



# COMMONWEALTH of VIRGINIA

## Office of the Governor

Robert F. McDonnell  
Governor

April 13, 2010

TO THE HOUSE OF DELEGATES

HOUSE BILL 29

I approve the general purpose of this bill, but I am returning it without my signature with the request that 14 amendments be adopted. While these amendments are necessary, I want you to know that I very much appreciate the fiscally responsible manner in which you acted on HB 29. Your efforts increase the likelihood that the Commonwealth will close the fiscal year in a manner that will enable our financial statements to show no further deterioration in our cash position.

The amendments I am proposing address issues that have largely come to my attention since you adjourned on March 14. First, I applaud your dedication to our hardworking state employees through the adoption of a contingent three percent bonus payable in December 2010. To help state employees and better their chances to receive this bonus, I propose to broaden this provision through an amendment that will encourage efficiency in the operation of our state agencies. Specifically, I propose language to allow discretionary year-end general fund operating balances recommended for reversion to be added to surplus in general fund revenue for the purpose of determining whether the threshold for paying the bonus has been met. State employees deserve this bonus and with my amendment, they will have the opportunity to help themselves by saving money in their agencies that can be used to fund the bonus. This is a win-win incentive. It is good for state employees and it is good for state government by reducing typical end of fiscal year spending.

In addition, HB 29, as enrolled, contains provisions related to the Virginia Information Technologies Agency (VITA). These current provisions do not reflect the significant advancements that have been made in this agency and state information technology services since you adjourned. These advancements include the appointment of a new Chief Information Officer and agreed upon contract revisions between VITA and private sector contractor Northrop Grumman (NG).

Given these events, I am proposing modest changes to the reporting language in HB 29 concerning VITA/NG contract modifications. I believe my proposed changes are consistent with legislative intent embedded in the VITA restructuring legislation you passed and that they will

provide relevant information in a timely manner to the General Assembly regarding our progress in implementing the advances in the amended contract. I also believe my changes will provide the needed significant flexibility for career professionals to manage ongoing information technology functions on a daily basis.

In addition to these language changes, I am offering an amendment to fully restore the fiscal year 2010 funding to assist state agencies in paying their existing bills for information technology services. Without this additional funding, state agencies will have insufficient resources to pay their entire information technology charges this fiscal year. This will subsequently impact VITA's cash flow and ability of the state to meet its contracted obligations to pay for information technology services. Be assured of my shared commitment to personally insure improved quality of services at both VITA and NG.

A limited number of spending, savings, and technical amendments make up the remainder of the proposed amendments. A complete listing of my proposed amendments is attached to this letter. The combined effect of these amendments will reduce the unappropriated general fund balance by \$8.7 million on June 30, 2010. This reduction is offset by additional resources and savings in HB 30 during the 2010-12 biennium.

I respectfully request your adoption of these amendments, so that they may be incorporated into the Appropriation Act for the remainder of fiscal year 2010.

Respectfully submitted,



Robert F. McDonnell

Attachments

***Governor's 2010 Reconvened Session Executive Amendments (HB 29)***

**Page 1 Revenue Adjustments**

**Item 0**

**Revenues**

Revenues

Language

**Language:**

Page 1, line 44, strike "\$93,033,460" and insert "\$93,633,460"

Page 1, line 44, strike "\$614,070,473" and insert "\$614,670,473"

Page 1, line 47, strike "\$13,987,602,322" and insert "\$13,988,570,419"

Page 1, line 47, strike "\$28,601,541,609" and insert "\$28,602,509,706"

Page 1, line 52, strike "\$569,487,675" and insert "\$569,585,896"

Page 1, line 52, strike "\$976,377,519" and insert "\$976,475,740"

Page 2, line 5, strike "\$14,757,456,537" and insert "\$14,757,922,855"

Page 2, line 5, strike "\$30,861,661,872" and insert "\$30,862,128,190"

Page 2, line 27, strike "\$39,248,241,701" and insert "\$39,248,708,019"

Page 2, line 27, strike "\$83,041,253,222" and insert "\$83,041,719,540"

**Explanation:**

(This amendment adjusts general fund resources on Page 1 of the act to include: \$0.9M for prior year recovery from the Richmond Department of Social Services (\$0.6M) for restoration of an erosion project at the Department of Juvenile Justice \$0.1M for Dominion Power rate savings

It is the intent of the General Assembly that this amendment will be revised, if necessary, during re-enrollment based upon actions on these separate resource amendments at the 2010 reconvened session.)

