

# Governor's Proposed Amendments 2008-2010 Appropriation Act (HB 30, As Adopted)

## Amendment No. 1 Item 0 - Revenues Revenue Adjustments

**General Assembly Action:** Adopted the “front page” revenues reflected in the Appropriation Act, including the mid-Session revenue reforecast.

**Governor's Action:** The proposed amendment reflects actions proposed in amendments 25, 33 and 35 which revert a total of \$55.0 million general fund resulting from the replacement of cash with bonds on a number of capital projects. Of the balances generated, \$50.0 million will be used to provide cash for project planning activities authorized in the capital outlay legislation to be considered during the Special Session.

## Amendment No. 2 Item 74 - Financial Assistance for Circuit Court Clerks Language - Deposit of Clerks' Fees

**General Assembly Action:** Adopted House Bill 1106, and Senate Bill 622, which authorizes the Clerks of Circuit Courts to provide a network or system for the electronic filing of land records and to assess a fee, not to exceed \$5.00 per document, for each instrument recorded electronically and authorizes the clerk to deposit the new fee into a special nonreverting local fund to be used to cover operational expenses of the network or system.

**Governor's Action (Technical):** The proposed amendment updates language included in the Appropriation Act which prescribes the manner in which clerks are to deposit fees and state revenue. This amendment is needed to ensure that the Appropriation Act is not in conflict with the Code as amended by HB 1106 and SB 622.

**Amendment No. 3**  
**Item 79 - Department of General Services**  
**Convert Division of Real Estate Services to Full Internal Service Fund**

**General Assembly Action:** The adopted budget was based on the current funding levels and policies for the management of real estate which assumes an internal service fund within DGS for real estate services of approximately \$2.1 million per year and a \$0.8 million general fund (GF) appropriation each year to support the administrative operations of the Division of Real Estate Services.

**Governor's Action:** The Governor's proposed amendment operationalizes language included in the 2005 Appropriation Act which authorized the implementation of the new real estate program. The language authorizes the Department of General Services' Division of Real Estates Services to begin negotiating and paying lease costs for all executive branch agencies (currently agencies pay their own lease expenses). In addition, the language authorizes the DPB to transfer the \$0.8 million GF appropriation from DGS to the other executive agencies, which will then use these funds to reimburse DGS for the cost of providing the real estate management services. The amendment reflects the increased level of activity from the internal service fund and increases the NGF appropriation to \$59.2 million.

**Notes:**

- DGS proposes to charge the agencies a 3.2% surcharge to cover their operational costs.
- The language states the real estate surcharge rates are subject to the approval of JLARC, similar to other DGS and VITA rates.

**Amendment No. 4**  
**Item 79 - Department of General Services**  
**Language - Provide for Sale of Dove Street Armory**

**General Assembly Action:** No action.

**Governor's Action:** The proposed amendment authorizes the Department of General Services, in consultation with the Department of Military Affairs, to sell the Dove Street Armory property to the Richmond Redevelopment Authority and authorizes the Department of Military Affairs to retain the net proceeds from the sale for facility repairs and improvements.

**Notes:**

- The land was originally gifted to the state from the City of Richmond. It is unclear whether the state can sell the property or whether it would revert to the original grantor.
- The estimated value of the property, based on the assessed value, is around \$4.0 million.
- Typically language authorizing the sale of surplus property requires that the sale be based on fair market value; this amendment does not include any such language.
- Under state policy, the proceeds from the sale property originally purchased with state general fund monies are split with 50 percent going to the general fund and 50 percent going to the Conservation Resources Fund, with the nongeneral fund portion to be retained by the agency.

**Amendment No. 5**  
**Item 81 - Department of General Services**  
**Language - Provide Consistency in Green Building Requirements**

**General Assembly Action:** Adopted language which required all new or renovated state-owned facilities over 5,000 square feet be designed and constructed consistent with the energy performance standards at least as stringent as the U.S. Green Building Council's LEED rating system or the Green Globes rating system.

**Governor's Action:** The proposed amendment modifies the language to eliminate the reference to the Green Globes rating system and replaces it with a reference to the use of Virginia forest products with alternate certifications or the U.S. Environmental Protection Agency/Department of Energy's "energy star" rating.

**Notes:**

- The Governor's amendment conforms the budget language to Executive Order 48 of 2007 which included LEEDS but not Green Globes.
- LEED has a more stringent energy standard than Green Globes.
- LEED and Green Globes differ in the way they treat wood. LEED only recognizes timber certified by the Forest Stewardship Council (FSC), while Green Globes is more inclusive, recognizing timber certified through FSC as well as the American Tree Farm System (ATFS), Canadian Standards Association (CSA) and Sustainable Forestry Initiative (SFI).

**Amendment No. 6**  
**Item 130 - Virginia Tourism Authority**  
**Provide Funding for the Daniel Boone Visitor Center**

**General Assembly Action:** Removed a proposed appropriation of \$100,000 each year in the Virginia Tourism Authority to support the Daniel Boone Visitor Center in Southwest Virginia.

**Governor's Action:** The proposed amendment restores the funding included in the introduced budget for the Daniel Boone Visitor Center.

