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# **Summary of the “American Recovery and Reinvestment Act of 2009” as Adopted by the United States Congress on February 13, 2009**

**House Appropriations Committee  
February 16, 2009**

**House Appropriations Staff**

# Overview: American Recovery and Reinvestment Act of 2009

- American Recovery and Reinvestment Act of 2009
  - House and Senate passed the conference version of the legislation on Friday, February 13
  - Signed by the President on February 17
- Final bill includes \$787 billion in spending increases and tax reductions intended to spur economic growth
  - \$463 billion in spending
  - \$324 billion in tax relief and tax provisions affecting payments to the states
- The majority of funding is distributed through existing federal funding formulas and to existing federal programs
- Information still being disseminated
  - Because the “conference” was so rapid, explanatory documentation is slim
  - Working with NCSL, NGA, NASBO and Governor’s office to gain interpretations of many items included in the bill

# American Recovery and Reinvestment Act of 2009 – Virginia's Share

- Based on initial reports of the Conference report, Virginia would receive funding totaling about \$4.6 billion over approximately two years, exclusive of the tax provisions and payments to individuals (i.e. unemployment benefits, Pell grants, etc.)
- Largest program allocations include:
  - State Fiscal Stabilization Fund
  - Medicaid FMAP increase
  - K-12 funding
  - Energy-related programs
  - Transportation and other infrastructure improvements
- In general, the funding is available upon passage of the legislation, through September 30, 2010
  - However, many programs have specific eligibility periods and must be analyzed on a program by program basis
  - For example, Medicaid match looks back to October, 2008

# American Recovery and Reinvestment Act of 2009 – Virginia's Share

- About 15% of the funding, or \$120 billion, is being used for infrastructure-type improvements
- The majority of the funding is, in essence, one-time infusions of funding to existing operating programs
  - For example, funding flows through existing homeless shelter grants, Title I, special education, child care and development block grants, and workforce investment act formulas
- It appears that state discretion with regards to funding distribution is limited to:
  - State Fiscal Stabilization Fund
  - Highway apportionments
  - Medicaid FMAP
- Virginia could use the FMAP and the flexible portion of the state fiscal stabilization fund to offset the revenue reduction announced today
  - Also will be used to backfill Medicaid to cover amounts assumed in introduced budget from failed cigarette tax increase and revised Medicaid utilization estimate

# State Fiscal Stabilization Fund

- One of the largest single spending items is a \$53.6 billion State Fiscal Stabilization Fund
  - \$5.3 billion each year is taken off-the-top and set aside for state grants and administration and oversight
  - The remaining \$48.3 billion is distributed among the states as follows:
    - 61 percent on the basis of school-age population (5-24)
    - 39 percent based on total population
- Virginia's share is estimated to total \$1.3 billion over the two year period
  - Consists of two funds: the Education Fund and the Flex Fund
  - Estimate of Virginia's share does not reflect receipt of any of the competitive grant funding

# State Fiscal Stabilization Fund

- Uses of the funding are prescribed as follows:
  - 81.8 percent for K-12 and higher education (Education Fund)
    - This represents approximately \$1.0 billion (about \$492 million per year for FY 10 and FY 11)
    - On the higher education side, funds are to be used to mitigate in-state tuition and fee increases
- Based on our preliminary analysis, the funds would be used to restore back to the greater of FY 2008 or FY 2009 levels
  - If funds are insufficient to restore to these levels, the legislation directs that the funds be allocated in proportion to the relative shortfall in state support for each area

# Education Fund – State Requirements

- To be eligible for funding, each State must make 5 assurances:
  - Maintenance of Effort (K-12 and Higher Education): States are required to provide funding to elementary and secondary education for FY2009, FY 2010, and FY 2011 to at least their FY 2006 funding levels
  - Achieving Equity in Teacher Distribution (K-12 only):
    - Each State will demonstrate action to improve teacher effectiveness in order to address any inequities in the distribution of highly qualified teachers between high- and low-poverty schools
    - Ensure that low-income and minority children are not taught at a higher rates than other children by inexperienced, unqualified, or out-of-field teachers
  - Improving Collection and Use of Data: State will establish a longitudinal data system (K-12 only)
  - Standards and Assessments (K-12 only):
    - State will improve the quality of their academic assessments it administers
    - Include special education and ESL students in state assessments
    - Improve state academic content standards and student achievements
  - Supporting Struggling Schools (K-12 only): States will provide assurances that efforts are made to support provisional schools

