



COMMONWEALTH of VIRGINIA

Office of the Governor

Robert F. McDonnell
Governor

March 25, 2013

TO THE HOUSE OF DELEGATES

HOUSE BILL 1500

I approve the general purpose of this bill, but I am returning it without my signature with the request that 52 amendments be adopted. I am grateful to all members of the House of Delegates and the Senate for the excellent work you did during the session through your amendments to House Bill 1500, and your timely passage of the budget.

Specifically, the House and Senate are to be commended for placing a priority on financial liquidity, cash reserves, and the future financial health of the Commonwealth. This is demonstrated in several ways, but most notably in the dedication of \$95 million toward future required deposits to the revenue stabilization fund. Together, we will have appropriated sufficient funding in the biennium to increase the Rainy Day Fund from \$295 million to nearly \$800 million. Nothing could be more important in these uncertain economic times.

From the outset, we set clear budgetary objectives for this short session. These objectives called for new investments in transportation, public education, and water quality. I also asked you to support continued investment in higher education and job creation, which you did. Finally, I asked you to eliminate the \$45 million across-the-board budget cuts to our local governments, and to continue to work toward the full elimination of the accelerated sales tax, which is now eliminated for 98 percent of the retailers.

Throughout the 2013 General Assembly Session, you worked with each other and with me to address these challenges. Due to your cooperation, we made significant progress on all of these fronts. I know that the citizens of Virginia are most appreciative of your effort, and we are in a better place now than when we started. We jointly have had a successful session.

I think you will find a number of my amendments are either language clarifications or technical adjustments. Some of the amendments were made at the request of a legislative member or committee staff to address various issues.

Although the enrolled bill achieves most of the major objectives I requested in my introduced budget, I am returning it to you with amendments to address five overarching themes. These are: 1) continued efforts to address judicial workload and fill vacant judgeships, 2) provide general fund appropriations for select items that were funded by earmarks against dedicated funding streams, 3) a small restoration of reductions, 4) needed language changes, and 5) funding for new issues that have surfaced since you passed the budget bill in February. My spending amendments total just \$14.1 million, the smallest adjustment of my administration.

Judges

As our economy continues to recover, it is time that we move forward with filling more of the judicial vacancies that we have previously held as a means of generating savings. You approved funding for 20 vacancies in the budget. I am providing funding for those vacant positions that are 40 percent or more above the state average workload, and for those circuits and districts that have or soon will have two vacancies. My amendments propose to provide \$1.8 million to fill 11 judicial vacancies, and another \$359,170 to create a new Circuit Judge in the 15th Circuit. Together, we will have provided funding for 31 of the 49 current vacancies, meaning the faster disposition of justice.

Backfill of Supplants or Earmarks Against Dedicated Funds

In the enrolled budget, you earmarked several spending items against dedicated funding streams. While the nexus was appropriate, I am requesting that funding be provided directly from the General Fund, thus eliminating the earmark against the dedicated funding stream. An example is replacing the earmark of \$1 million against the Governor's Development Opportunity Fund for Port of Virginia Economic & Infrastructure Development Zone Grants.

I also propose providing an additional \$2 million for the Economic Contingency Fund to make up for the reductions to the Workforce Transition Act (WTA) funding that was included in my introduced budget. If the approved WTA funding falls short of the actual amount needed, the balance of the costs will have to come from Economic Contingency which is already at a very low level. This amendment simply ensures that the Economic Contingency account has sufficient balances to address that need and not endanger other unanticipated needs that it may face. If it is not needed for the specific purposes of economic contingency, the end result will be that it will not be spent.

Restoring Small Cuts

I propose restoration of \$520,000 for modeling and simulation that had been transferred to fund Cyber security. The potential for jobs and revenue growth from modeling and simulation

holds great promise for the economic future of the Commonwealth, especially as we face the potential negative aspects of reductions in federal spending in Virginia from direct cuts or through sequestration. I also propose restoration of \$481,500 for VEDP's defense industry trade initiative, which will focus on bolstering the business environment for our Virginia companies that also will be adversely affected by sequestration. This program is modeled after VEDP's successful "VALET" program. We cannot go wrong with resources that create jobs for Virginians.

Additionally, I proposed funding to reinstate an additional \$870,000 in funding of the original \$3 million that I had requested for the Center for Health Innovation Grants. These funds have already been encumbered and committed as part of our very important Medicaid reform efforts.