**Amendment No. 7**  
**Item 139 - Direct Aid to Public Education**  
**Provide Funding for the Virginia Career Education Foundation (VCEF)**

**General Assembly Action:** Eliminated funding for the Virginia Career Education Foundation.

**Governor's Action:** The proposed amendment provides \$50,000 each year to fund the program at the FY 2008 level for the program.

**Amendment No. 8**  
**Item 185 - Old Dominion University**  
**Provide Support for Modeling and Simulation Efforts**

**General Assembly Action:** Provided \$1.5 million GF in each year for research efforts at Old Dominion University in modeling and simulation areas.

**Governor's Action:** Moves \$1.5 million GF from second year to first year providing Old Dominion with \$3.0 million in first year. Old Dominion University requires the research funding in the first year in order to continue meeting research requirements.

## Amendment No. 9

### Item 282 - Secretary of Health and Human Resources Authorize Secretary of Health and Human Resources to Establish Program to Provide Insurance to Low Income, Uninsured Employees of Small Businesses

**General Assembly Action:** Eliminated \$7.8 million GF in funding and budget language in the introduced budget which would have established a health insurance program for low-income working adults employed by small businesses. Proposed legislation to implement this program was not approved by the 2008 General Assembly.

**Governor's Action:** The proposed amendment authorizes the Secretary of Health and Human Resources to expend \$500,000 each year to establish a pilot program in Eastern Virginia to provide health insurance for uninsured, low-income working individuals employed by small businesses. Funding for the program would be supported by monies recovered by the Commonwealth from private health insurance companies for public health services and matching dollars from private donations. The Secretary of Health and Human Resources is required to provide an implementation plan to the Chairmen of the money committees at least 30 days prior to the start of the program.

#### Notes:

- The language contained in the amendment does not specify the details about how the program would operate or be implemented, or the extent of the Commonwealth's obligation for the health insurance of eligible individuals.
- Explanatory language indicates that:
  - The program would serve families with incomes 200 percent or less of the federal poverty level and who work for small businesses.
  - The program would be responsible for covering one-third of the premium costs of participating individuals up to \$75 per month with the employer and employee each covering one-third of the remaining premium cost.
- Discussions with the Secretary of Health and Human Resources indicate that similar to the legislation proposed during the 2008 Session, in order to qualify, individuals would have to be working at least 30 hours per week for businesses that employ 2 to 50 employees and who have not offered health insurance for the previous six months. In addition, the benefits would have an annual cap of \$50,000.
- However, unlike the legislation proposed during the 2008 Session, the Secretary would issue a Request for Proposals (RFP) to contract with private health insurer(s) to develop, underwrite and market a health insurance product for the target population, and be responsible for setting rates, billing and collecting premiums, determining the provider network, and enrolling eligible individuals.

- This represents a fairly substantial change from the legislation introduced during the Session, yet the implementation is largely left up to the discretion of the Secretary of Health and Human Resources.
- The proposed language authorizes the Secretary to expend up to \$500,000 each year from monies “recovered from private health insurance for public health services.”
  - These funds are from fees collected by the Health Department for issuing certificates of quality assurance for managed care health insurance plans licensed to conduct business in Virginia as required by the Code of Virginia.
  - The fee is based on a percentage, not to exceed one-tenth of a one percent of the proportion of direct gross premium income on business health insurance plans in the preceding biennium, sufficient to cover reasonable costs for the administration of the quality assurance program, not to exceed \$10,000 per licensee.
  - If expenses for the past biennium are more than 10 percent greater or lesser than the funds collected, the Board of Health is required to revise the fees so that they are sufficient but not excessive to cover expenses.
  - According to the Secretary, a surplus in the program has built up of about \$846,000 which can be used for the pilot program for one-time purposes.
  - The Department of Health will be revising future fees to more closely match the cost of the program.
  - If not utilized for this new program, excess fees in this program would be utilized for services in the Department of Health.

### **Amendment No. 10**

#### **Item 283 - Comprehensive Services for At-Risk Youth and Families (CSA) Language - Require Use of Medicaid Services When Appropriate**

**General Assembly Action:** Modified language in the Comprehensive Services Act for At-Risk Youth and Families which requires local Community Policy and Management Teams (CPMTs) to use Medicaid-funded services whenever they are available for the appropriate treatment of children and youth receiving CSA services. Language prohibits the use of state pool funds for CSA for services that can be funded through Medicaid for Medicaid-eligible children and youth beginning July 1, 2009.

**Governor's Action:** The proposed amendment adds language which creates an exception to using Medicaid for Medicaid-eligible children when Medicaid-funded services are unavailable or inappropriate for meeting the needs of a child.

## Notes:

- Currently, some localities do not use appropriate Medicaid-funded services when available, resulting in increased general fund costs for the CSA program.
- In some instances, service providers may not be certified to provide Medicaid services because Medicaid requirements follow a “medical” treatment model, which may limit or exclude some “behavioral” or “social” services from reimbursement.
- Language seeks to clarify that state pool funds could be used if Medicaid-funded services are unavailable or inappropriate for meeting the needs of a child.