# Education Fund

- Based on this analysis, the following K-12 reductions would be restored to the FY 09 levels (exclusive of technical adjustments such as ADM and sales tax):
  - Support position ratio cap in the budget as introduced by the Governor
  - School construction allocation
  - Restorations are estimated at approximately \$370 million per year
- Higher education also would be restored to the FY 2009 levels which result in an allocation of about \$120 million per year
  - This is based on the amended budget for FY 2009
- These funds are temporary and thus should be appropriated through a central account in order to maintain the identity of the funds as federal and one-time
  - This allows for easier tracking of the funds for reporting purposes
  - It will also ensure that the general fund budget remains structurally balanced



# Flex Fund

- Virginia's remaining 18.2 percent of State Fiscal Stabilization funding is estimated at \$219.1 million and can be used for the following:
  - Restoration of any government service (to include K-12 and higher education)
  - Modernization, renovation and repair of public facilities including public schools
- Because of their temporary nature, the General Assembly may wish to use these dollars for one-time, non-recurring expenses

# Other K-12 Funding: Title I

- Title I: Education for the Disadvantaged - \$13.0 billion included in the Conference report
  - \$5.0 billion for targeted grants
  - \$5.0 billion for education finance incentive grants
  - \$3.0 billion for school improvement grants
  - 50% of the funding is available July 1, 2009, with remainder available July 1, 2010
    - Each year's allocation is available for 15 months – through the end of the next federal fiscal year
- Virginia's estimated allocation is \$202.8 million
- Each local division must report its per-pupil expenditures from state and local sources for the 2008-2009 year by December 1, 2009 to its State Department of Education
- Each State Education agency must report the locality data by March 31, 2010 to the U.S. Secretary of Education
- If a state reaches its maximum allocation, provision is made for the reallocation of funds to other states
- No new or additional flexibility is provided for a state to meet the existing federal Maintenance of Effort requirements

## Other K-12 Funding: Special Education

- IDEA: Part B - \$11.3 billion included in Conference report
  - \$5.65 billion available from July 1, 2009 to September 30, 2010
  - \$5.65 billion available from July 1, 2010 to September 30, 2011
- Virginia's estimated allocation is \$294.9 million
  - About \$147.8 million each year
- If a state reaches its maximum allocation, any remaining funds will be reallocated to other states
- No new or additional flexibility is provided for a state to meet the existing federal Maintenance of Effort requirements

# School Improvement Programs

- Title II: Education Technology State Grants - \$650 million
  - Split into two equal allocations, available on July 1, 2009 and July 1, 2010
  - Virginia's estimated allocation is \$10.7 million
- Title VII: McKinney-Vento Homeless Assistance Act - \$70 million for the education of homeless students
  - Each state's allocation will be in proportion to the number of homeless students identified by the state relative the number of such children identified nationally during the 2007-2008 year
    - State allocations not available yet
  - Funds will be allocated to states within 60 days of the enactment of this Act
  - States will distribute funds within 120 days after receiving its grant
- School Lunch Program - \$89.9 million
  - Funding earmarked for cafeteria equipment needs
  - Virginia's estimated allocation is \$2.2 million

# Overview - Medicaid Provisions

- Medicaid relief totals \$87 billion over 27 months for the period of October 1, 2008 to December 31, 2010
- Increases the federal medical assistance percentages (FMAPs) for state Medicaid programs by 6.2%
- Provides an additional FMAP adjustment based on rising state unemployment rate
  - 5.5%, 8.5% or 11.5% FMAP adjustment based on change in unemployment rates
  - Formula for calculating unemployment bonus changed
  - State match plus 1/2 of the FMAP percentage increase multiplied by the high unemployment percentage point adjustment equals the unemployment increase
- Hold states harmless from a decline in their current FMAP
- Requires states to maintain Medicaid eligibility as of July 1, 2008
- Option to extend transitional Medicaid for those leaving welfare (TANF)

## Medicaid - continued

- Virginia is estimated to receive \$1.4 billion through December 2010
  - \$387 million in FY 2009
  - \$627 million in FY 2010
  - \$400 million in FY 2011
- Virginia would likely be eligible for a 5.5% unemployment adjustment
  - Weighted FMAP in FY 2009 would be 56.85%
  - Weighted FMAP in FY 2010 would be 60.19%
- New match rate would also apply to Title IV-E foster care and adoptions
  - Does not apply to children's health insurance FMAP or Disproportionate Share payments
- Prompt payment requirement for clean claims
  - 90% of clean claims must be paid within 30 days of receipt, 99% within 90 days of receipt
- Increase in Medicaid DSH allotments by 2.5% in FY 09 and FY 10

