

## **Summary of the Amended 2008-2010 Biennial Budget Adopted by the 2009 General Assembly 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 General Assembly on February 28, 2009.

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 amendments proposed by the House of Delegates and the Senate were communicated in [Superintendent's Memorandum No. 037-09](#) and [Superintendent's Memorandum No. 043-09](#), respectively. The original text of these attachments is repeated in this document for reference purposes.

Following this information, a summary of the final changes to the Governor's amended 2008-2010 budget (HB 1600/SB 850 as introduced) adopted by the General Assembly is shown. These changes are noted as "Final General Assembly Action" and are highlighted in bold italics. The adopted changes affect fiscal years 2009 and 2010. Fiscal year 2009 began on July 1, 2008, and ends on June 30, 2009. Fiscal year 2010 begins on July 1, 2009, and ends on June 30, 2010.

Please note that the amended 2008-2010 budget adopted by the General Assembly now goes to the Governor for action. The Governor may propose amendments or vetoes to the budget, or he may sign it without proposing any changes. The budget is not final until signed into law by the Governor.

Information related to the Direct Aid to Public Education and the Department of Education Central Office budget amendments is 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 26.

**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** - Same as Governor's amended budget.
- **House** - Same as Governor's amended budget.
- **Final General Assembly Action** – *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** - Reduces the Sales Tax estimate by an additional \$21.4 million in fiscal year 2010 to \$1,153,749,722 based on the Senate's rejection of the Governor's proposed amendment to eliminate the "dealer discount." This results in an increase to Basic Aid payments of \$12.0 million for fiscal year 2010.
- **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.
- **Final General Assembly Action** - *Reduces the sales tax estimates by an additional \$18.3 million in fiscal year 2009 and \$39.9 million in fiscal year 2010 from the projections contained in HB 1600/SB 850 based on the revised revenue estimates by the Department of Taxation for the one percent and one-eighth percent sales tax revenue and the rejection of the Governor's proposed amendment to eliminate the "dealer discount." The revised sales tax estimates are \$1,107,900,000 in fiscal year 2009 and \$1,135,200,000 in fiscal year 2010. The state share of Basic Aid increases \$10.3 million in fiscal year 2009 and \$22.3 million in fiscal year 2010 due to the revised sales tax estimates.*

## 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** – Accepts the Governor's revised projections for Lottery proceeds. In addition, funding for the Additional Support for School Construction and Operating Costs account in the Lottery service area is restored for fiscal year 2010 by funding the accounts moved in the introduced budget into the Lottery service area with anticipated federal stimulus funds allocated to Virginia in the American Recovery and Reinvestment Act of 2009. In conjunction with the Senate's proposed action to eliminate the Funding Loss Cap payment described on page 8, 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 2010 is \$111.7 million. The revised per pupil amount used to distribute fiscal year 2010 Lottery proceeds is \$166.91 per pupil in adjusted ADM. Based on the Senate's actions, the Governor's proposal to eliminate the local match requirement for the per pupil Lottery funds remains in the budget; however, the local match requirement is subject to change based on the final actions of the Conference Committee. Please see the section on page 7 titled "General fund accounts in the amount of \$55.8 million moved to the Lottery service area" for additional information on this change.
- **House** - Same as Governor's amended budget.
- **Final General Assembly Action** – *Accepts the Governor's revised projections for Lottery proceeds. In addition, the General Assembly's adopted budget eliminates the \$60.9 million Funding Loss Cap account and redirects the Lottery proceeds to be paid to divisions on a per pupil basis through the Additional Support for School Construction and Operating Costs account. For fiscal year 2010, the amended budget per pupil amount used to distribute Lottery proceeds is \$90.87.*

*Additional flexibility is also provided in fiscal year 2010 with language permitting these funds to be appropriated by the local governing body for any public education expenditures of the school division, thereby removing the requirement that at least 50 percent of the division allocation fund non-recurring expenditures. For fiscal year 2010,*

*the adopted budget also eliminates the required local match for the Additional Support for School Construction and Operating Costs account.*

### **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** - Same as Governor's amended budget.
- **House** - Same as Governor's amended budget.
- **Final General Assembly Action** – *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** - Same as Governor's amended budget. The Senate also proposes an additional \$1.2 million from the general fund in fiscal year 2010 to address expected growth in the number of teachers eligible for National Board Certification bonuses.
- **House** - Same as Governor's amended budget.
- ***Final General Assembly Action - Same as Governor's amended budget. The General Assembly's adopted budget also proposes an additional \$1.0 million from the general fund in fiscal year 2010 to address expected growth in the number of teachers eligible for National Board Certification bonuses.***