### **Amendment No. 11** **Item 305 - Department of Medical Assistance Services** **Provide Coverage for Newborns Born to Mothers Enrolled in FAMIS**

**General Assembly Action:** Eliminated language and approximately \$45,000 each year in funding in the introduced budget to cover newborns up to two months post-delivery in the Family Access to Medical Insurance Security (FAMIS) children’s health insurance program born to FAMIS enrollees, even if eligibility is never established for the newborn.

**Governor's Action:** Proposes an amendment, but no additional funding, identical to that contained in the introduced budget, which would provide the authority of the Department of Medical Assistance Services (DMAS) to provide FAMIS coverage for the birth of a newborn to a FAMIS enrollee for up to two months after delivery even if eligibility is not yet established for the newborn. Requires state funding for FAMIS covered services, if federal funds are not available for those months of eligibility. Language also provides DMAS with authority to promulgate emergency regulations to implement this change.

## Notes:

- This change would mirror the coverage of newborns in Medicaid who are born to Medicaid enrollees.
- However, unlike Medicaid, this program is not an entitlement and federal funding is not available to serve newborns for up to two months post delivery unless FAMIS eligibility is established for the child. Consequently, if a FAMIS enrollee fails to complete the paperwork for the newborn, the state will be required to fully fund the cost of this coverage.
- The explanatory note to this amendment indicates that it would allow for immediate FAMIS coverage while the paperwork to establish eligibility is underway, however, it is not clear how many enrollees would be motivated to complete the paperwork if it is not a requirement to receive coverage.

- The explanatory note also indicates that the cost to provide this coverage is nominal. The introduced budget included \$43,480 GF in the first year and \$46,741 GF in the second year to implement this provision.

**Amendment No. 12**  
**Item 306 - Department of Medical Assistance Services**  
**Add Behavioral Health Drugs to the Medicaid Preferred Drug List**

**General Assembly Action:** Rejected a proposed savings strategy contained in the introduced budget which would have included behavioral health drugs on the Medicaid Preferred Drug List (PDL). In addition, the General Assembly restored language in the budget which exempts anti-psychotic and anti-anxiety medications used for the treatment of mental illness from the Medicaid PDL program. Language was also added to require the Department of Medical Assistance Services to report on the impact on patient care and costs of including these medications on the Medicaid PDL. That report is due by December 1, 2008.

**Governor's Action:** Proposes an amendment to reduce \$1.5 million GF over the biennium for savings anticipated by expanding the Medicaid PDL to include behavioral health drugs. Drugs not included on the PDL must be authorized prior to being dispensed.

**Notes:**

- The General Assembly re-affirmed existing policy to continue an exemption of anti-psychotic and anti-anxiety medications from the Medicaid Preferred Drug List, in order to maintain Medicaid patients' access to needed behavioral health medications.
- This exemption is widely supported by patient advocates and physician organizations, who are concerned that:
  - patients who have been stabilized on certain behavioral health medications would be subject to additional requirements in order to maintain their current medication regime
  - a more restrictive formulary would decrease treatment options for patients with mental illness.
- The General Assembly also established an impact study due on December 1. This study should address concerns raised by patient advocates and physician organizations.



**Amendment No. 13**  
**Item 306 - Department of Medical Assistance Services**  
**Increase Medicaid Rates for Ambulance Providers**

**General Assembly Action:** Reduced Medicaid funding by \$9.5 million GF and \$9.5 million from matching federal funds each year due to a revised estimate of the Medicaid forecast of expenditures in the 2008-10 biennium. Of this amount, \$2.5 million GF each year and a like amount of matching federal Medicaid funding was attributable to savings from the correction of an error in which overpayments were made to ambulance service providers on behalf of individuals who are dually eligible for Medicaid and Medicare.

**Governor's Action:** The proposed amendment would increase Medicaid payment rates for ambulance providers by \$2.7 million GF and \$2.7 million in matching federal Medicaid funds each year to offset the reduction in erroneous payments on behalf of individuals who are dually eligible for Medicaid and Medicare. Funding would come from anticipated balances due to lower than expected utilization of Medicaid substance abuse services.

**Notes:**

- Ambulance providers currently do not fully recover the cost to provide services for most Medicaid enrollees.
- Until recently, Medicaid payments to ambulance providers on behalf of dually eligible Medicaid and Medicare enrollees paid the difference between the Medicare rate and the actual Medicare payment for services.
- Medicaid is not allowed to pay providers above the Medicaid payment rate for the service. Typically, Medicaid rates for ambulance services are 25-40% of the Medicare payment rate.
- An internal audit revealed the discrepancy between policy and practice in the payments for ambulance services.
- Because ambulance providers are one of the lowest paid providers within the Medicaid program and many are nonprofit organizations, the loss of funding is perceived to be a hardship.

**Amendment No. 14**  
**Item 306 - Department of Medical Assistance Services**  
**Language - Reflect Correct Reduction for Nursing Home Rates**

**General Assembly Action:** Reduced nursing facility direct and indirect care payment rates by \$5.7 million GF the first year and \$5.8 million GF the second year and a like amount of matching

federal Medicaid funds, representing less than a 2% reduction of the rates that would have been in effect in the 2008-10 biennium.

**Governor's Action (Technical):** The proposed amendment replaces language indicating the percentage of the nursing facility rate reduction to match the dollars reduced in the enrolled bill. An error was made in the calculation of the percentage reduction by the Department of Medical Assistance Services. Instead of 1.654 percent, the actual percentage reduction is 1.329 percent.