I also ask that you restore four law enforcement and fisheries management positions in the Virginia Marine Resources Commission at a cost of approximately \$221,500, and that you provide \$220,000 for a federal Office of Economic Adjustment matching grant for the Office of the Secretary of Veterans Affairs and Homeland Security. For the latter, we get a 10-to-1 match of federal funds for our small state match.

I also believe that we need to restore \$2 million in funding to the plan for Strategic Compensation for Teachers to ensure that we have enough funding to make this effort viable across the entire state for any school division that opts to participate. Even with this adjustment, the program will be just one-half of what I originally requested. This is the year that we are finally addressing teacher compensation with a two percent raise, and strategic compensation helps even more with locally prescribed goals for excellence.

Finally, from the beginning of our administration, I have focused on improving prisoner re-entry, and I ask you to restore an additional \$440,000 to establish a Portal for Prisoner Re-entry by creating an interface between the Department of Corrections inmate management system and the Department of Social Services.

Major Language Items

Among my language amendments, there are six language items that I want to call to your attention:

1. You have authored a plan to ensure that the Medicaid program is dramatically reformed before it can be considered for expansion. To address these policy concerns, I have proposed more specific and thorough reforms, to ensure that Virginia will have sustainable, cost saving changes in the existing program as well as more effective fraud and error detection. These amendments also provide for greater clarity of the specific intent of the General Assembly as to when approval of expansion would be appropriate.
2. As communicated on the floor during the discussion of the Budget Conference Committee report, and to me by Delegate Chris Jones, I understand that it was an error to

maintain the language that prohibits the sale, lease, or operation of our Port Terminals; therefore, I have stricken that language.

3. I also understand that your intent was to provide our Constitutional Officers with a real pay increase that is not counted toward the retirement "5-for-5" swap. With that in mind, I have modified the language to clarify that objective.
4. I have made revisions to increase the upper pay range in our state employee compensation ranges to accommodate our planned pay raise. The range needs to be moved up so that employees at the top of each pay band can receive the pay increase you intended.
5. I also have included some technical administrative language requested by our bond counsel regarding the significant capital projects pool you included in the budget. There are no changes to the projects or the amounts appropriated.
6. I have included some minor edits to the FACT Fund language, which will afford us more flexibility. The changes by the House and the Senate essentially leave the remaining \$13.3 million balance in the FACT Fund as a mini revenue reserve to offset direct or indirect losses of revenue due to federal actions. While I agree with this purpose, I also believe we may need to respond promptly to certain federal actions that relocate or realign major facilities before we actually lose revenues associated with them. Additionally, there may be some need to help mitigate the negative impacts on certain regions of the state after these actions occur. For that reason, I am recommending that \$5 million of the remaining \$13.3 million in the FACT Fund be made available to address these issues. Approximately \$8.3 million will still remain in the fund to be used solely as a revenue reserve as specified in the enrolled budget bill.

New Items

I have included funding for very few new items that have arisen since Sine Die on February 23, 2013. Among these is a proposal to provide \$1.5 million for a Centralized Call Center for Medicaid that is intended to provide additional access to the eligibility determination process, as required by federal law. As much as I disapprove of this new unfunded federal mandate, we must move forward with a centralized call center to meet the mandates for accessibility as stated in the Affordable Care Act. This requirement is not subject to waiver, and this approach appears to be our least expensive option.

I have proposed \$500,000 in new funding for Tourism to ease the burden of new demands that have been placed on them and to help them promote Virginia. As the economy continues to improve and families begin to travel again, it will be important that we have the resources dedicated to capturing the resurgence of the tourism market.

I also have proposed \$75,000 in FY 2013 for the Military Survivors and Dependents program operated by the State Council of Higher Education for Virginia. This program provides funding that helps offset the cost of college room, board, and books for the survivors and dependents of those killed or permanently disabled while in military service. There has been increased participation in this program due to the large military population in Virginia and the

ongoing conflicts in which the United States has been engaged, resulting in increased program costs.

I have proposed an additional \$1.0 million in FY 2014 for the Hampton Roads Proton Beam Therapy Institute at Hampton University, LLC. The additional funding will support the institute in its efforts to treat cancerous tumors with fewer side effects through proton beam therapy. This will provide an improvement to the quality of health for some of our citizens and it also will support economic development in the Hampton area.