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**Clarify the start date for the jail inmate per diem rate adjustment**

**Item 70**

**Administration**

Compensation Board

Language

**Language:**

Page 20, line 20, after "inmates" insert:

"being held in a local correctional facility on or after March 1, 2010,"

**Explanation:**

(This amendment clarifies the implementation date of the adjusted per diem rates that will be used to pay localities for housing local and state responsible inmates.)

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*Governor's 2010 Reconvened Session Executive Amendments (HB 29)*

**Cost of May municipal elections**

**Item 89**

<b>Administration</b>	<b>FY 08-09</b>	<b>FY 09-10</b>
State Board of Elections	\$0	\$80,000 GF

**Language:**

Page 40, line 42, strike "\$13,777,928" and insert "\$13,857,928".

Page 41, strike lines 14 through 15.

**Explanation:**

(This amendment delays the requirement for municipalities to reimburse the State Board of Elections (SBE) for any costs incurred by May elections. This gives localities more time to alter their local election schedule to avoid having to reimburse SBE for costs it incurs for May elections.)

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**Allow the transfer of land to agency foundation**

**Item 235**

**Education: Other**

Frontier Culture Museum of Virginia Language

**Language:**

Page 115, line 39, strike "Not set out" and insert:

"Museum and Cultural Services (14500)	\$2,257,964	\$2,258,464
Collections Management and Curatorial Services (14501)	\$179,066	\$179,066
Education and Extension Services (14503)	\$819,390	\$819,390
Operational and Support Services (14507)	\$1,259,508	\$1,260,008
Fund Sources: General	\$1,811,671	\$1,812,171
Special	\$446,293	\$446,293

Authority: Title 23, Chapter 25, Code of Virginia.

A. Any revenue generated by the Frontier Culture Museum of Virginia from the development of its properties pursuant to § 23-298, Code of Virginia, may be retained by the museum to support agency operations. Such revenues shall be deposited into a special fund which shall be created on the books of the Comptroller. Amounts in this fund shall be appropriated consistent with the provisions of this act.

B. *The Governor may authorize the conveyance of any interest in property or improvements thereon held by the Commonwealth to the American Frontier Culture Foundation.*"

**Explanation:**

(This amendment allows the Governor to authorize the transfer of land between the Frontier Culture Museum and the museum's supporting foundation.)

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*Governor's 2010 Reconvened Session Executive Amendments (HB 29)*

**Update language involving infrastructure contract modifications**

**Item 434**

**Technology**

Virginia Information Technologies Agency

Language

**Language:**

Page 245, line 50, strike "an analysis of" and insert "a report detailing".

Page 245, line 51, strike "proposed".

Page 245, line 51, strike ", and" and insert ". The report shall include".

Page 246, line 1, strike "accompanying".

Page 246, line 1, strike "proposed".

Page 246, line 2, strike "with such an impact, prior to the execution of the changes." and insert:

"and shall be submitted within 30 days following the signing of the amended agreement."

Page 246, after line 2, insert:

"I. Fifteen days prior to the June 25, 2010, and Dec 31, 2010, milestones of the comprehensive infrastructure agreement, the Chief Information Officer shall provide to the Governor, the Chairmen of the Senate Finance and House Appropriations Committees, the Secretary of Technology, the Department of Planning and Budget, and the Joint Legislative Audit and Review Commission a report on activities, progress and performance related to the operational and contractual changes as outlined in Amendment 60 of the comprehensive infrastructure agreement."

**Explanation:**

(This amendment updates language requiring the Chief Information Officer (CIO) and the Secretary of Technology to provide a report of all proposed amendments or modifications to the comprehensive infrastructure agreement. The changes also require the CIO to report on activities, progress and performance related to operational and contractual changes.)