### **Amendment No. 15**

#### **Item 316 - Department of Mental Health, Mental Retardation, and Substance Abuse Services - Grants to Localities Language - Clarify Number of Mental Retardation Waiver Slots**

**General Assembly Action:** Provided \$29.2 million GF and a like amount of matching federal Medicaid funds to increase services provided under the mental retardation waiver program by phasing in a total of 600 slots beginning in FY 2009.

**Governor's Action (Technical):** The Governor's amendment corrects language listing the amount of total funding and the additional slots added for the waiver program in the Department of Mental Health, Mental Retardation and Substance Abuse Services. In addition, language is added to ensure that the slots are phased in consistent with the funding provided for the waiver program.

### **Amendment No. 16**

#### **Item 362 - Department of Conservation and Recreation Provide Additional Support for the Virginia Outdoors Foundation**

**General Assembly Action:** Provided \$225,000 each year from the general fund to support the Virginia Outdoors Foundation's operations.

**Governor's Action:** The proposed amendment provides an additional \$525,000 each year from the general fund for the Virginia Outdoors Foundation, increasing the annual general fund support provided to the Virginia Outdoors Foundation to \$750,000 per year.

#### **Notes:**

- The Virginia Outdoors Foundation currently receives revenue from two sources – the general fund (\$500,000) and a \$1 fee on each deed recorded in any locality in which the

Virginia Outdoors Foundation currently holds an easement. This deed recordation fee has been expected to generate about \$1.3 million annually, although the total amount collected may be less according to the Virginia Outdoors Foundation.

- The \$225,000 provided in fiscal years 2009 and 2010 by the General Assembly represent the first infusion of ongoing additional general fund support for the Virginia Outdoors Foundation since passage of the deed recordation fee in 2004. The only other general fund support provided for the foundation was a one-time appropriation of \$950,000 in fiscal year 2007 to address information technology needs and to accommodate an expected influx of easement donations prior to the revisions to the Land Preservation Tax Credit taking effect on January 1, 2007.
- Representatives from the Virginia Outdoors Foundation have reported the foundation would have preferred to receive the amount provided in the Senate budget, which provided \$450,000 per year in support for the foundation. To provide this amount would require an additional \$225,000 each year rather than the Governor's proposed \$525,000 each year.

**Amendment No. 17**  
**Item 374 - Department of Historic Resources**  
**Provide Funding for the Preservation of Civil War Historic Battlefields**

**General Assembly Action:** Provided a minimum of \$5.0 million for Civil War battlefield preservation as part of a \$30.0 million bond issue for the purchase of land for conservation, open space, and historic preservation purposes.

**Governor's Action:** The proposed amendment provides \$5.0 million in fiscal year 2009 from the general fund for the Civil War Historic Site Preservation Fund, which provides grants to non-profit organizations for the preservation of Civil War battlefields. These organizations must provide at least \$2 in matching funds for every \$1 provided from the fund. Consequently, this \$5.0 million provided in the amendment will be augmented by \$10.0 million in matching funds for Civil War battlefield preservation. The proposed amendment simplifies the means of accomplishing the General Assembly's goal of preserving Civil War battlefields. Funding for the amendment is derived from a portion of the general fund dollars produced by the reversion of capital project balances. A companion amendment eliminates the provisions regarding preservation of Civil War battlefields included in the bond issue for the purchase of land.

**Notes:**

- Bond counsel had expressed concern about the use of bonds to fund grants to nonprofit organizations.

**Amendment No. 18**  
**Item 388 - Department of Corrections**  
**Language - Exempt Patrick County from Jail Construction Moratorium**

**General Assembly Action:** Provided an exemption from the moratorium on the construction of local and regional jails for the Southern Virginia Regional Jail Authority in order to permit planning for the construction of a regional jail serving the City of Martinsville and the Counties of Henry and Patrick.

**Governor's Action:** The proposed amendment adds language authorizing an exemption from the moratorium on local and regional jail construction projects for Patrick County. This exemption would permit Patrick County to proceed in planning for the replacement of its existing local jail if the State Board of Corrections does not approve the proposed plans for the regional jail's construction. Without this language, Patrick County would not be able to begin planning for the replacement of its local jail until receiving an exemption from the moratorium during the next Session of the General Assembly.

**Notes:**

- The State Board of Corrections is reportedly unlikely to approve the proposed regional jail's construction because the City of Martinsville and Henry County may only use five to 10 beds in the regional jail. Consequently, the project does not appear to truly constitute a regional jail. This information was not communicated during the Session.
- During the 2007 Session, the General Assembly did approve an exemption from the moratorium on local and regional jail construction projects for Patrick County. Language, however, also required the county to assess the costs and benefits to the county and the Commonwealth associated with the construction of a local jail versus a regional jail and to determine if the City of Martinsville and Henry County were interested in the creation of a regional jail.
- After the City of Martinsville and Henry County expressed an interest in a regional jail, the three localities formed the Southern Virginia Regional Jail Authority and plans for the construction of a regional jail were presented to the Department of Corrections for review by the State Board of Corrections.