## Impact of Medicaid Requirements

- Virginia may need to revise the following eligibility changes proposed by the Governor in HB 1600 to qualify for FMAP increase (impact of \$20.9 million GF)
  - Change in determining the cost effectiveness provision for waiver recipients: \$9.2 million GF
  - Cap on enrollment in the Elderly and Disabled Consumer Direction Waiver program: \$5.9 million GF
  - 2009 enrollment cap in the Mental Retardation Waiver program (200 slots beginning April 1, 2009): \$5.8 million GF
- Virginia may also need to revise following provisions proposed by the Governor in HB 1600, so as not to be in violation of increasing matching requirements on localities
  - Imposition of a 5.5% assessment on of ICF-MR providers: \$7.1 million GF
  - Retention of 5% of funds claimed for school Medicaid services: \$516,164
- CMS believes Virginia will also need to revise the method used to count life estates as a resource in determining Medicaid eligibility
  - Passed by the 2008 General Assembly, effective July 1, 2008 but not implemented until August 2008
  - No dollar savings were assumed with this change

# Social Services Programs

- Temporary Assistance to Needy Families (TANF)
  - Provides \$5.0 billion for a new emergency contingency fund for FY 2009 and FY 2010 for increased caseloads and expenditures
  - Federal grant is 80% of qualified state expenditures
  - Can be used for cash benefits, short-term non-recurrent benefits (diversionary assistance) or subsidized employment
  - Based on quarter by quarter assessment of caseload and benefit increases above the corresponding quarter in the base year
  - Base year is the lesser of FY 2007 or FY 2008
- Child Support Enforcement
  - Provides \$1.0 billion to allow states to use their federal incentive payments to match federal child support dollars through September 30, 2010
  - Virginia estimated to receive \$40.4 million over 2-year period



## Child Care and Early Childhood Education

- Provides \$2.0 billion for the Child Care Development Block Grant
  - Would flow through existing formula as discretionary funding which doesn't require state match
    - Must be obligated within 2 years and spent within 3 years
  - Cannot supplant state general funds for child care assistance
  - Reserves small amount for quality initiatives, including efforts to increase quality of infant and toddler care
  - Virginia estimated to receive \$37.9 million
- Provides \$2.1 billion for Head Start and Early Head Start
  - \$1.0 billion for Head Start
  - \$1.1 billion for Early Head Start
    - Up to 10% for training and technical assistance and up to 3% for monitoring programs
  - Virginia estimated to receive \$11.2 million

## Other Health and Human Services

- Provides \$500 million for Part C Early Intervention for Infants and Toddlers
  - Virginia estimated to receive \$11.8 million over 2-year period
- Provides \$100 million for elderly nutritional services provided primarily through Area Agencies on Aging
  - Funding provided distributed by formula
  - Congregate meals and home delivered meals
  - Virginia estimated to receive \$3.0 million over a 2-year period

# Other Health and Human Services

- Provides almost \$2.0 billion for capitalization grants under the Safe Drinking Water Revolving Fund
  - No state match required
  - 50% must be used to provide assistance to eligible recipients in the form of additional subsidies, forgiveness of principal, negative interest loans and grants
  - Funds may be used to buy, refinance or restructure debt obligations where incurred on or after October 1, 2008
  - 20% to be used to address green infrastructure, water efficiency improvements or other environmentally innovative activities
  - Virginia estimated to receive \$20.9 million
- House provides \$1.0 billion for Prevention and Wellness Fund
  - \$650 million for prevention and wellness activities that address chronic disease rates as determined by the Secretary of Health and Human Services
  - Includes \$300 million for the Centers for Disease Control immunization programs
  - \$50 million to states for infections reduction strategies
  - Unclear how much Virginia would receive

# Food and Nutrition Programs

- Food Stamp Program (Supplemental Nutrition Assistance Program or SNAP)
  - Provides \$20 billion, most of which would provide a 13.6% increase to maximum food stamp benefits, effective April 2009
  - All food stamp households will benefit from the increase
  - Provides \$290.5 million to states for administration of the changes and to manage rising caseloads
  - Suspends the 3-month time limit on assistance that affects unemployed childless adults for 18 months
  - Virginia estimated to receive \$355 million for benefits and \$5.3 million for administration
    - Affects about 594,000 participants
- Women, Infants and Children (WIC) program
  - Provides \$500 million contingency fund to ensure WIC program will have adequate funds to meet increased participation and food costs
  - \$100 million set aside for breastfeeding women, infants, and children between ages 1 and 5