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*Governor's 2010 Reconvened Session Executive Amendments (HB 29)*

**Capture additional furlough savings**

**Item 472**

<b>Central Appropriations</b>	<b>FY 08-09</b>	<b>FY 09-10</b>
Central Appropriations	\$0	(\$470,000) GF

**Language:**

Page 264, line 26, strike ",\$951,763" and insert "\$481,763".

Page 267, line 7, strike "\$9,336,451" and insert "\$9,806,451".

Page 267, line 8, strike "the" and insert "a".

Page 267, line 9, strike "pursuant to the Governor's September 2009 Reduction Plan".

Page 267, line 12, after "the" and insert "a".

Page 267, line 12, strike "pursuant to" and insert ".".

Page 267, strike line 13.

Page 267, line 16, after "education", insert:

", agencies of the Legislative and Judicial Departments, and Independent agencies,".

**Explanation:**

(This amendment adds Legislative, Judicial, and Independent agencies to the agencies from which savings related to the one-day furlough of state employees in FY 2010 will be captured. The proposed language provides Legislative, Judicial, and Independent agencies with flexibility in regards to achieving the savings equivalent to a one-day furlough.)

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*Governor's 2010 Reconvened Session Executive Amendments (HB 29)*

**Modify potential bonus language**

**Item 472**

**Central Appropriations**

Central Appropriations

Language

**Language:**

Page 267, strike lines 37 through 44 and insert:

"Q.1. All classified employees of the Executive branch and other full-time employees of the Commonwealth, except elected officials, who are employed on June 30, 2010, and remain employed until at least December 1, 2010, shall receive a one-time bonus payment equal to three percent of base pay on December 1, 2010, contingent upon additional general fund resources equaling or exceeding \$82,200,000 from the combination of actual general fund revenue collections for Fiscal Year 2010 exceeding the official FY 2010 revenue estimate contained in the first enactment of this act and by any discretionary unspent general fund appropriations recommended by the Governor for reversion at the end of FY 2010. If the combination of additional general fund revenue collections and year-end general fund balances recommended for reversion by the Governor for FY 2010 exceed the official revenue estimate by less than \$82,200,000, the one-time bonus payment shall be prorated to a percent of base pay for the general fund payroll that equates to the amount of excess resources collected.

2. For purposes of paying the general fund share of the December 1, 2010, one-time bonus, the State Comptroller shall reserve \$82,200,000 on the balance sheet for the general fund attributable to FY 2010 general fund revenue collections in excess of the official revenue estimate and discretionary general fund balances recommended for reversion by the Governor."

**Explanation:**

(This amendment modifies language that contingently appropriates funding for an employee bonus to include year-end general fund balances recommended for reversion in the total amount used to quantify whether the trigger had been met. It also limits the bonus to classified employees and other full-time employees of the Commonwealth employed on July 1, 2010 and requires employees to remain employed by the Commonwealth on December 1, 2010 in order to receive the bonus.)

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*Governor's 2010 Reconvened Session Executive Amendments (HB 29)*

**Restore funding for increased information technology service rates**

**Item 473**

<b>Central Appropriations</b>	<b>FY 08-09</b>	<b>FY 09-10</b>
Central Appropriations	\$0	\$9,694,029 GF

**Language:**

Page 272, line 12, strike "\$43,063,921" and insert "\$52,757,950".  
Page 274, line 50, unstrike "\$19,388,058" and strike "\$9,694,029".

**Explanation:**

(This amendment restores funding for general fund supplements provided to executive agency users of VITA-provided IT infrastructure services. In fiscal years 2007, 2008, and 2009 VITA's customers used similar supplements to mitigate the impact of service rates changes, enabling them to largely avoid adverse impacts on their operating budgets. The FY 2010 supplements will likewise preserve agencies' ability to protect core mission funding, while allowing them to pay for critical IT services. Without timely and full payments from its customers, VITA's capacity to meet its contractual obligations will be jeopardized.)

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**Capture Dominion Power rate savings**

**Item 475.10**

<b>Central Appropriations</b>	<b>FY 08-09</b>	<b>FY 09-10</b>
Central Appropriations	\$0	(\$103,369) GF

**Language:**

Page 276, line 8, strike "\$20,784,363" and insert "\$20,887,732".  
Page 276, line 11, strike "\$20,784,363" and insert "\$20,887,732".  
Page 277, after line 19, insert:

"G.1. The Director, Department of Planning and Budget shall transfer to this Item, amounts estimated at \$103,369 the second year from the general fund appropriations of state agencies, representing savings resulting from a reduction in the rate charged to agencies by Virginia Dominion Power.