**Amendment No. 19**  
**Item 390 - Department of Corrections**  
**Language - Post-Secondary Education in Correctional Centers Provider**  
**Flexibility**

**General Assembly Action:** Adopted language requiring the Department of Corrections and Department of Correctional Education work with Liberty University to develop a program of post-secondary education for state prison inmates. This program, which would be implemented on a pilot basis at the new Green Rock Correctional Center, was to be established by November 1, 2008.

**Governor's Action:** The proposed amendment permits the Department of Corrections and Department of Correctional Education to work with any public or private university in developing a program of post-secondary education for state prison inmates. However, unlike the language adopted by the General Assembly, the amendment does not require that such a program be established.

**Amendment No. 20**  
**Item 391 - Department of Corrections**  
**Provide Woodrum Impact Funding**

**General Assembly Action:** The General Assembly did not provide any funding for the implementation of House Bill 113 and Senate Bill 368, which increase the penalties for failure to heed a law enforcement officer's signal to stop a vehicle or for eluding police if such action results in the death of a law enforcement officer, or Senate Bill 284, which increases the penalties for assaulting a DMV law enforcement officer. The Virginia Criminal Sentencing Commission has determined these bills could result in an increase in the state prison population.

**Governor's Action:** The proposed amendment provides \$29,362 in the first year from the general fund to be paid into the Corrections Special Reserve Fund. It is in this fund that the Woodrum impacts associated with legislation are deposited. The Code of Virginia requires any legislation increasing the state prison population be accompanied by an appropriation to cover the projected costs of those additional inmates.

**Amendment No. 21**  
**Item 397 - Department of Criminal Justice Services**  
**Language - Clarify Distribution of HB 599 Funding and Funding for Alicia's Law**

**General Assembly Action:** Provided \$1.5 million from the general fund in the first year to support the efforts of the Southern Virginia Internet Crimes Against Children Task Force, operated

by the Bedford County Sheriff's Office, and the Northern Virginia Internet Crimes Against Children Task Force, operated by the Virginia State Police. This appropriation is found in Item 397, which also includes the funding for the HB 599 program.

**Governor's Action (Technical):** The proposed technical amendment clarifies that the funding distributed for the HB 599 program does not include the funding for the two internet crimes against children task forces.

**Amendment No. 22**  
**Item 458 - Department of Transportation**  
**Language - County Improvements to State System Roadways**

**General Assembly Action:** Included language clarifying that Henrico County may undertake improvements to primary system roadways at their own cost provided such work is done in compliance with VDOT standards.

**Governor's Action:** Replaces the language with alternate language encouraging all counties to make improvements to secondary and/or primary roadways in accordance with existing Code provisions. It stipulates that if such projects are not in the Six Year Improvement Program the respective county may not request reimbursement for such work from VDOT.

**Amendment No. 23**  
**Item 473 - Central Appropriations**  
**Provide Economic Development Incentive for Research-Related Entity**

**General Assembly Action:** The House removed a proposal to provide \$5.0 million in the first year and \$2.0 million in the second year to complete the Commonwealth's commitment to provide \$22.0 million to SRI relating to its location of a research facility in the Harrisonburg area. House Bill 3171 of the 2007 Session stipulates that the Commonwealth may provide a total of \$22.0 million to SRI through fiscal year 2013. Through the current biennium, \$15.0 million has been provided.

**Governor's Action:** The proposed amendment would provide \$2.0 million each year to SRI, consistent with the action in the Senate-adopted budget. This compares to \$7.0 million proposed in the introduced budget.

**Amendment No. 24**  
**Item 479 - State Corporation Commission**  
**Language - Domestic and Foreign Corporation Annual Registration Fee**  
**Enactment Date**

**General Assembly Action:** Adopted language included in the introduced budget, which was brought forward from the 2006-2008 Appropriation Act without updating the date embedded in the language.

**Governor's Action (Technical):** Changes the date from July 1, 2006 to July 1, 2008.

**Amendment No. 25**  
**Item 2-0 - Capital General Provisions**  
**Language - Revert Additional General Fund Capital Amounts**

**General Assembly Action:** Reverted \$300 million in general fund projects and supplanted those funds with VCBA and VPBA bonds in House Bill 29.

**Governor's Action:** Proposes the reversion of an additional \$55 million from capital projects and supplanting those funds with VCBA and VPBA bonds in separate amendments. The proceeds from the additional reversion will be used as part of the capital bond package (HB 5001 / SB 5001), to develop a capital planning fund and for grants for Civil War Battlefield preservation.

**Amendment No. 26**  
**Item C-36.50 - George Mason University**  
**Change Project Title and Move Funding from Second Year to First Year**

**General Assembly Action:** Provided \$6.0 million in the second year in 9 (d) revenue bonds for the surge space project at George Mason University.

**Governor's Action:** The proposed amendment moves the revenue bond authority from the second year to the first year. In addition, the amendment corrects the project title.

**Amendment No. 27**  
**Item C-36.60 - George Mason University**  
**Language - Authorize Capital Lease for Prince William**  
**Research Laboratory Space**

**General Assembly Action:** No action.

**Governor's Action:** The proposed nongeneral fund (NGF) amendment authorizes George Mason University to enter into a capital lease for research space adjacent to the Price William campus. The lease will be for a period of 10 years at a cost of approximately \$1.0 million NGF annually.