# Rehabilitation Services

- House provides \$540 million for Vocational Rehabilitation State Grants
  - Distributed by formula grants to states
  - To be used to address waiting lists for services
  - Virginia estimated share is \$10 million
- Provides \$140 million for Independent Living
  - Population based formula
  - \$18.28 million for state grants
  - \$87.5 million for Centers for Independent Living
  - \$34.3 million for services for older blind individuals
  - Estimates not yet available for Virginia

# Stimulus Bill Summary – Tax Provisions

- Tax provisions included in the conference report total about \$324 billion
  - \$26.1 billion more than the House bill but \$67.3 billion less than the Senate's version
- No analysis of the impact of the tax cuts on Virginia revenues has been performed, however, because Virginia has fixed date conformity there would be no revenue loss unless the General Assembly chooses to conform to the new provisions next year
  - HB 1737 moves Virginia's conformity date to December 31, 2008
  - It is not an all-or-nothing proposition – Virginia could chose to adopt partial conformity

# Stimulus Bill Summary – Individual Tax Provisions

- Tax provisions impacting individuals total about \$252.9 billion and include the following:
  - “Making Work Pay” - \$400 individual/\$800 family refundable tax credit
  - College Education Tax Credit – 100% of up to \$2,000 for tuition/expenses, 25% for next \$2,000
  - First-Time Home Buyer Tax Credit – Up to \$8,000, eliminates repayment, extends to December 1, 2009
  - Sales Tax and Interest Deduction for New Car Purchases
  - Extension of AMT Relief for 2009 – Increases amount to \$70,950 for joint filers, \$46,700 for individuals
  - Addition of Computers as Qualified Items under 529 Plans
  - Earned Income Tax Credit Increase
  - Child Credit – increases eligibility
  - Temporary Suspension of Taxation of Unemployment Benefits

# Stimulus Bill Summary – Business Tax Provisions

- Business Tax Provisions
  - Total about \$20 billion and include the following:
    - Delayed Recognition of Certain Cancellation of Debt Income
    - Extension of Bonus Depreciation
    - Extension of Enhanced Small Business Expensing
    - 5-Year Carryback of Net Operating Losses
    - Hiring Incentives – Veterans and Disconnected Youth
    - Repeal of Treasury Section 382 Notice and Clarification of the Application of it to Companies Restructured under TARP
- Manufacturing Recovery Provisions of \$1.8 billion
  - Includes expansion of manufacturing definition under the industrial development bonds and establishes a new 30% investment tax credit for manufacture of advanced energy property



# Stimulus Bill Summary – Other Tax Provisions

- Energy Tax Policy Changes total about \$20 billion and include the following:
  - Extension and modification of renewable energy tax credit
  - Allowance to claim investment tax credit in lieu of production tax credit
  - Remove dollar limits on certain energy credits
  - Clean Renewable Energy Bonds (CREBs), Qualified energy conservation bonds
  - Tax credits for energy-efficient improvements to existing homes and alternative fuel pumps, and plug in electric vehicles
  - Parity of tax treatment for transit benefits
- Infrastructure Financing Tools totaling \$19.4 billion
  - Majority of costs associated with the “Build America Bonds” through the federal tax exemption for interest on municipal bonds and the creation of a new category of tax credit bonds for public schools

# Transportation Infrastructure

- The conference agreement includes a total of \$48 billion for agencies in the transportation secretariat, including:
  - \$27.5 billion for highways
  - \$7.7 billion for mass transit
  - \$1.3 billion for airports
  - \$8.0 billion for high speed rail
  - \$1.3 billion for Amtrak
  - \$1.5 billion discretionary grants for surface transportation
- Initial estimates are that Virginia would receive the following through formula allocations:
  - \$694.5 million for highways
  - \$111.9 million for transit capital grants
  - \$4.2 million for fixed guideway modernization

# Highway Program Funding

- The \$27.5 billion in highway funding is 8% less than had been included in the House bill
  - Virginia's share is \$694.5 million for highways
- Transportation funds are all 100% federal funding – with no state/local match required
- Legislation has a maintenance of effort requirement
  - Governor must certify the amount of funds the State planned to expend as of the date of enactment of this Act through September 30, 2010
  - Because of this, CTB met on Friday to reduce the Six Year Program to reflect the December revenue reforecast prior to enactment of the legislation

