

Summary of Budget Amendments Proposed by the House of Delegates and Pending by the Senate to the 2008-2010 Biennial Budget (HB 1600/SB 850 as Introduced) Affecting the Direct Aid to Public Education and Department of Education Central Office Budgets

This document provides a summary of the amendments to the 2008-2010 biennial budget (HB 1600/SB 850 as introduced) that were adopted by the House of Delegates on February 12, 2009. The full Senate has not yet taken action to adopt an amended budget, but is expected to do so next week. Senate budget actions will be communicated in a separate memorandum. The amendments adopted by the House of Delegates change the budget introduced by Governor Kaine in HB 1600/SB 850. The adopted changes affect fiscal years 2009 and 2010. Fiscal year 2009 begins on July 1, 2008, and ends on June 30, 2009. Fiscal year 2010 begins on July 1, 2009, and ends on June 30, 2010.

The budget actions proposed by Governor Kaine in HB 1600/SB 850 were communicated in [Attachment A of Informational Superintendent's Memorandum No. 302](#), dated December 17, 2008. The original text of that attachment is repeated in this document for reference purposes. The budget actions proposed by executive amendment and by the House of Delegates are summarized in this document and are reflected in italicized text. Pending budget action by the full Senate, the Senate action is indicated as "pending adoption of budget."

Information related to the Direct Aid to Public Education and the Department of Education Central Office budget amendments are organized into the following two main sections:

Section A. Amendments to the Direct Aid to Public Education Budget

1. Technical Adjustments to Existing Direct Aid Programs
2. Direct Aid Policy Changes
3. Proposed Language Amendments for Direct Aid Programs
4. Other Funding Amendments for Direct Aid Programs Not in HB 1600/SB 850 as Introduced
5. Language-Only Amendments for Direct Aid Programs Not in HB 1600/SB 850 as Introduced

Section B. Department of Education Central Office Budget

1. Changes to Central Office Included in HB 1600/SB 850
2. Other Funding Amendments for Central Office Programs Not in HB 1600/SB 850 as Introduced

Amendments to the Direct Aid to Public Education budget are described below; information about amendments to the DOE Central Office budget begins on page 20.

A. Amendments to the Direct Aid to Public Education Budget

1. Technical Adjustments to Existing Direct Aid Programs

Update Average Daily Membership (ADM) and Fall Membership

- **Governor** - Projections of unadjusted and adjusted average daily membership (ADM) for fiscal years 2009 and 2010 are revised for each school division based on the latest actual ADM and fall membership data available. Projected ADM was originally forecast by the Department of Education based on actual data through September 30, 2007, fall membership. The most recent projections contained in the Governor's introduced budget amendments have been revised based on actual March 31, 2008, ADM and September 30, 2008, fall membership.

On a statewide basis, the revised unadjusted ADM projections are 4,717 students lower in fiscal year 2009 and 4,154 students lower in fiscal year 2010 than the original projections contained in Chapter 879. The ADM-based entitlements for fiscal years 2009 and 2010 are recomputed based on these revised projections. In addition, all accounts that are allocated on the basis of fall membership have been updated for actual fall membership in fiscal year 2009 and re-projected fall membership in fiscal year 2010. The ADM and fall membership updates result in an estimated decrease on a statewide basis in Direct Aid payments of \$31.2 million in fiscal year 2009 and \$42.0 million in fiscal year 2010.

- *Senate – Pending adoption of budget.*
- *House - Same as Governor's amended budget.*

Update Sales Tax Projections

- **Governor** - The Governor's amendments reflect the most recent estimate of sales tax revenue dedicated to public education for fiscal years 2009 and 2010, as computed by the Department of Taxation. The revised estimate of sales tax revenues includes both the one percent portion and the one-eighth percent portion that are appropriated for distribution to school divisions based on school-age population. The projected sales tax entitlements contained in [Attachment B of 2008 Superintendent's Memo number 302](#) and in the Excel calculation file reflect the revised estimates for these two sales tax sources, which are shown in [Attachment B 2008 of Superintendent's Memo number 302](#) and in the Excel file as a single revenue line-item.

The Department of Taxation's latest estimate of the one percent and one-eighth percent sales tax revenue is \$1,126,230,556 for fiscal year 2009 and \$1,175,149,722 for fiscal year 2010. These revised sales tax estimates are approximately \$68.5 million lower in fiscal year 2009

and \$80.1 million lower in fiscal year 2010 than the projections contained in Chapter 879. As required by the Basic Aid funding formula, state Basic Aid payments have been increased to offset a portion of the decreased sales tax revenues that are projected to be distributed to divisions. The amount of the Basic Aid offset is determined by each division's composite index of local ability-to-pay. The state share of Basic Aid increases approximately \$38.5 million in fiscal year 2009 and \$45.1 million in fiscal year 2010 due to the revised sales tax estimates.