**Amendment No. 28**  
**Item C-44.20 - University of Mary Washington**  
**Language - Expand Scope of Capital Project**  
**"New Construction: Residence Halls."**

**General Assembly Action:** No action.

**Governor's Action (Technical):** The proposed technical amendment changes the project title for a residence hall project at the University of Mary Washington.

**Amendment No. 29**  
**Item C-110 - Department of Conservation and Recreation**  
**Language - Remove Capital Project Language Related to**  
**Battlefield Preservation**

**General Assembly Action:** Provided \$30 million in VPBA bonds for open space preservation of which \$5 million was dedicated for the purchase of lands for Civil War battlefield preservation pursuant to the conditions contained in Item 374 H.

**Governor's Action:** The proposed amendment removes the use of bonds for the purchase of lands for Civil War battlefield preservation. A companion amendment 17 in Item 374 provides \$5.0 million GF for grants to purchase lands for Civil War battlefield preservation. These funds were generated by the reversion of additional project balances specified in amendment 25 in Item C-0.



**Amendment No. 30**  
**Item C-176 - Central Capital Outlay**  
**Language - Revise Language Regarding Bonds for**  
**Maintenance Reserve Projects**

**General Assembly Action:** Provided \$75.0 million each year in VPBA / VCBA bonds for the Maintenance Reserve Revolving Fund.

**Governor's Action (Technical):** The proposed technical amendment clarifies that the proceeds will be used for allowable capital repair items and not operational repairs.

**Amendment No. 31**  
**Item C-177 - Central Capital Outlay**  
**Provide Supplemental Funding for George Mason University**

**General Assembly Action:** Provided \$34.4 million in VCBA bonds for project cost overruns at various higher education institutions.

**Governor's Action:** The proposed amendment authorizes an additional \$5.0 million in VCBA bonds for a cost overrun associated with the Academic VI / Research II Building at George Mason University.

**Amendment No. 32**  
**Item C-177.10 – Central Capital Outlay**  
**Redirect Planning Dollars**

**General Assembly Action:** Provided \$5.3 million GF in the second year for project planning and \$300,000 for the Department of General Services support for the proposed capital bond package.

**Governor's Action:** The proposed amendment moves \$5.0 million from the second year to the first year and directs its use as follows:

- Provides \$300,000 and 2 positions in the first year for the Department of General Services to support the proposed capital bond package. House Bill 30 provided funding in the second year.
- Designates \$250,000 as a one-time cost for the Department of General Services to acquire an information system for capital project management and reporting;
- Provides authority to transfer the remaining funds to the Treasury Board for debt service requirements.

**Amendment No. 33**  
**Item C-181.10 – 9 (D) Revenue Bonds**  
**Increase Supplanting of General Fund Capital with VPBA Debt**

**General Assembly Action:** Authorized the use of \$300 million in VCBA / VPBA bonds in House Bill 29 to supplant general fund monies for specified capital projects.

**Governor's Action:** The proposed amendment is a companion amendment to Item C-0 (amendment 25). The amendment authorizes \$10.7 million in VPBA bonds as part of the proposed additional \$55 million supplant of capital projects. An additional amendment 35 for Item C-182.10 authorizes the remaining \$44.3 million as VCBA bonds.

**Amendment No. 34**  
**Item C-182 – 9 (D) Revenue Bonds**  
**Add Project Funding to the 9 (D) Revenue Bond Table**

**General Assembly Action:** Specified in a table the projects to be funded through the use of VCBA bonds in this Act.

**Governor's Action (Technical):** The proposed technical amendment reflects the changes to the VCBA bond table required by amendment 31, Item C-177.

**Amendment No. 35**  
**Item C-182.10 – 9 (D) Revenue Bonds**  
**Increase Supplanting of General Fund Capital with VCBA Debt**

**General Assembly Action:** Authorized the use of \$300 million in VCBA / VPBA bonds in House Bill 29 to supplant general funds for specified capital projects.

**Governor's Action:** The proposed amendment is a companion amendment to Item C-0 (amendment 25). The amendment authorizes \$44.3 million in VCBA bonds as part of the proposed additional \$55 million supplant of capital projects. An additional amendment 33 for Item C-181.10 authorizes the remaining \$10.7 million as VPBA bonds.

**Amendment No. 36**  
**Item 3-3.04 - Interest Earnings**  
**Eliminate Taking Interest from the State Asset Forfeiture Fund**

**General Assembly Action:** No action. The affected transfer was included in the Governor's introduced budget.

**Governor's Action (Technical):** The proposed amendment eliminates the transfer of interest from the Virginia State Police's State Asset Forfeiture Fund. Asset forfeiture funds are typically awarded to the Virginia State Police as a component of federal or state court settlements or convictions. The federal Department of Justice's regulations dictate how these asset forfeiture funds may be used. Violations of the Department of Justice's regulations can result in a prohibition against receipt of federal asset forfeiture funds and other penalties. The proposed elimination of this transfer should not affect the total amount of interest earnings that will be transferred to the general fund, which is estimated to be \$12.0 million each year.