Finally, beyond these five categories, I am submitting two amendments to address language that unnecessarily curtails executive authority or inhibits the executive branch's ability to conduct business efficiently. First, I have stricken the new language that changes the long standing manner in which the Governor is to submit budget amendments to an existing budget.

This change requires that such amendments be submitted using the "half-sheets" format, giving the Governor's amendments the same status as member amendments. It stops the current and long standing practice that permits the Governor to submit a revised budget bill that contains all of his amendments to the existing budget. While this seems harmless at first review, it carries with it a number of issues. Not only does it limit the power of the Executive to introduce a budget bill detailing all of the Governor's recommendations, it means that many members will never get a chance to see and vote on the Governor's recommended budget amendments. The process as outlined in this enrolled amendment sets up the potential that the Governor's recommended amendments to the budget would be sent directly to the respective budget writing committee where they may be altered or deleted in subcommittee or committee. Currently, all of the Governor's amendments are sent to the floor with a committee recommendation where all members may see the Governor's recommendations, the proposed action on them, and actually vote for each of the proposed amendments. Consequently, I have stricken this proposed language.

Similarly, I have concerns about the language that requires the Executive Branch to give 30 days prior notice before taking action to appropriate cash balances that existed at the end of the prior fiscal year. While I understand and support providing notice of such action to the General Assembly, I am opposed to providing it in advance of taking such action.

Many times, these transactions must be conducted in a timely fashion in order to meet the "prompt payment" requirements that you have set out for state agencies to pay private vendors. If such funds are needed to make such a payment, the 30-day advance notice requirement, by its own restrictions, likely will cause the state agency to miss the deadline for prompt payment. Otherwise, the transaction will hit the accounting error file for insufficient funds and not be processed. Further, the 30-day notice requirement would essentially prohibit any such transactions during the month of June, which is when agencies may need these funds to close out the fiscal year and pay bills. I believe that this is an unintended consequence of this budget amendment; therefore, I am recommending changes to still provide you with notice of the transaction but not as requirement prior to the transaction.

Other notice requirements in law do not specify that the notice must be in advance. For example, the Department of Planning and Budget must notify you by the tenth day of each month of the appropriation transfers that were processed in the prior month. Similarly, the Department of Planning and Budget must provide a quarterly report of the disbursements and commitments made from economic contingency in the previous quarter. I only ask that you allow similar flexibility for reporting the appropriation of cash balances.

Recommended Resources

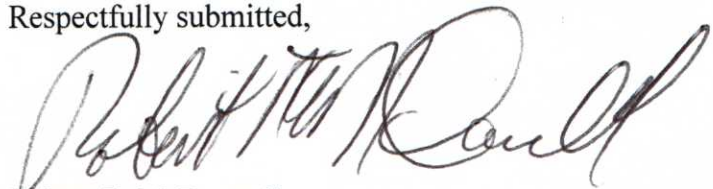
I am not recommending any changes to the base revenue forecast that we have adopted throughout this General Assembly Session. My requested spending is offset by two amendments that add \$14.1 million in additional resources over the biennium. One amendment simply captures additional revenue received by the Commonwealth from prior year recovery of expenses associated with Social Services Block Grants. The second adds resources by capturing debt service savings from bond refundings of previously issued debt. These savings reduce the appropriations required for debt service payments thus making the appropriations available for reprogramming. It is important to note that none of my amendments changes any of the spending you recommended in the budget that you presented to me.

The budget you presented me left an unappropriated balance of \$10.0 million. I am returning amendments to you, which if enacted, will leave the total uncommitted, unappropriated balance essentially unchanged at approximately \$10.0 million. I was pleased to see such a relatively large balance in the budget presented to me, and I believe that it is prudent to leave sufficient resources for unforeseen circumstances that may surface in the future.

Attached to this letter are the details of my proposed amendments. In your review of these proposals, I think you will find they are relatively minor and consistent with the objectives that we both have strived to accomplish.

I respectfully request your adoption of these amendments so that they may be incorporated into the Appropriation Act for the 2012-2014 biennium. Thank you for your consideration of my requests and for your service to the Commonwealth.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Robert F. McDonnell", written in a cursive style.

Robert F. McDonnell

Attachments