- **Executive Amendment** - Reduces the sales tax estimate by approximately \$1.0 million in fiscal year 2009 and \$249,722 in fiscal year 2010 from the projections contained in HB 1600/SB 850 based on sales tax holidays, proposed holidays, and other items per the Department of Taxation. The state share of Basic Aid increases \$580,002 in fiscal year 2009 and \$139,567 in fiscal year 2010 due to the revised sales tax estimates.
- **Senate** – Pending adoption of budget.
- **House** - Accepts the Governor's executive amendment. The House also further reduces the sales tax estimate based on amendments to reduce, but not eliminate, the "dealer discount." The new sales tax estimate is \$1,125,200,000 for fiscal year 2009 and \$1,163,016,564 for fiscal year 2010. The revised sales tax estimates are approximately \$1.0 million lower in fiscal year 2009 and \$12.1 million lower in fiscal year 2010; \$249,722 of the \$12.1 million is already reflected in the Governor's executive amendment plus there is an \$11.9 million reduction due to the revised dealer discount. Based on these changes to sales tax, the state share of basic aid increases \$580,002 in fiscal year 2009 and \$6.8 million in fiscal year 2010.

Update Lottery Proceeds Forecast

- **Governor** - The Governor's amended budget reflects a decrease of \$30.5 million in fiscal year 2009 (from \$461.0 million to \$430.5 million) and \$30.8 million in fiscal year 2010 (from \$461.0 million to \$430.2 million) in Lottery proceeds versus the Lottery projections contained in Chapter 879.

The share of Lottery proceeds that will be distributed directly to school divisions on a per pupil basis through the Additional Support for School Construction and Operating Costs account in fiscal year 2009 is \$132.3 million. The revised per pupil amount used to distribute current year Lottery proceeds is \$197.95 per pupil in adjusted ADM. For fiscal year 2010, the amended budget reallocates all of the Lottery funds in the Additional Support for School Construction and Operating Costs account to fund other accounts previously funded with general funds as well as to fund a Funding Loss Cap account. Please see the paragraphs below titled "General Fund accounts in the amount of \$55.8 million moved to the Lottery service area" and "Provide a Funding Loss Cap Payment in fiscal year 2010" below for additional details.

- **Senate** – Pending adoption of budget.

- *House - Same as Governor's amended budget.*

Technical Adjustments to Standards of Quality (SOQ) Accounts

- **Governor** - The Governor's amended budget recognizes savings of \$2.5 million in fiscal year 2009 and an increase of \$7.7 million in fiscal year 2010 resulting from technical updates to SOQ accounts. The Governor's amended budget includes distributing the updated sales tax estimates to divisions based on the 2008 Triennial Census of School-Age Population and full funding of the fiscal year 2010 special education child count corrections that were only funded in fiscal year 2009 in Chapter 879. These updates also include actual fiscal year 2009 student counts for the English as a Second Language (ESL) account.
- *Senate – Pending adoption of budget.*
- *House - Same as Governor's amended budget.*

Technical Updates to Incentive, Categorical, Lottery Accounts and Supplemental Education Assistance Programs

- **Governor** - Various technical adjustments have been made to incentive, categorical, Lottery, and supplemental education assistance accounts to reflect the latest information on special education student counts, PALS assessment data, and actual and updated projected participation in programs. Funding is reduced by \$2.0 million in fiscal year 2009 and by \$1.7 million in fiscal year 2010 for these technical updates. Significant budget adjustments contained in this particular amendment are discussed in more detail in the following paragraphs.
 - *Incentive Technical Updates*
The Governor's amended budget includes technical updates to the following incentive accounts: Alternative Education, Governor's Schools, Special Education - Regional Tuition, and VPSA Technology Distribution. Funding is reduced by \$240,434 in fiscal year 2009 and increased by \$236,699 in fiscal year 2010 for these technical updates.
 - *Categorical Technical Updates*
The Governor's amended budget includes technical updates to the following categorical accounts: Special Education – Homebound, Special Education – State Operated Programs, Special Education - Jails, and American Indian Treaty Commitment. Funding is reduced by \$1.7 million in fiscal year 2009 and by \$1.9 million in fiscal year 2010 for these technical updates. Please note that any remaining references to “Electronic Classroom” in the budget have been changed to “Virtual Virginia” to update the current operating title of the program.
 - *Lottery Technical Updates*
The Governor's amended budget includes technical updates based on actual participation and revised estimates to the following Lottery-funded accounts:

Remedial Summer School, K-3 Primary Class Size Reduction, Early Reading Intervention, School Breakfast, and Foster Care. These actions for fiscal year 2009 resulted in savings that were added to the Additional Support for School Construction and Operating Costs account based on the current funding methodology. The accounts in the Lottery service area are funded entirely by Lottery proceeds. As noted above, the amount appropriated for Additional Support for School Construction and Operating Costs has been eliminated in fiscal year 2010 in order to support additional accounts moving to the Lottery service area as well the proposed Funding Loss Cap account. Both of these actions are discussed in more detail below.