**Amendment No. 37**  
**Item 4-1.02 - General Provisions**  
**Language - Redefine Definition of Withholding of Spending Authority**

**General Assembly Action:** Amended language in the General Provisions, as introduced, governing the withholding of spending authority by the Governor, consistent with previously adopted language in Chapter 847.

**Governor's Action (Technical):** The proposed amendment would clarify that in addressing a declared revenue shortfall that a budget reduction plan will not be the sole basis for withholding spending authority. The intent of the Governor's language is to provide flexibility to implement alternative savings options after agency reduction plans have been submitted.

**Amendment No. 38**  
**Item 4-1.06 - General Provisions**  
**Language - Eliminate Concurrence of Auditor of Public Accounts for  
Pre-July 1st Disbursements Made by State Comptroller**

**General Assembly Action:** Adopted previously existing language requiring the involvement of the Auditor of Public Accounts in the disbursement of funds by the State Comptroller against a subsequent fiscal year's appropriations prior to July 1.

**Governor's Action:** The proposed amendment replaces the requirement for “written concurrence of” with “notification to” the Auditor of Public Accounts.

**Notes:**

- The Governor’s amendment seeks to address concerns on the separation of powers between the executive and legislative branches.

**Amendment No. 39**

**Item 4-2.02 - General Provisions**

**Language - Provide Exemption for VRS from the Requirement to Deposit Settlements in Favor of the Commonwealth into the General Fund**

**General Assembly Action:** Added language to the General Provisions stating that all settlements in favor of the Commonwealth were to be deposited to the general fund unless otherwise required in order to comply with federal or state law, regulation, court order, or court rule. Additional exceptions were included for any settlement of \$250,000 or less in value, any settlement for which the entire amount was for services provided or for property sold or provided under contract, and settlements pursuant to the Virginia Consumer Protection Act and Virginia Antitrust Act.

**Governor's Action (Technical):** The proposed technical amendment exempts the Virginia Retirement System from the requirement to deposit its settlements in the general fund.

**Notes:**

- The Virginia Retirement System’s settlements are governed by federal tax laws and IRS regulations, so all settlements on the retirement system’s behalf must be used for the sole benefit of its members.

**Amendment No. 40**

**Item 4-6.01 - General Provisions**

**Language - Eliminate Restrictions on Post-Session Cabinet Appointment Powers of the Governor**

**General Assembly Action:** Restored previously existing language specifying that candidates for gubernatorial cabinet appointments cannot be withdrawn from consideration by the General Assembly only to be subsequently appointed to those cabinet positions following the General Assembly’s adjournment.

**Governor's Action:** The proposed amendment would eliminate the language prohibiting the use of recess appointments by the Governor to avoid the possible rejection of a cabinet nominee by the General Assembly.

**Amendment No. 41**  
**Item 4-6.01 - General Provisions**  
**Language - Salary Differential for Faculty at Northern Virginia Community College**

**General Assembly Action:** No action.

**Governor's Action (Technical):** The proposed amendment clarifies that an eight percent salary differential is to be paid to faculty at Northern Virginia Community College.

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

## HB 499/SB 246

### Involuntary Commitment; Establishes New Standard for Outpatient Commitment

**General Assembly Action:** Approved omnibus legislation changing the criteria for emergency custody orders (ECOs), temporary detention orders (TDOs), involuntary commitment, and outpatient treatment orders, including how these criteria are applied to jail inmates and prisoners. The legislation established additional requirements for mandatory outpatient mental commitment, including requirements for treatment plans, community services board (CSB) involvement and monitoring, and court proceedings. In addition, the legislation addressed health care provider disclosure of information and immunity, qualifications and prescreening by independent examiners, prescreening by CSB employees, extension of ECOs for an additional two-hour period, release of a person detained under a TDO, factors that may be considered when determining whether probable cause exists to issue an emergency custody order or temporary detention order, and factors that must be considered prior to entry of an involuntary commitment order or mandatory outpatient treatment order.

**Governor's Action (Technical):** The Governor proposes several technical amendments primarily concerning the procedures guiding mandatory outpatient treatment. The first amendment clarifies that if the CSB responsible for developing the comprehensive mandatory outpatient treatment plan determines that the services necessary for the treatment of the person's mental illness are not available or cannot be provided, that the CSB will notify the court within five *business* days of the entry of the order, instead of within five days. Three amendments change a reference for general district court to district court. One amendment clarifies that "mandatory treatment order" refers to the "mandatory *outpatient* treatment order." Another amendment replaces an erroneous Code section reference regarding the examination required for the commitment hearing. An additional amendment to SB 246 cleans up the catch line in the bill by deleting an unneeded Code section citation.

## HB 538 Commercial Dog Breeding Operations; Penalty

**General Assembly Action:** Adopted legislation regulating so-called “puppy mills” and dog breeding operations.

**Governor's Action (Technical):** Proposes a number of amendments, largely technical, which correct and clarify the legislation, as follows:

- Corrects a reference to “chapter” to read “section.”
- Inserts an additional reference to “State Veterinarian.”
- Corrects a reference to “chapter” to read “article.”
- Moves the effective date of the legislation back from July 1, 2009 to January 1, 2009.
- Eliminates the second enactment clause which stipulates that the Act will only go into effect if funding is provided. Funding was included in the Appropriations Act, as adopted.

