

Governor's Amendments and Vetoes

2011 General Assembly Session



The Governor vetoed 5 bills and recommended amendments to 132 bills, including the Budget Bill, passed by the 2011 General Assembly. The Division of Legislative Services' staff prepared the following summaries to assist General Assembly members during their deliberations at the Reconvened Session on April 6th. Amendments are arranged in numerical order by bill number, highlighting the major impact of the Governor's recommendations. Not included are two bills returned with amendments and acted upon by the members during the 2011 Regular Session. We hope you will find the information useful.

E. M. Miller, Director, DLS

Governor's Amendments

HB 1418. Special license plates. The Governor's amendments provide that the revenue going to the James River Park System from its revenue-sharing license plates is to be spent on "programs to conserve, maintain, and enhance the James River Park System through trail maintenance and construction, nature education and historical interpretation, park and river cleanup, and removal of invasive plant species and replacement with native plant species in and along the waterways in the parks" rather than the more general "operation and programs in Virginia."

HB 1422. Homestead exemptions. The Governor's amendment expands from a "family" firearm to any firearm, not to exceed \$3,000 in value, that may be held exempt from creditor process. This bill is identical to SB 839.

HB 1435. American Sign Language; recognition for completed coursework. The enrolled bill requires local school divisions that offer American Sign Language to grant academic credit for course completion on the same basis as the successful completion of a foreign language course and to count course completion in American Sign Language toward the fulfillment of any foreign language

requirement for graduation. Additionally, the enrolled bill requires public institutions of higher education in Virginia to count academic credit received for successful completion of American Sign Language courses in a secondary school or higher education institution toward satisfaction of the foreign language entrance requirements. The Governor's amendments clarify that the bill does not require local school divisions to offer American Sign Language.

HB 1487. Venue for criminal sexual assault coupled with a violent felony. Technical amendments.

HB 1508. Local electoral boards; prohibition on being a relative of an elected officeholder or candidate. The Governor's amendments add a delayed effective date to January 1, 2012, and make a clarifying change.

HB 1540. Duties of the Division of Legislative Services. The Governor's amendment provides that the annual report of the Division of Legislative Services to the standing committees of the General Assembly concerning the status of all reports, actions, or data collection required by legislation enacted or otherwise requested by the General Assembly will also be submitted to the Governor.



HB 1584. Illegal gambling; amends definition. The Governor's amendment adds an emergency clause. This bill is identical to SB 1195.

HB 1611. Landlord and tenant laws. The enrolled bill includes a reenactment clause for provisions in the bill relating to the use of electronic service of process. The Governor's amendments add the code sections contained in the bill relating to the use of electronic service of process that are subject to the reenactment clause.

HB 1613. Local prisoner programs; workforces in certain cemeteries. The enrolled bill allows workforces to assist with maintaining privately owned, abandoned cemeteries. The Governor's amendment makes clear workforces would be authorized to assist with abating nuisances as well as removing nuisances that have been identified on such private property.

HB 1629. Game and Inland Fisheries parking violations. The enrolled bill prohibits owners or drivers from having their vehicle stand on Department of Game and Inland Fisheries property outside of designated parking spaces, except to receive or discharge passengers. The Governor's amendment allows drivers to park on the Department-owned property in the case of an emergency. Other technical amendments are made.

HB 1645. Property tax exemption for disabled veterans. The bill implements the constitutional amendment adopted by voters in November 2010 that provides a property tax exemption for veterans who are 100 percent disabled. The Governor's amendment clarifies that the exemption is effective for tax years beginning on or after January 1, 2011. This bill is identical to SB 987.

HB 1668. Community revitalization fund; City of Richmond. Technical amendment. This bill is identical to SB 799.

HB 1686. Distributed solar generation demonstration programs. Technical amendment.

HB 1691. Service members and veterans services. The first Governor's amendment removes an arguably redundant description of veterans and service members as being "in the criminal justice system." In the same

sentence, the language acknowledges that treatment is to be provided to such persons "who are offenders or defendants in the criminal justice system." An additional Governor's amendment rewrites the headline of a new Code section (§ 9.1-173.1) to read "Procedures for treatment of veterans and active service members." The original headline read "Criminal justice procedures for treatment of veterans and active service members." Note that the title of the bill reads "relating to criminal justice procedures for veterans and active military service members." This bill is identical to SB 1063.

HB 1694. Driver's license; suspension for failure to pay child support. The Governor's amendments require that any person who has a child support delinquency agreement with the Department of Social Services to pay such delinquency in full within seven years, in the case of a second or subsequent agreement, as a condition for having his driver's license renewed or reinstated. The enrolled bill provides that such second or subsequent agreements not exceed 10 years.

HB 1696. Motor vehicle dealers and manufacturers. The Governor's amendment provides that the subdivision requiring dealers to construct improvements to facilities or to install new signs or other franchisor image elements shall not apply to any program that is in effect with more than one dealer in the Commonwealth on the effective date of the subdivision or to any renewal or modification of such a program. The Governor's amendment also adds an emergency clause. This bill is identical to SB 1191.

HB 1699. Restoration of firearms rights. The enrolled bill makes parallel the process for a person to petition to have his right to possess or carry a firearm after being acquitted by reason of insanity, adjudicated legally incompetent or mentally incapacitated, or involuntarily committed for mandatory treatment. The Governor's amendments remove the requirement that an audio recording be made of such a hearing. Other amendments are technical and change the word "applicant" to "petitioner."