2. Pursuant to § 3-1.01 of this act, amounts estimated at \$98,221 the second year shall be transferred from eligible nongeneral fund accounts to the general fund, representing nongeneral fund savings associated with the reduction in the rate charged to state agencies by Virginia Dominion Power. Of this amount, \$28,122 is reserved for federal reversion upon request, to be transferred by the State Comptroller."

**Explanation:**

(This amendment captures agency savings generated from the Virginia Dominion Power rate reduction approved by the State Corporation Commission in March, 2010. Exclusions from amendment include all institutions of higher education and all transportation agencies except the Department of Motor Vehicles. Federal funds are exempted. A companion amendment in Part III captures eligible nongeneral dollars.)

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*Governor's 2010 Reconvened Session Executive Amendments (HB 29)*

**Remove transfer of Pamunkey erosion project funds**

**Item 2-0**

**Capital General Conditions**

Capital General Conditions

Language

**Language:**

Page 296, strike lines 14 and 15.

**Explanation:**

(This amendment eliminates the reversion of funding from the Pamunkey erosion project. This funding is required to complete the erosion project at the Hanover Juvenile Correctional Center. The completion of this project is necessary to ensure the Pamunkey River does not destroy buildings and fencing at the Hanover Juvenile Correctional Center. This amendment has a companion under Item C-145.05.)

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**Remove Pamunkey erosion project transfer language**

**Item C-145.05**

**Public Safety**

Department of Juvenile Justice

Language

**Language:**

Page 309, strike lines 7 through 10.

**Explanation:**

(This amendment eliminates language requiring the transfer of funding from the Pamunkey erosion project to the Central Capital Planning Fund. This funding is required to complete the erosion project at the Hanover Juvenile Correctional Center. The completion of this project is necessary to ensure the Pamunkey River does not destroy buildings and fencing at the Hanover Juvenile Correctional Center. This amendment has a companion under capital general conditions.)

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*Governor's 2010 Reconvened Session Executive Amendments (HB 29)*

**Capture Dominion Power rate savings**

**Item 3-1.01**

**Transfers**

Interfund Transfers

Language

**Language:**

Page 328, after line 25, insert:

"JJJ. On or before June 30, 2010, the State Comptroller shall transfer to the general fund \$98,221 the second year from savings associated with the reduction in the rate charged to state agencies by Virginia Dominion Power. Of this amount \$28,122 is reserved for federal reversion upon request."

**Explanation:**

(This amendment captures agency savings generated from the Virginia Dominion Power rate reduction approved by the State Corporation Commission in March, 2010. Exclusions from this amendment include all institutions of higher education and all transportation agencies except the Department of Motor Vehicles. Federal funds are exempted. A companion amendment in Central Appropriations captures general fund dollars.)

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**Modify manpower control language**

**Item 4-7.01**

**Statewide Plans**

Manpower Control Program

Language

**Language:**

Page 372, strike line 37 and insert:

"§ 4-7.00 STATEWIDE PLANS

§ 4-7.01 MANPOWER CONTROL PROGRAM

a.1. The term Position Level is defined as the number of full-time equivalent (FTE) salaried employees assigned to an agency in this act. Except as provided in § 4-7.01 b, the Position Level number stipulated in an agency's appropriation is the upper limit for agency employment which cannot be exceeded during the fiscal year without approval from the Director, Department of Planning and Budget for Executive Department agencies, approval from the Joint Committee on Rules for Legislative Department agencies or approval from the appropriate governing authority for the independent agencies.