## HB 819 Continuing Care Retirement Communities; Medical Assistance

**General Assembly Action:** Approved legislation effective on or after July 1, 2010, which permits a nursing facility in a continuing care retirement community (CCRC) in Planning District 8, which does not have a Certificate of Public Need, to participate in the Medicaid program under certain circumstances. First, the facility may not be operating under an open admissions period. Second, any patients who qualify and receive Medicaid covered nursing home services must have been residents of the CCRC for at least three years. Not more than 10 percent of the facility may be receiving benefits at any given time. Finally, residents who qualify and receive Medicaid must have exhausted any refundable entrance fee paid on their behalf for their care at the CCRC. The legislation clarifies that it does not impact nursing facilities in CCRCs that are already certified for participation in the Medicaid program prior to July 1, 2010. The legislation bill also allows CCRCs to be exempt from certificate of public need requirements as long as no resident receives federal or state public assistance funds during an open admissions period. The Board of Health is required to promulgate regulations to implement the legislation.

**Governor's Action:** The Governor proposes an amendment which would strike the language requiring the Board of Health to promulgate regulations to implement the bill’s provisions.

## HB 931/SB 562

### Manufacturing, Selling, Giving, Distributing of Methamphetamine; Penalty

**General Assembly Action:** Approved legislation increasing the penalties associated with the manufacture, sale, distribution, or possession with the intent to distribute methamphetamine. The legislation specifies that any person who manufactures, sells, gives, distributes, or possesses with intent to distribute 28 grams or more of a substance containing detectable amounts of methamphetamine is guilty of a felony punishable by a fine of up to \$500,000 and imprisonment of not less than five nor more than 40 years, with a three-year mandatory minimum sentence. If the amount of methamphetamine is equal to 227 grams or more, the person is guilty of a felony punishable by a fine of not more than \$1.0 million and imprisonment for not less than five years nor more than life, with a five-year minimum sentence. The General Assembly included \$260,310 from the general fund in the first year to accommodate the expected increase in the state prison population associated with this legislation.

**Governor's Action (Technical):** Proposes a technical amendment eliminating a third enactment clause attached to House Bill 931 and Senate Bill 562. This third enactment clause had required a general fund appropriation to be included in the budget adopted by the 2008 Session of the General Assembly for this legislation to become effective. As mentioned above, that appropriation was included in the budget adopted by the 2008 General Assembly.

## HB 1442

### DUI Ignition Interlock Limitations

**General Assembly Action:** Approved legislation requiring the installation of an ignition interlock system on any vehicle driven by a person, who after having been convicted of driving under the influence of drugs or alcohol, violated any of the conditions of a restricted license. The legislation also prohibited any person convicted of driving under the influence of drugs or alcohol from operating a school bus or school vehicle.

**Governor's Action:** The Governor proposes an amendment which would strike the language regarding the imposition of an ignition interlock system for any violation of the conditions of a restricted license.

## SB 62

### Voter Registration, Procedures for Applications and Receipts

**General Assembly Action:** Approved legislation which provides that the state form for the application to register to vote shall contain a receipt that will be given to the applicant by any



person accepting the application. The receipt states the name of the office or person accepting the application, the date accepted, and a phone number that the applicant may call to verify that he is registered. The requirements pertaining to the receipt are not applicable when the applicant mails his application directly to a general registrar or the State Board of Elections.

**Governor's Action:** The Governor proposes technical amendments which are intended to clarify the language in the bill, state that the receipt is also not necessary if the form is either mailed to or completed in the office of a general registrar or the State Board of Elections. The Governor's amendment also includes a clause stating that applications that have already been printed may continue to be used until their supply is exhausted.

## SB 116

### Department of Motor Vehicles Service Charges

**General Assembly Action:** Approved legislation extending the validity period for driver's licenses from five years to eight years, consistent with the newly released regulations under the federal Real I.D. Act.

**Governor's Action:** The Governor proposes an amendment which would stipulate that persons subject to the sex offender and crimes against minors registry act would continue to be required to renew their driver's licenses every five years.

## SB 472

### Licensure of Group Homes and Residential Facilities for Children

**General Assembly Action:** Approved legislation eliminating the interdepartmental regulation of children's residential facilities and group homes. The legislation requires the Departments of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS), Social Services (DSS), and Juvenile Justice (DJJ) regulate and license the children's residential facilities and group homes for which they are the primary licensing agency. Each agency would be responsible for performing its own background checks for employees working at children's residential facilities and group homes. The Department of Education would only license the educational programs in children's residential facilities and group homes. DMHMRSAS, DSS and DJJ are required to promulgate regulations to implement the act by October 31, 2009; however, the interdepartmental regulations remain in place until the agencies promulgate their regulations.

**Governor's Action (Technical):** The Governor proposes two amendments clarifying that DJJ must conduct background checks for any individual who volunteers at a community group home or other residential care facility on a regular basis and who will be *alone* with a juvenile in the

performance of his duties, or who provides contractual services directly to a juvenile in a community group home or other residential care facilities on a regular basis and will be *alone* with a juvenile in the performance of his duties.