## 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** – Provides funding from the anticipated federal stimulus funds allocated to Virginia in the American Recovery and Reinvestment Act of 2009 to offset the reduction in state funding due to the support position cap methodology in the introduced budget. Based on this proposal, state funds for Basic Aid and other accounts impacted by the support position cap

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remain unchanged from the Governor's introduced budget. Please note that the use of the federal funds allocated from this proposal is restricted to the allowable uses as prescribed in the American Recovery and Reinvestment Act of 2009. Additional guidance on requirements and restrictions of the American Recovery and Reinvestment Act of 2009 will be provided in future communications once the Department of Education receives additional guidance from the U. S. Department of Education and other responsible agencies.

The Senate also removes language from the introduced budget relating to the calculation of the support position cap and further states that each locality has discretion in determining where reductions may be made at the local level, providing that divisions still meet the staffing requirements of the Standards of Quality. In addition, the Senate proposes language to require the Board of Education to review the Standards of Quality and evaluate the appropriateness of the existing instructional staffing standards and appropriateness of establishing support staffing standards. The Department of Education must review state laws, regulations, and procedures that could be modified, reduced, or eliminated in an effort to minimize administrative burden on local school divisions and the Department of Education. Lastly, the Senate amendment directs the Department of Education to calculate the SOQ support position rebenchmarking cost for the 2010-2012 biennium using prevailing practice and not the support position cap methodology proposed in the introduced 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.”

- ***Final General Assembly Action*** – *The General Assembly's adopted budget includes the same state funding reductions included in the Governor's introduced budget but revises certain language relating to the calculation of the support position cap stating that “for purposes of funding certain support positions in Basic Aid in the second year, a cap is used which is based upon the prevailing ratio of support positions to SOQ funded instructional positions as contained in [Item 140] in House Bill 1600/Senate Bill 850, as introduced in the 2009 Session. For the purposes of making the required spending adjustments in the second year, the appropriation and distribution of Basic Aid shall reflect this*

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*methodology.” New budget language is also included stating that each locality has discretion in determining where reductions may be made at the local level to accommodate the adjustment, providing that divisions still meet the staffing requirements of the Standards of Quality.*

*To mitigate state funding reductions to local school divisions, the adopted budget directs the Department of Education to allocate approximately \$365.2 million from the Elementary and Secondary Education portion of the State Fiscal Stabilization Fund in the second year to the local school divisions based upon the proportion that each school division represents to the statewide total funding reduced from Item 140 of House Bill 1600/Senate Bill 850, as introduced, for the change in the support position funding methodology, the elimination of the school construction grants program, and the elimination of the school construction component funded from the Lottery Proceeds Fund.*

*This federal stimulus funding will be available to school divisions on a reimbursement basis and subject to the allowable uses as prescribed in the American Recovery and Reinvestment Act of 2009 and requirements of the U.S. Department of Education. Additional guidance on requirements and restrictions of the American Recovery and Reinvestment Act of 2009 will be provided in future communications once the Department of Education receives additional guidance from the U. S. Department of Education and other responsible agencies.*

*In other language amendments, the Department of Education is instructed to make its calculation for the total cost of rebenchmarking for the 2010-2012 biennium consistent with the following methodologies:*

- 1. Using the support position funding cap methodology contained in House Bill 1600/Senate Bill 850, as introduced in the 2009 Session; and*
- 2. Using the rebenchmarking methodology contained in Chapter 879, 2008 Acts of Assembly, which provided support position funding based on statewide prevailing averages (e.g., no cap applied).*

*The Department of Education is required to report the final calculations and related costs derived from each of these rebenchmarking methodologies to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Board of Education prior to September 1, 2009.*

*The General Assembly’s adopted budget also includes new language requiring the Board of Education to “review the current Standards of Quality to evaluate the appropriateness of the existing staffing standards for instructional positions and the appropriateness of establishing ratio 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, the Chairmen of the House Appropriations and Senate Finance Committees, and the Joint Subcommittee on Elementary and Secondary Education Funding established pursuant to Item 1, paragraph H. of [House Bill 1600/Senate Bill 850] no later than November 1, 2009.”*

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*Furthermore, the General Assembly requires the Department of Education to “review state laws, regulations, and procedures that could be modified, reduced, or eliminated in an effort to minimize administrative burden on local school divisions and the Department of Education. The findings of this review shall be submitted to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2009.”*