# Highway Program Funding

- Allocation of Highway Funds within state is:
  - 3% set aside for enhancement projects
  - 30% through the STP population suballocation distributions
- Priority is to be given to projects that:
  - Can be completed within 3 years
  - Are located within “economically distressed areas”
- Language requires the US Department of Transportation to make apportionments within 21 days of enactment
  - If less than 50% of any state’s funds are obligated within 120 days, this funding will be redistributed among other states
  - The House bill had required 90 days, so this is an improvement
  - Funds remain available through September 30, 2010

# Transit Funding

- It includes \$6.9 billion in transit capital assistance grants, Virginia's share of which is \$111.9 million
  - \$93.3 million is set aside for urban areas
  - \$18.6 million for rural areas
  - Grant funds would be distributed using the existing formulas for these two programs
- Like highway funds, transit funds all are 100% federal, with no match required and you must enter into contracts for use of 50% of the funds within 180 days
- Funds are to be allocated within 7 days of enactment
- Other transit funding includes:
  - \$750 million for fixed guideway modernization to be distributed under existing formula - \$4.2 million for Virginia
  - \$1.5 billion for discretionary surface transportation grants

# Housing and Energy Programs

- HOME Program: Provides \$2.3 billion in block grant funds for states to create affordable housing for low income households
  - Virginia expected to received \$34.4 million
- Homelessness Prevention Programs: Provides \$1.5 billion for emergency shelter grants, rental assistance and stabilization services
  - Virginia will receive \$24.9 million
- Agreement includes \$5 billion for the Energy Department's Weatherization Assistance Program
  - Measure raises the eligibility limit to 200% of federal poverty level and increases the maximum amount per residence to \$6500
  - Virginia is expected to receive \$100 million
- State Energy Program
  - \$3.1 billion of which Virginia is expected to receive \$69.3 million
  - Provides grants to states to fund state government energy technology research and development programs
  - Funding conditioned upon Governor's notification to Secretary of Energy that certain utility regulatory policies encouraging efficiency improvements and energy-efficient building codes have been adopted

# Broadband Funding

- Provides \$7.2 billion for grants to deploy broadband in underserved and unserved areas
- Of that total, \$4.7 billion would be for a new grant program run by the National Telecommunications and Information Administration (NTIA) and \$2.5 billion would flow through the existing program run by the Department of Agriculture's Rural Utilities Service
  - Any entity is eligible to apply for a grant, including municipalities, public/private partnerships, private companies
  - Must provide 20% of the proposed project's total cost
  - Internet service providers would be required to provide open access to broadband networks (net neutrality) built using federal funds
- In both programs, 50% of the funds must be awarded by September 30, 2009
  - This provision makes it difficult to move forward with any project not already contemplated
- Also includes \$650 million for the extension of the coupon program to purchase digital tv converters

# Unemployment and Training Programs

- \$500 million to states for administration of unemployment insurance programs
  - Will provide \$13.7 million for Virginia (unchanged from House version)
- Workforce Investment Act Funding
  - Conference report includes a total of \$3.9 billion in training programs
    - WIA Youth: \$1.2 billion
    - WIA Adult: \$0.5 billion
    - WIA Dislocated worker: \$1.2 billion
    - Dislocated worker national reserve, other youth employment training activities, and grants for training/placement in high growth emerging activities \$0.75 billion
  - Virginia would receive a total of about \$40 million among WIA funds and other employment services funding



# Clean Water Revolving Fund

- The conference report includes \$3.9 billion for state clean water revolving funds
- Virginia is projected to receive \$81.4 million
  - 50 percent of this amount must be provided to eligible recipients either through forgiveness of principle, negative interest loans, or grants
    - Virginia provides grants now for improvement of wastewater treatment plants
  - At least 20 percent of the amount must be used to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities
  - DEQ has 17 wastewater treatment plant improvement projects for which no funding mechanism now exists
  - The conference committee's report specifies that priority shall be given to projects ready to proceed within 12 months of the federal stimulus'
  - Funds are 100% federal, with no state match required

# Public Safety Allocations

- The conference committee has allocated \$2.3 billion for various public safety programs
- Virginia is projected to receive \$48.3 million from these allocations
  - \$39.4 million from Byrne Memorial Justice Assistance Grants
  - \$5.5 million to prevent violence against women
  - \$1.9 million to prevent internet crimes against children
  - \$1.5 million to assist victims of crime
- Byrne Memorial Justice Assistance Grants
  - Byrne grants can be used to support a variety of law enforcement purposes, primarily targeting violent crime, such as: drug control, drug treatment, crime prevention, anti-terrorism activities, victim witness programs, improving information systems, and child abuse prevention programs
  - Some of Virginia's allocation will go directly to some of the Commonwealth's larger localities