled bill inadvertently created a loophole through which the Governor could amend a management agreement without subsequent approval or consideration by the General Assembly. The proposed language eliminates the Governor's ability to renegotiate or amend an active agreement.
- **Access and Affordability.** Clarifies the provision of the enrolled bill which requires institutions with management agreements to provide sufficient need-based grant aid to low- and middle-income Virginia students to encourage their continued participation despite increases in tuition and fees.
- **Cost Savings.** Requires only those institutions with management agreements to quantify the cost savings realized as a result of the greater flexibility/autonomy that has been granted to them. The enrolled bill established this requirement for all institutions.
- **Delegation to In-House Building Code Official.** Clarifies provisions in the enrolled bill that allows institutions to establish a building code official in-house, in lieu of using DGS or a local building code official, as part of a negotiated management agreement. The Governor's amendments clarify that the individual serving in such capacity report directly to, and be held accountable to, only the institution's governing board. Language further establishes a clear firewall between the institution's administration and the building code official in order to minimize the potential for conflicts of interest to arise.
- **Compensation Programs.** Modifies the extent to which an institution can be granted additional flexibility/authority under a management agreement in the area of personnel. The proposed changes:
 - require all institutions to continue participating in the state retirement, health programs, workers' compensation, and state employee grievance programs;

- allow the Governor to authorize institutions to develop alternative human resource plans for group life, severance and disability insurance as part of the management agreement provided that nonfaculty, salaried employees are given the option of participating in either the state program(s) or the institution's program(s) and that they be given subsequent opportunities at least once every two years.

- require that institutions offering their own benefit programs conduct a comparability study of the benefits provided through the state program(s) and those provided through the institution's program(s) at least once every two years and make those findings available to all employees.