- *Senate – Pending adoption of budget.*
- *House - Same as Governor's amended budget.*

2. Direct Aid Policy Changes

Establish Funding Cap on SOQ Support Positions

- **Governor** - The Governor's budget proposes establishing a funding cap on certain Basic Aid support positions starting in fiscal year 2010. The cap is established based on the ratio of one support position per 4.03 SOQ funded instructional positions. This ratio is based on a linear weighted average of the latest three fiscal years of SOQ recognized instructional and support positions as reported by school divisions on the Annual School Report. By applying the one to 4.03 ratio, funding is provided for the affected support positions at a rate of 18.71 positions per 1,000 students in ADM. This position funding level was determined by applying the one support position to 4.03 instructional positions ratio to the estimated 75.39 SOQ instructional positions per 1,000 students in fiscal year 2010. The funding cap is not applied to the following support positions: division superintendent, school board members, school nurses, or pupil transportation positions. For fiscal year 2010, state funding is reduced by \$340.9 million.
- *Senate – Pending adoption of budget.*
- *House – Same as the Governor's amended budget. Proposes language stating that localities shall not reduce instructional positions below the number required by the Standards of Quality as a result of the support position cap and that localities shall fund the required local effort to fund the required instructional positions. In a separate amendment, the House added the following requirements in language:*

“1. The Board of Education shall review the current Standards of Quality to evaluate the appropriateness of the existing staffing standards for instructional positions and the appropriateness of establishing standards for support positions, with the objective of maximizing resources devoted to the instructional program. The findings of this review shall be submitted to the Governor and the Joint Subcommittee on Elementary and Secondary

Education Funding established pursuant to Item 1, paragraph H. of this Act no later than August 15, 2009.

2. That the Department of Education shall make its calculations of the total cost of rebenchmarking for the FY 2010-2012 biennium consistent with the recommendations of the Joint Subcommittee on Elementary and Secondary Education Funding established pursuant to Item 1, paragraph H. of this Act.”

Eliminate School Construction Grants Program Funding

- **Governor** - The Governor’s amended budget proposes eliminating school construction grants for fiscal year 2010. For fiscal year 2010, state funding is reduced by \$27.5 million.
- **Senate** – *Pending adoption of budget.*
- **House** - *Same as Governor’s amended budget.*

General fund accounts in the amount of \$55.8 million moved to the Lottery service area

- **Governor** - The Governor’s amended budget for fiscal year 2010 includes moving six accounts to the Lottery service area that were previously funded by the general fund. These accounts would be funded entirely by Lottery proceeds, resulting in a general fund savings of \$55.8 million in fiscal year 2010. The following accounts are proposed to be reassigned to the Lottery service area in fiscal year 2010: Alternative Education, ISAEP, Special Education – Regional Tuition, Vocational Education – Categorical, NCLB/EFAL, and Project Graduation. These programs will use a portion of the Lottery appropriation previously used for the Additional Support for School Construction and Operating Costs account that was eliminated for fiscal year 2010. The following accounts will no longer be maintained in the Lottery service area and move to the general fund: Enrollment Loss, Remedial Summer School.
- **Executive Amendment** - *Reduces projected fiscal year 2010 funding by \$11.9 million based on historical nonparticipation levels in the Virginia Preschool Initiative (VPI) program in order to maintain the projected program participation level established by the 2008 General Assembly. The introduced budget assumes 100 percent participation in the VPI program in fiscal year 2010. School division entitlements for fiscal year 2010 will still be calculated based on the full formula-based student slots for each division. In the event that entitlements from actual participation exceed the available appropriation, payments to school divisions will be prorated on a statewide basis. The amendment also changes the Enrollment Loss account and the Supplemental Basic Aid account from general funds to Lottery funds based on the \$11.9 million non-participation estimate in the VPI program.*
- **Senate** – *Pending adoption of budget.*
- **House** – *Same as Governor’s amended budget. Also accepts the Governor’s executive amendment.*

Provide for a Funding Loss Cap payment to limit the per pupil reduction of state funds to localities in fiscal year 2010

- **Governor** - A one-time payment to provide a funding loss cap is proposed based on the per pupil state funding loss for fiscal year 2010. The total estimated value of this payment is fixed at \$60.9 million, based on the division distributions in HB 1600 /SB 850, and will be funded by Lottery proceeds from the remaining appropriation in the Additional Support for School Construction and Operating Costs account that was eliminated for fiscal year 2010. The proposed payment will be distributed by capping each division's per pupil funding loss at \$403.90 per pupil for fiscal year 2010. Divisions with a per pupil funding loss in fiscal year 2010 due to certain policy changes proposed by the Governor (i.e., 1. setting a position cap for certain SOQ funded support positions at a ratio of 1 support position for every 4.03 SOQ funded instructional positions; 2. reassigning approximately \$55.8 million in general fund accounts into the Lottery Service Area, resulting in the elimination of funding for the Additional Support for School Construction and Operating Costs account; and 3. eliminating state funding for the School Construction Grants Program account) that exceed \$403.90 per pupil would be eligible to receive this payment. In order to receive this funding, the local governing body is required to appropriate these funds solely for public education expenditures by the school division in fiscal year 2010. Localities are not required to provide a local match to receive these state funds.
- *Senate – Pending adoption of budget.*
- *House - Same as Governor's amended budget.*