*In a separate amendment, the General Assembly’s adopted budget also includes 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 meet the required local effort to fund the required instructional positions.*

### **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** - Provides funding from the anticipated federal stimulus funds allocated to Virginia in the American Recovery and Reinvestment Act of 2009 to offset the reduction in state funding for the School Construction Grants Program. Based on this proposal, school construction grants will be funded at the same level as they were prior to elimination in the introduced budget; however, the value of the restored funding is appropriated as federal funds. In addition, for fiscal year 2010 only, school divisions may use school construction grant funds to pay for “recurring operational expenses incurred by the school division in compliance with the American Recovery and Reinvestment Act of 2009.”

Please note that the use of the federal funds allocated from this proposal is restricted to the allowable uses as prescribed in the American Recovery and Reinvestment Act of 2009. Additional guidance on requirements and restrictions of the American Recovery and Reinvestment Act of 2009 will be provided in future communications once the Department of Education receives additional guidance from the U. S. Department of Education and other responsible agencies.

- **House** - Same as Governor’s amended budget.
- **Final General Assembly Action** – *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

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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** – Reverses the introduced amendments changing programs assigned to the Lottery service area. The following accounts would be moved from the Lottery service area and funded from state general funds: Alternative Education, ISAEP, Vocational Education – Categorical, No Child Left Behind/Education for a Lifetime, and Project Graduation. The Special Education – Regional Tuition account would also be moved from the Lottery service area and funded from both state general funds and the anticipated federal stimulus funds allocated to Virginia in the American Recovery and Reinvestment Act of 2009. Enrollment Loss and Remedial Summer School would be returned to the Lottery service area and funded by Lottery proceeds. This proposed action restores \$57.3 million of Lottery funds available for distribution on a per pupil basis in the Additional Support for School Construction and Operating Cost account. Please note that the use of the federal funds allocated from this proposal is restricted to the allowable uses as prescribed in the American Recovery and Reinvestment Act of 2009. Additional guidance on requirements and restrictions of the American Recovery and Reinvestment Act of 2009 will be provided in future communications once the Department of Education receives additional guidance from the U. S. Department of Education and other responsible agencies.
- **House** – Same as Governor’s amended budget. Also accepts the Governor’s executive amendment.
- ***Final General Assembly Action – 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

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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** – Due to the restoration of the targeted state funding reductions in the introduced budget with anticipated federal stimulus funds proposed in another Senate amendment, the Senate eliminates the Funding Loss Cap payment from Lottery proceeds and redirects the Lottery proceeds to be paid to divisions on a per pupil basis through the Additional Support for School Construction and Operating Costs account.
- **House** - Same as Governor's amended budget.
- ***Final General Assembly Action*** – *The General Assembly's adopted budget eliminates the Funding Loss Cap payment from Lottery proceeds and redirects the \$60.9 million in Lottery proceeds to be paid to divisions on a per pupil basis through the Additional Support for School Construction and Operating Costs account. This action changes the division-level distribution of the \$60.9 million in funding. For more information regarding the changes in the use of Lottery proceeds, please review the section labeled "Update Lottery Proceeds Forecast" on page 4.*

### **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** - Same as Governor's amended budget.
- **House** - Same as Governor's amended budget.
- ***Final General Assembly Action*** – *Same as Governor's amended budget. The General Assembly's adopted budget also restores \$75,000 in fiscal year 2010 of the \$135,263 reduction in the Governor's amended budget for Jobs for Virginia Graduates. In addition,*

*the General Assembly's adopted budget provides \$250,000 in fiscal year 2010 for the Greater Richmond Area Scholarship Program, Incorporated (GRASP). This program provides students and families in need with access to financial aid, scholarships, and counseling to maximize educational opportunities for students.*

#### **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** - Same as Governor's amended budget.
- **House** - Same as Governor's amended budget.
- *Final General Assembly Action – 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** - Restores State-Operated Program education funding for both the Southwestern Virginia Mental Health Institute's Adolescent Unit in Smyth County and the Commonwealth Center for Children and Adolescents in the City of Staunton. This results in a state cost of \$1.2 million for the Commonwealth Center for Children and Adolescents and \$679,000 for the Southwestern Virginia Mental Health Institute's Adolescent Unit for fiscal year 2010.
- **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.
- *Final General Assembly Action – Accepts the House amendment.*