2. Any approval granted under this subsection shall be reported in writing to the Chairmen of the House Appropriations Committee and the Senate Finance Committee, the Governor and the Directors of the Department of Planning and Budget and Department of Human Resource Management within ten days of such approval. Approvals for executive department agencies shall be based on threats to life, safety, health, or property, or compliance with judicial orders or federal mandates, to support federal grants or private donations, to administer a program for another agency or to address an immediate increase in workload or responsibility or when to delay approval of increased positions would result in a curtailment of services prior to the next

## *Governor's 2010 Reconvened Session Executive Amendments (HB 29)*

legislative session. Any such position level increases pursuant to this provision may not be approved for more than one year.

b. The Position Levels stipulated for the individual agencies within the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Department of Corrections are for reference only and are subject to changes by the applicable Department, provided that such changes do not result in exceeding the Position Level for that department.

c.1. The Governor shall implement such policies and procedures as are necessary to ensure that the number of employees in the Executive Department, excluding institutions of higher education and the State Council of Higher Education, may be further restricted to the number required for efficient operation of those programs approved by the General Assembly. Such policies and procedures shall include periodic review and analysis of the staffing requirements of all Executive Department agencies by the Department of Planning and Budget with the object of eliminating through attrition positions not necessary for the efficient operation of programs.

2. The institutions of higher education and the State Council of Higher Education are hereby authorized to fill all positions authorized in this act. This provision shall be waived only upon the Governor's official declaration that a fiscal emergency exists requiring a change in the official estimate of general fund revenues available for appropriation.

d.1. Position Levels are for reference only and are not binding on agencies in the legislative department, independent agencies, the Executive Offices other than the offices of the Governor's Secretaries, and the judicial department.

2. Positions assigned to programs supported by internal service funds are for reference only and may fluctuate depending upon workload and funding availability.

3. Positions assigned to sponsored programs, auxiliary enterprises, continuing education, and teaching hospitals in the institutions of higher education are for reference only and may fluctuate depending upon workload and funding availability. Positions assigned to Item Detail 43012, State Health Services Technical Support and Administration, at Virginia Commonwealth University are for reference only and may fluctuate depending upon workload and funding availability. Positions assigned to Item Detail 46102, Social Security Disability Determination, at the Department of Rehabilitative Services are for reference only and may fluctuate depending upon workload and funding availability.

4. Positions assigned to educational and general programs in the institutions of higher education are for reference only and may fluctuate depending upon workload and funding availability. However, total general fund positions filled by an institution of higher education may not exceed 105 percent of the general fund positions appropriated without prior approval from the Director, Department of Planning and Budget.

e. Prior to implementing any Executive department hiring freeze, the Governor shall consider the needs of the Commonwealth in regards to the safe and efficient operation of state facilities and performance of essential services to include the exemption of certain positions assigned to agencies and institutions that provide services pertaining to public safety and public health from such hiring freezes.

f.1. Full-time, part-time, wage or contractual state employees assigned to the Governor's Cabinet Secretaries from agencies and institutions under their control for the purpose of carrying out temporary assignments or

*Governor's 2010 Reconvened Session Executive Amendments (HB 29)*

projects may not be so assigned for a period exceeding 180 days in any calendar year. The permanent transfer of positions from an agency or institution to the Offices of the Secretaries, or the temporary assignment of agency or institutional employees to the Offices of the Secretaries for periods exceeding 180 days in any calendar year regardless of the separate or discrete nature of the projects, is prohibited without the prior approval of the General Assembly.

2. Not more than three positions in total, as described in subsection 1 hereof, may be assigned at any time to the Office of any Cabinet Secretary, unless specifically approved in writing by the Governor. The Governor shall notify the Chairmen of the House Appropriations and Senate Finance Committees in the case of any such approvals."

**Explanation:**

(This amendment modifies language to provide additional flexibility in regards to the implementation of administrative hiring freezes of Executive branch positions.)

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**Modify Internal Revenue Code Section 199 deduction**

**Item 5-0.00**

**Additional Enactments**

Additional Enactments

Language

**Language:**

Page 374, strike lines 18 through 28 and insert:

"5. The amount of the deduction allowed for domestic production activities pursuant to § 199 of the Internal Revenue Code for taxable years beginning on or after January 1, 2010. For Virginia income tax purposes, two-thirds of the amount deducted pursuant to § 199 of the Internal Revenue Code for federal income tax purposes during the taxable year may be deducted for Virginia income tax purposes for taxable years beginning on and after January 1, 2010;

**Explanation:**

(This amendment will maintain the § 199 deduction at the taxable year 2009 rate of six percent per year in taxable years 2010 and 2011.)

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