Reduction to Supplemental Education Assistance Programs

- **Governor** - The Governor's amended budget includes a reduction to the following supplemental education assistance accounts: Career and Technical Education Resource Center, Jobs for Virginia Graduates, Small School Division Assistance, Southside Virginia Technology Consortium, Southwest Virginia Public Education Consortium, Virginia Career Education Foundation, and Van Gogh Outreach Program. Funding is decreased in these accounts by a total of \$404,130 for fiscal year 2010.
- *Senate – Pending adoption of budget.*
- *House - Same as Governor's amended budget.*

Remove 2.0 percent Compensation Supplement in Fiscal Year 2010

- **Governor** - The Governor's amended budget includes removal of the funded 2.0 percent compensation supplement payment included in Chapter 879 for instructional and support positions that was effective July 1, 2009. Funding is decreased by \$71.6 million in fiscal year 2010.
- *Senate – Pending adoption of budget.*

- *House - Same as Governor's amended budget.*

Reduction in State-Operated Programs funding for planned closure of two mental health facilities in Fiscal Year 2010

- **Governor** - Southwestern Virginia Mental Health Institute's Adolescent Unit, located in Smyth County, and the Commonwealth Center for Children and Adolescents, located in Staunton, are planned for closure by July 1, 2009. The educational services at the Adolescent Unit and the Commonwealth Center for Children and Adolescents are provided by Smyth County Public Schools and Staunton City Public Schools, respectively. Funding in the special education State-Operated Programs account is reduced by \$1.9 million in fiscal year 2010 for the elimination of the locally-provided educational services at these two facilities.
- *Senate – Pending adoption of budget.*
- *House – Restores State-operated program education funding for the Commonwealth Center for Children and Adolescents in Staunton City . This results in a state cost of \$1.2 million for fiscal year 2010.*

Update Group Life and Retiree Health Care Credit Rates for Fiscal Year 2010

- **Governor** - The Governor's amended budget proposes lower employer contribution rates for the Retiree Health Care Credit and Group Life in fiscal year 2010 only. For the Retiree Health Care Credit, the revised rate proposed for fiscal year 2010 reflects a rate decrease from the current fiscal year 2010 rate (1.08 percent to 1.04 percent). For the Group Life contribution, the revised rate proposed for fiscal year 2010 reflects a rate decrease from the current fiscal year 2010 rate (0.33 percent to 0.27 percent). In addition, the employee share of the Group Life rate has been increased from 0.49 percent to 0.52 percent in fiscal year 2010. Funding is decreased by \$2.7 million in fiscal year 2010 due to these employer contribution rate changes.

FUNDED FRINGE BENEFIT RATES:	FISCAL YEAR 2009	FISCAL YEAR 2010
Instructional VRS (<u>Employer</u> Share) (Does not include RHCC - see below)	8.81%	8.81%
Instructional VRS (<u>Employee</u> Share)	5.00%	5.00%
Total Instructional VRS Rate	13.81%	13.81%
Group Life (<u>Employer</u> Share)	0.33%	0.27%
Group Life (<u>Employee</u> Share)	0.49%	0.52%
Total Group Life Rate	0.82%	0.79%
Retiree Health Care Credit (<i>Paid as part of the VRS per pupil amount</i>)	1.08%	1.04%
Non-professional Support VRS	7.62%	7.62%
Social Security	7.65%	7.65%
Health Care Premium	\$5,188	\$5,188
Total Instructional Benefit Percent (<u>Employer</u> Share)	17.87%	17.77%
Total Non-professional Support Benefit Percent	15.60%	15.54%

- *Senate* – Pending adoption of budget.
- *House* - Same as Governor’s amended budget.

3. Proposed Language Amendments for Direct Aid Programs

Increase Literary Fund Transfer for Teacher Retirement

- **Governor** - The Governor’s amended budget increases the amount transferred from the Literary Fund to support the state share of cost for teacher retirement by \$42.6 million in fiscal year 2009, from \$186.1 million to \$228.7 million. In fiscal year 2010, the Literary Fund transfer amount increased by \$11.9 million, from \$111.1 million to \$123.0 million. These actions do not affect division per pupil amounts or projected entitlements for VRS retirement in fiscal year 2009 or fiscal year 2010.
- *Senate* – Pending adoption of budget.
- *House* - Same as Governor’s amended budget.

Interest Rate Subsidy Program

- **Governor** - Language in the Governor’s amended budget authorizes the Virginia Public School Authority to provide approximately \$8.6 million in fiscal year 2009 from the Literary Fund for the interest rate subsidy program for Literary Fund projects on the First Priority Waiting List. For fiscal year 2010, the \$20.0 million approved from the Literary Fund for the interest rate subsidy program is eliminated.