#### **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%
<b>Total Instructional VRS Rate</b>	<b>13.81%</b>	<b>13.81%</b>
Group Life ( <u>Employer</u> Share)	0.33%	0.27%
Group Life ( <u>Employee</u> Share)	0.49%	0.52%
<b>Total Group Life Rate</b>	<b>0.82%</b>	<b>0.79%</b>
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)	<b>17.87%</b>	<b>17.77%</b>
Total Non-professional Support Benefit Percent	<b>15.60%</b>	<b>15.54%</b>

- **Senate** - Same as Governor's amended budget.
- **House** - Same as Governor's amended budget.
- *Final General Assembly Action – 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** - Same as Governor's amended budget.
- **House** - Same as Governor's amended budget.

- *Final General Assembly Action – 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** - Same as Governor’s amended budget.
- **House** - Same as Governor’s amended budget.
- *Final General Assembly Action – 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** - Same as Governor’s amended budget.
- **House** - Same as Governor’s amended budget.
- *Final General Assembly Action – 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** - Same as Governor's amended budget.
- **House** - Same as Governor's amended budget.
- *Final General Assembly Action – 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** - Same as Governor's amended budget.
- **House** - Same as Governor's amended budget.
- *Final General Assembly Action – 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** - Same as Governor's amended budget. Based on the Senate's actions, the Governor's proposal to eliminate the local match requirement for these funds remains in the budget; however, it is subject to change based on the final actions of the Conference Committee.

- **House** - Same as Governor's amended budget.
- **Final General Assembly Action** – *By eliminating the proposed Funding Loss Cap account, the General Assembly's adopted budget distributes an estimated \$90.87 per pupil in fiscal year 2010 through the Additional Support for School Construction and Operating Costs account. Additional flexibility is also provided in fiscal year 2010 with language permitting these funds to be appropriated by the local governing body for any public education expenditures of the school division, thereby removing the requirement that at least 50 percent of the division allocation fund non-recurring expenditures. For fiscal year 2010, the adopted budget also eliminates the required local match for the Additional Support for School Construction and Operating Costs account. For more information regarding the changes in the use of Lottery proceeds, please review the section labeled "Update Lottery Proceeds Forecast" on page 4.*

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

##### **Modified Textbook Funding**

- **Senate** - Reduces state textbook funding by 50 percent in fiscal year 2010, resulting in a state savings of \$39.7 million, and eliminates the required local match for textbook funds. An amount equal to the reduction in state funding is provided from the anticipated federal stimulus funds allocated to Virginia in the American Recovery and Reinvestment Act of 2009. The Senate also proposes language to permit school divisions to use the remaining state textbook funds for textbooks or any other public education expenditure in fiscal year 2010. Please note that the use of the anticipated federal stimulus funds allocated from this proposal is restricted to the allowable uses as prescribed in the American Recovery and Reinvestment Act of 2009. Additional guidance on requirements and restrictions of the American Recovery and Reinvestment Act of 2009 will be provided in future communications once the Department of Education receives additional guidance from the U. S. Department of Education and other responsible agencies.

The Department of Education is also directed to calculate textbook funding based on 100 percent of the statewide prevailing per pupil cost for the 2010-2012 biennium rebenchmarking. Furthermore, for the 2012-2014 biennium, the Department of Education is directed to use the higher of the fiscal year 2009 or 2010 division-level textbook per pupil amount in calculating the base year statewide prevailing per pupil amount.

- **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.
- **Final General Assembly Action** – *The General Assembly's adopted budget allows school divisions to use fiscal year 2010 textbook funds for any public education expense and eliminates the required local match for textbook funds in fiscal year 2010 only. The*

*General Assembly states that it intends for this flexibility to be a one-time action in fiscal year 2010 only.*

*In addition, for the purposes of calculating rebenchmarking costs for textbooks for the 2012-2014 biennium, the Department of Education is directed to use the higher of the fiscal year 2009 or 2010 division-level textbook per pupil amount in calculating the base year statewide prevailing per pupil amount. The Department of Education is required to adjust, with one additional year of inflation factor data, any fiscal year 2009 division-level per pupil textbook expenditure data used in calculating the base year statewide prevailing per pupil amount.*

#### **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** - No action was taken.
- **House** - The House proposes that the Chairmen of the House Appropriations and Senate Finance Committees shall appoint up to five members rather than the four previously established from their respective committees to the Joint Subcommittee on Elementary and Secondary Education Funding and the Joint Subcommittee is to make funding recommendations to the respective money committees by December 1, 2009. The Joint Subcommittee is directed to review the methodology for establishing a consistent funding cap process for all state funded instructional and certain support positions.
- *Final General Assembly Action – Accepts the House amendment.*

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

- **Senate** - No action was taken.
- **House** - The House proposes language to allow students seeking degrees in Career and Technical education to be eligible to receive a Virginia Teaching Scholarship.
- *Final General Assembly Action – Accepts the House amendment.*

**Provide flexibility to local school boards**

- **Senate** - No action was taken.