- *Senate – Pending adoption of budget.*
- *House - Same as Governor's amended budget.*

Provide school divisions flexibility for Instructional Technology, Early Reading Intervention, SOL Algebra Readiness, and English Language Learner funds

- **Governor** - The Governor's amended budget provides flexibility to school divisions to use the state and local funds for instructional technology resource teachers required by the Standards of Quality to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. Divisions using funds in this manner shall only employ instructional personnel licensed by the Board of Education.

School divisions may use the state Early Reading Intervention funds and required local match funds to employ reading specialists to provide required reading intervention services. Divisions may also use the state Standards of Learning Algebra Readiness initiative funds and required local match funds to employ mathematics teacher specialists to provide required mathematics intervention services. Divisions using funds in this manner shall only employ instructional personnel licensed by the Board of Education.

School Divisions may use state and local funds from the SOQ Prevention, Intervention, and Remediation account to employ additional English Language Learner teachers to provide instruction to limited English proficiency students. These funds are to be used to supplement the instructional services provided through the SOQ staffing standard of 17 instructional positions per 1,000 limited English proficiency students. Divisions using funds in this manner shall only employ instructional personnel licensed by the Board of Education.

- *Senate – Pending adoption of budget.*
- *House - Same as Governor's amended budget.*

Allow remaining funds from fiscal year 2009 to be carried over to fiscal year 2010

- **Governor** - The Governor's amended budget allows any locality that has met its fiscal year 2009 required local effort for the Standards of Quality or required local match for incentive, school construction, or Lottery-funded programs to carry over into fiscal year 2010 any remaining state funds in an effort to minimize any fiscal year 2010 revenue adjustments that may occur.
- *Senate – Pending adoption of budget.*
- *House - Same as Governor's amended budget.*

Provide flexibility for use of Lottery and School Construction escrow funds in fiscal year 2010

- **Governor** - The Governor's amended budget proposes flexibility for divisions to withdraw funds from local escrow accounts established pursuant to Sections 22.1-100.1 (Lottery Proceeds Nonrecurring Costs Escrow Accounts) and 22.1-175.5 (Capital School Projects Fund) of the *Code of Virginia* to pay for recurring operational expenses incurred by the school division in fiscal year 2010. Localities are not required to provide a local match of the withdrawn funds.
- *Senate – Pending adoption of budget.*
- *House - Same as Governor's amended budget.*

Local distribution of remaining balance, if any, in the Lottery Proceeds Fund in fiscal year 2010

- **Governor** - The Governor's amended budget proposes to distribute to local school divisions any balance remaining in the Lottery Proceeds Fund after all accounts that are supported by Lottery funds in fiscal year 2010 have been fully funded. These payments would be calculated based on the state share of the per pupil amount in adjusted March 31 Average Daily Membership and the fiscal year 2010 balance in the Lottery Proceeds Fund. In order to receive this funding, the local governing body is required to appropriate these funds for expenditures of the school division. Localities are not required to provide a local match to receive these state funds.
- *Senate – Pending adoption of budget.*
- *House - Same as Governor's amended budget.*

4. Other Funding Amendments for Direct Aid Programs Not in HB 1600/SB 850 as Introduced

Modified Textbook Funding

- *Senate – Pending adoption of budget.*
- *House - The House proposal allows school divisions to use fiscal year 2010 textbook funds for any public education expense. In addition, no local match is required for fiscal year 2010.*

5. Language-Only Amendments for Direct Aid Programs Not in HB 1600/SB 850 as Introduced

Chairmen of House Appropriations and Senate Finance Committees shall appoint five members from their respective committees to the Joint Subcommittee on Elementary and Secondary Education Funding

- *Senate – Pending adoption of budget.*
- **House** - *The House proposes Chairmen of House Appropriations and Senate Finance Committees shall appoint five members rather than the four previously established from their respective committees to the Joint Subcommittee on Elementary and Secondary Education Funding. The Joint Subcommittee on Elementary and Secondary Education Funding is directed to review the methodology for establishing a consistent funding cap process for all state funded support positions.*

Career and Technical Education based degrees eligible for student to receive a Virginia Teaching Scholarship

- *Senate – Pending adoption of budget.*
- **House** - *The House proposes language to allow students seeking degrees in Career and Technical education to be eligible to receive a Virginia Teaching Scholarship.*

Provide flexibility to local school boards

- *Senate – Pending adoption of budget.*
- **House** - *The House proposes language encouraging localities to allow school boards to carry over any unspent local allocations into the next fiscal year, and also encouraging localities to provide increased flexibility to school boards by appropriating state and local funds for public education in a lump sum.*

Partnership with Office of Comprehensive Services for funding for students placed in psychiatric or residential treatment facilities

- *Senate – Pending adoption of budget.*
- **House** - *The House proposes language directing the Department of Education to work in partnership with the Office of Comprehensive Services to ensure funding is sufficient to pay for educational services of students placed in state or privately operated psychiatric or residential treatment facilities to meet the educational needs of the students as prescribed in the student's Individual Educational Plan.*

Clarifying language for the consolidation process for school divisions or local governments

- *Senate* – Pending adoption of budget.
- *House* - The House proposes language requiring that state funds for public education be based on the lowest composite index of the consolidating school divisions or local governments, including the transition of a city to town status. Existing language stating the composite index shall remain in effect for a period of fifteen years, unless a lower composite index is calculated for the combined division through the process for computing an index, remains unchanged.