- **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.
- *Final General Assembly Action – Accepts the House amendment.*

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

- **Senate** - No action was taken.
- **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.
- *Final General Assembly Action – No action was taken in the Direct Aid budget; however, an amendment was adopted in the Office of Comprehensive Services budget directing the State Executive Council to work with the Department of Education to ensure that funding in the Comprehensive Services budget is sufficient to pay for the educational services of students that have been placed in or admitted to 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 (IEP).*

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

- **Senate** - No action was taken.
- **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.
- *Final General Assembly Action – Accepts the House amendment.*

**Tuition Assistance Grant for Disabled Students Program**

- **Senate** - No action was taken.
- **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

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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

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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.

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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.”

- ***Final General Assembly Action – No action was taken.***

#### **Encourage localities to apply for Medicaid reimbursements**

- **Senate** - No action was taken.
- **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.
- ***Final General Assembly Action – Accepts the House amendment.***

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

- **Senate** - No action was taken.
- **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,

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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.

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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.”

- *Final General Assembly Action – No action was taken.*

### **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** - Accepts the Governor’s executive amendment and also removes the local match requirements for fiscal year 2010 for textbooks and the Additional Support for School Construction and Operating Costs accounts.
- **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.
- *Final General Assembly Action – Accepts the Senate amendments.*

### **Prohibition Against Discrimination**

- **Senate** - No action was taken.
- **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.
- *Final General Assembly Action – No action was taken.*

### **Statewide Health Insurance Program for Employees of Virginia School Divisions**

- **Senate** – Proposes establishing a statewide health insurance program for employees of Virginia public school divisions that shall be similar in plan design, premium structure, and administration to the state employee health insurance program. The following language from the Senate amendment is provided in its entirety:

“E.1. The Department of Human Resource Management, with the assistance of the Department of Education, shall develop, implement, and administer a statewide health insurance program for employees of Virginia public school divisions that shall be similar in plan design, premium structure, and administration to the state employee health insurance program. Coverage under the Public Schools Health Insurance Program shall be effective beginning July 1, 2010. Except as provided for in paragraph, I.3 of this item, the Public Schools Health Insurance Program administered by the Department of Human Resource Management shall be the sole health insurance plan for public school divisions.

2. Notwithstanding any contrary provision of law, each public school division within the Commonwealth shall be required to enroll in the Public Schools Health Insurance Program created in paragraph I.1, unless such school division elects to exercise its rights as provided in paragraph I.3 of this Item.

3. Subject to policies, procedures and schedules to be promulgated by the Department of Human Resource Management, public school divisions may make an irrevocable election to opt-out of participation in the Public Schools Health Insurance Program authorized in this paragraph.

4. The Department of Human Resource Management shall develop policies and procedures for the enrollment of school divisions and their employees in the Public Schools Health Insurance Program authorized in this paragraph and the one-time election to opt-out of the program authorized in paragraph I.3.”

- **House** - No action was taken.
- *Final General Assembly Action – No action was taken.*

## **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** - Same as Governor’s amended budget.
- **House** - Same as Governor’s amended budget
- *Final General Assembly Action – 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** - No action was taken.
- **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.
- **Final General Assembly Action** – *The General Assembly’s adopted budget provides \$200,000 and 1 FTE position to facilitate the administration of the Interstate Compact on Educational Opportunity for Military Children, pursuant to House Bill 1727 (as passed in the 2009 General Assembly Session). This funding will support the position, state fees paid to the Compact, and travel.*

**Develop a plan for instructional positions for blind and visually impaired students enrolled in public schools**

- **Senate** – Requires the Board of Education to submit a plan to the General Assembly indicating the methods and timelines for including instructional positions needed for blind and visually impaired students enrolled in public schools. The plan must be submitted to the Chairmen of the Senate Finance and House Appropriations Committees by November 1, 2009.
- **House** - No action was taken.
- **Final General Assembly Action** – *No action was taken.*