Tuition Assistance Grant for Disabled Students Program

- *Senate* – Pending adoption of budget.
- *House* - The House proposes language to establish the Students with Disabilities Tuition Assistance Grant Program to provide eligible students tuition assistance to attend the eligible private school of the parents' choice. An eligible student is defined as any K-12 student as defined by the Board of Education in its Regulations Governing Special Education Programs for Children with Disabilities in Virginia who is diagnosed with an Autism Spectrum Disorder. The following language from the House amendment is provided in its entirety:

Tuition Assistance Grant for Disabled Students Program

a.1) There is hereby established the Students with Disabilities Tuition Assistance Grant Program (Grant Program), to provide tuition assistance for attendance at an eligible private school of the parent's choice for eligible students for whom an individualized educational program has been written in accordance with the federal Individuals with Disabilities Education Act (IDEA) as amended, regulations promulgated pursuant to IDEA, and regulations of the Board of Education.

2) "Autism spectrum disorder" means any pervasive developmental disorder, including (i) autistic disorder, (ii) Asperger's Syndrome, (iii) Rett syndrome, (iv) childhood disintegrative disorder, or (v) Pervasive Developmental Disorder - Not Otherwise Specified, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

3) "Eligible student" means any K-12 student as defined by the Board of Education in its Regulations Governing Special Education Programs for Children with Disabilities in Virginia who is diagnosed with an autism spectrum disorder.

b.1) The parent of an eligible student, who has demonstrated substantial unmet academic or developmental progress in a public school may request of the Superintendent of Public Instruction a tuition assistance grant for the student to enroll in and attend an eligible private school. When such a request is received by the Superintendent of Public Instruction,

an eligible private school shall receive a tuition assistance grant on behalf of the requesting student, in accordance with this section, upon satisfaction of the following conditions:

2) The student has attended a public school in the Commonwealth and has received special education services from a public school for at least one year prior to the request of a grant;

3) Prior to the beginning of the initial school year for which the grant is requested, the parent has obtained acceptance for admission of the student to a private school that is eligible to participate in the Grant Program.

4) The parent has executed and submitted to the division superintendent a written statement acknowledging that the public school has implemented an individualized educational program that is reasonably calculated to provide educational benefit in accordance with the federal IDEA as amended, regulations promulgated pursuant to IDEA, and regulations of the Board of Education; and

5) The parent has notified the division superintendent of his request to the Superintendent of Public Instruction for a tuition assistance grant at least 60 days prior to the beginning of the school year in which the first grant payment is sought. Such notice shall be transmitted through a communication sent directly to the division superintendent either in writing or through electronic means.

c.) The grant may be awarded annually until the student returns to a public school or is no longer eligible for special education services. However, at any time, the student's parent may remove the student from the private school of attendance and place the student in another private school that is eligible for the Grant Program. The parents of a student receiving a grant shall provide transportation for the student, at the parent's expense, to and from the private school and school-related activities.

d.) Upon receiving a notification from a parent concerning a request for a grant, a division superintendent shall in a timely fashion notify the parent of the student of all options of which the school division is aware and that are available pursuant to this chapter and may offer the student's parent an opportunity to enroll the student in another public school or program within the division.

e.) The parent may choose, as an alternative, to request enrollment of his student in a division where the student is not a resident and transport the student at the parent's expense to a public school in an adjacent school division that has available space and an existing program with services required by the student's individualized educational program. Any school division agreeing to enroll a student under the provisions of this subsection shall not charge tuition; however, the school division shall report the student in fall membership and shall receive payment for the student in accordance with the provisions of the appropriation act.

f.1) Any nonsectarian Virginia private school may be eligible to participate in the Grant Program so long as such school:

- 2) *Holds a current unrestricted license to operate as a school for students with disabilities.*
 - 3) *Employs teachers having qualifications in compliance with regulations promulgated by the Board of Education.*
 - 4) *Demonstrates fiscal soundness by having been in operation for at least one year or by having provided the Board of Education with a (i) statement by a certified public accountant confirming that the private school is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected; or (ii) surety bond or letter of credit for the amount equal to the grant funds for any quarter;*
 - 5) *Complies with the antidiscrimination provisions of 42 U.S.C. § 2000d;*
 - 6) *Meets state and local health and safety laws and codes;*
 - 7) *Applies to the Board of Education to receive tuition assistance grants for the education of students with autism, specifying grade levels and services that the private school has available for students with autism who are participating in the program;*
 - 8) *Adheres to the tenets of its published disciplinary procedures prior to expulsion of a student admitted to the school in accordance with the provisions of this chapter;*
 - 9) *Agrees to provide the services prescribed in each participating student's individualized education program; and*
 - 10) *Agrees to retain any student enrolled pursuant to the grant until completion of the relevant school year, unless the student is unable to attend because of illness or unless the school excuses the student for other good cause, as defined in the Board of Education regulations.*
 - 11) *Shall report information annually to the Department of Education the number of students it has requested tuition assistance payments for or is receiving any tuition assistance grants on behalf of any students enrolled at the private school from the Program as prescribed by the State Board of Education.*
- g.) Any parent who requests a grant on behalf of an eligible student is exercising the parental option of placing the student in a private school and thus shall select the private school and apply for the admission of the student.*
- h.) The parent shall request the grant from the Superintendent of Public Instruction at least 60 days prior to the beginning of the school year in which the first grant payment is sought.*
- i.) The parent of a student participating in the Grant Program shall comply fully with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.*

j.) The parent may request that the student participating in the Grant Program take relevant Standards of Learning tests. However, the parent shall be responsible for transporting the student to the assessment site designated by the school division. The student's scores on such tests and assessments shall not be counted in the accreditation of any school in the school division.

k.) Grants awarded pursuant to this chapter shall be disbursed pursuant to the provisions of the appropriation act.

l.) Failure to comply with the provisions of this chapter shall constitute a forfeiture of the grant.

m.) The amount of the tuition assistance grant approved for an eligible student with disabilities shall be calculated in accordance with the appropriation act and shall be based on the average state share of basic aid per pupil amount funded each year.

n.) Nothing in this chapter shall give rise to any liability on the part of the Commonwealth or any local school board based on the award or use of an award from the Grant Program.

o.1) The Board of Education shall promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to administer the Grant Program and aid local school divisions and private schools in the Grant Program's implementation. The Board's regulations shall include, but not be limited to:

2) Contract provisions requiring private schools that enroll Grant Program participants to agree, prior to receipt of the grant on behalf of the student, to enroll and retain the student until completion of the relevant school year, unless the student is unable to attend because of illness or the school excuses the student for other good cause as defined in the Board's regulations.

3) A requirement that the private school notify the division superintendent of the school division where the student resides of the effective date on which the student's attendance will be terminated or the date on which the student was excused, and that the private school shall reimburse the Commonwealth for the grant. The amount of the reimbursement shall be prorated according to the time remaining in the school year.

4) A process for verifying the student's initial admission and continued enrollment and attendance at the private school.

5) A process for determining a student's eligibility and approving grants in order to ensure that each participating student meets the statutory and regulatory requirements.

6) That the Board shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

Encourage localities to apply for Medicaid reimbursements

- *Senate – Pending adoption of budget.*
- *House - The House proposes language requiring the Department of Education to encourage localities to apply for Medicaid reimbursements for eligible special education expenditures to help increase available state and local funding for other educational activities and expenditures.*

Establish the 2009 and 2010 Early Retirement Programs for School Division Employees

- *Senate – Pending adoption of budget.*
- *House - The House proposes establishing the 2009 and 2010 Early Retirement Programs for School Division Employees to provide school divisions with the opportunity to offer early retirement programs to eligible professional and nonprofessional employees. To be eligible, employees must be at least age 50 and have at least 25 years of creditable service. Each division may grant 1, 2, 3, 4, or 5 years of additional service to its staff. School divisions are required to pay VRS for the cost of granted creditable service at a rate of 20 percent of each participant's annual salary at such participant's retirement date multiplied by the number of years of granted creditable service. The following language from the House amendment is provided in its entirety:*

2009 and 2010 Early Retirement Programs for School Division Employees

j. There are hereby established the 2009 and 2010 Early Retirement Programs for School Division Employees. School divisions have the option to participate in the 2009 Program, the 2010 Program, or in both the 2009 and 2010 Programs. The VRS Board of Trustees will develop policies and procedures to administer the Programs within the following parameters:

1) Eligibility and Approval for Participation in the 2009 Program.

a) The Program is limited to any professional or nonprofessional employee, except the school division superintendent, of a school board who has, as of June 30, 2009, (i) attained the age of 50; (ii) completed at least 25 years of service as a VRS covered employee; (iii) been in continuous service in a covered position with their school division during the period between January 1, 2009 and their date of retirement under this Program; and (iv) not previously received a retirement benefit from VRS since July 1, 2007.

b) Any covered employee on official leave of absence during the period between January 1, 2009 and his or her date of retirement under this Program will be considered to be in continuous service.

c) The school division, in its sole discretion, may elect whether the professional, nonprofessional, or both groups of covered employees will be eligible for the Program.

Participation by each employee who meets the eligibility criteria will be subject to approval by the school division, in the school division's sole discretion.

2) Grant of Service Under the 2009 Program.

a) Eligible employees approved for participation by their respective school divisions (i) will be granted an adjustment to their accumulated creditable service for purposes of their retirement allowance and health insurance credit, and (ii) will not be subject to any actuarial reductions in their service retirement benefit, except as provided in §§ 51.1-165 and 51.1-165.01, Code of Virginia.

b) Each school division may grant 1, 2, 3, 4, or 5 additional full years of creditable service to either or both of its professional and nonprofessional staff that participate in the Program. The additional years of service elected for the professional participants will apply uniformly to all professional participants, and the additional years of service elected for the nonprofessional participants will apply uniformly to all nonprofessional participants. Granted service under the program will not be credited to a participating member's record until his or her date of retirement under the Program.

3) Deadline for Each School Division to Make Its Election for the 2009 Program.

a) No later than May 15, 2009, each school division shall notify VRS of its election to participate in the Program and the number of years of additional creditable service to be granted to its approved participants. Such elections shall be evidenced by resolutions approved by the Board of each participating school division and its local governing body.

b) Each participating school division shall notify each employee of his or her eligibility to participate in the Program no later than May 15, 2009.

4) Repayment Obligations of Participating School Divisions in the 2009 Program. Participating school divisions shall repay VRS for the cost of any granted creditable service at the rate of 20 percent of each participant's annual salary at such participant's retirement date multiplied by the number of years of granted creditable service. Repayment will be made to VRS in five equal annual installments payable on July 1 of each consecutive year, commencing on July 1, 2010 or in a lump sum payment due by July 1, 2010.

5) Election by Participants for the 2009 Program.

Participation by a school division's eligible employees shall be voluntary. Each participant must elect participation and gain approval by his or her school division by June 1, 2009. School divisions shall notify VRS of all approved participants by June 15, 2009. Each participating employee should submit a service retirement application to VRS at least 60 days prior to his or her retirement date.

6) Retirement Dates for the 2009 Program.

Any approved participant must elect a retirement date after June 30, 2009 and before July 1, 2010.

7) Retirement and Employment Restrictions On Participants for the 2009 Program.

a) Upon retirement under this Program, each participant agrees that he or she will not accept employment (i) with his or her former school division in any capacity, including employment as an independent contractor, or (ii) with any agency or business providing services to his or her former school division, unless in a capacity that is not comparable to the participant's pre-retirement function or role within the school division. Participation in a school division's official Early Retirement Incentive Program (ERIP) or service as a substitute teacher shall not, however, be subject to this restriction.

b) Except as provided in § 51.1-155(B)(2), (i) no participant shall obtain VRS covered employment with any other employer for at least 12 calendar months following his or her retirement date under the Program, and (ii) upon any subsequent reemployment in a VRS covered position, the added creditable service gained by participation in the Program will be forfeited upon subsequent re-retirement.

c) Failure by a participant to comply with the restrictions in 7a and 7b will cause the participant to lose the benefits under this Program and obligate the participant to repay any such benefits already received.

8) The provisions of the 2009 Program shall apply to the 2010 Program mutatis mutandis with all of the relevant dates advanced forward by one full calendar year.

Required Local Match Requirements for Fiscal Year 2010

- ***Executive Amendment*** - *The introduced budget contained an inadvertent strike-through of language regarding the required local match for At-Risk funds. The Governor's executive amendment removes the incorrect strike-through, therefore maintaining the current requirement that school divisions provide a local match to receive the state share of At-Risk funds.*
- ***Senate*** – *Pending adoption of budget.*
- ***House*** - *The House includes language removing the local match requirement for fiscal year 2010 for the following accounts: At-Risk Add-on, Virginia Preschool Initiative, Early Reading Intervention, K-3 Primary Class Size, SOL Algebra Readiness, textbooks and Virginia Public School Authority technology grants. The House amendment also eliminates the staffing requirements associated with the accounts listed above but still directs that the state funds be used for the stated program purposes.*

Prohibition Against Discrimination

- ***Senate*** – *Pending adoption of budget.*

- *House* - The House proposes language stating that no funds in this item shall be used to discriminate against any school-aged person that is eligible to attend any public school in Virginia on the basis of race, color, national origin, sex, or disability.

B. Department of Education Central Office Budget

1. Changes to Central Office Included in HB 1600/SB 850

Eliminate funding for Commission on Civics Education

- **Governor** - As part of the Governor's October Reduction Plan, eliminates \$81,000 in funding in fiscal year 2009 and fiscal year 2010 for the Commission on Civics Education.
- *Senate* – Pending adoption of budget.
- *House* - Same as Governor's amended budget

2. Other Funding Amendments for Central Office Programs Not in HB 1600/SB 850 as Introduced

Department of Education may use available balances for expenses associated with the Interstate Compact on Educational Opportunity for Military Children

- *Senate* – Pending adoption of budget.
- *House* - The House proposes language to provide \$75,000 from available balances in fiscal year 2010 to facilitate the administration of the Interstate Compact on Educational Opportunity for Military Children.