HB 1708. Pittsylvania County school board; staggered terms. The enrolled bill allows for staggered terms for the Pittsylvania County school board beginning with the

November 2012 general election upon a majority vote of its members. The Governor's amendments allow staggered terms to begin in November 2011 instead of 2012, reflect the correct membership of the Pittsylvania County school board, and ensure that the local electoral board has sufficient time to determine which districts shall be elected for four-year terms and which for two-year terms.

HB 1734. Professional Soil Scientists and Wetland Professionals, Board for; licensed soil scientists. The amendments are technical in nature. This bill is identical to SB 1265.

HB 1763. Charter; Town of Rich Creek. Technical amendment.

HB 1768. Mold remediation; tenant shall be responsible for payment of rent. The enrolled bill specifies that nothing shall be construed by a court of law or otherwise to entitle a tenant to a termination of a tenancy where the landlord has remediated a mold condition in accordance with certain professional standards. The Governor's amendments remove the reference to a court of law.

HB 1773. Secretary of Veterans Affairs and Homeland Security. The enrolled bill moves the Secure Commonwealth Panel under the newly created Secretary of Veterans Affairs and Homeland Security. The Governor's amendment clarifies that existing appointments to the Secure Commonwealth Panel that have not expired as of July 1, 2011, are not affected by the move. This bill is identical to SB 1263.

HB 1795. Virginia Retirement system; plan changes. The Governor's amendment in the nature of a substitute creates an optional defined contribution retirement program and other related benefits for state and local employees beginning January 1, 2012. Employees will be able to elect to participate in the defined benefit retirement plan, or the new defined contribution retirement plan.

Under the new defined contribution plan, both the employer and employee are required to contribute 5 percent of the employee's salary (for a combined total of 10 percent). The employee may make additional

contributions, and if he does, the employer shall match the contribution, dollar for dollar, up to 3.5 percent of salary. Vesting of the employer's contribution to the employee is according to a sliding scale, 20 percent per year, with full vesting after the fifth year of participation.

All employees participating in the new plan are covered under a group disability plan established in the Governor's amendment in the nature of a substitute.

HB 1819. Registration of athlete agents. The enrolled bill excludes from the definition of athlete agent the spouse, parent, sibling, grandparent, or guardian of the student-athlete or individuals acting solely on behalf of a professional sports team. The Governor's amendment excludes from the definition attorneys who are licensed in Virginia.

HB 1822. Local incentives for the design, development, or production of goods for national defense. Technical amendments. This bill is identical to SB 999.

HB 1830. Resource management plans. The Governor's amendment exempts documents and other proprietary information furnished by an agricultural landowner, as part of his resource management plan, from being subject to the Freedom of Information Act, except when such information is required as part of a state or federal enforcement action.

HB 1848. Eligibility for in-state tuition charges. Technical amendment. This bill is identical to SB 1279.

HB 1860. Freedom of Information Act; proceedings for enforcement. Technical amendment.

HB 1868. Adult adopted person; access to identifying information. The enrolled bill requires the State Registrar of Vital Records to mail an adult adopted person's original certificate of birth to him upon order of the Commissioner of Social Services or order of a circuit court. This bill also provides that if a circuit court corrects or establishes a date of birth for a person born in a foreign country during an adoption proceeding or upon a petition to amend a certificate of foreign birth, the State Registrar shall issue a certificate of birth showing the date

of birth established by the court. The Governor's amendment is technical in nature, removing a cross reference to a section that was deleted in another bill passed by the General Assembly and signed by the Governor this session.

HB 1898. Abduction; forced labor or services.

Technical amendment to ensure that cross references in existing law are not affected.

HB 1903. Print-on-demand program; temporary transport license plates to dealers and vehicle owners. Technical amendments.

HB 1911. Video-monitoring system; school bus violations. The Governor's amendment requires that any video recording of an offending driver made by a camera on a school bus include a recording of the activation of one of the school bus-mounted warning devices (flashing red lights, etc.). This bill is identical to SB 946.

HB 1928. Health insurance; independent external reviews. Technical amendments.

HB 1945. Regulation of motor carriers by DMV; commercial driver's licenses. The Governor's amendment removes an amendment made to § 58.1-2402 providing for a tax upon the sale or use of motor vehicles in Virginia of zero percent of the sale price of each truck, tractor truck, trailer, or semitrailer with a gross weight rating of 26,001 pounds or more. This bill is identical to SB 1281.

HB 1951. Virginia Public Procurement Act; bid, performance, and payment bonds. The enrolled bill raises the minimum contract amount required for bid, performance, or payment bonds from \$100,000 to \$500,000 for nontransportation-related construction projects. The purpose of the Governor's amendments is to authorize the Department of Treasury's Division of Risk Management to include in a risk management plan prospective contractors on nontransportation-related state construction contracts less than \$500,000, where the bid bond requirements have been waived and the prospective contractor has been prequalified.

HB 1958. Health insurance; market reforms. The enrolled bill, which conforms inconsistent and conflicting

requirements of Virginia's health insurance laws to corresponding provisions of the federal Patient Protection and Affordable Care Act (PPACA), includes a clause providing that the bill will expire July 1, 2014. The Governor's amendment provides that the provisions of the bill will expire upon the first to occur of (i) July 1, 2014, (ii) a determination by the United States Supreme Court that the PPACA, or any part thereof, is unconstitutional, or (iii) a denial of a petition for a writ of certiorari of a case in which a United States Court of Appeals has found that the PPACA, or any part thereof, is unconstitutional.

HB 2001. Quiet pavement technology. Technical amendment.

HB 2011. Vehicle dealers and dealerships. The Governor's amendment adds the requirement that the Motor Vehicle Dealer Board consult with the Department of Motor Vehicles when studying the provisions of this act.

HB 2018. Cemetery Board; exemptions; resale of interment right. The Governor's amendment removes the second enactment clause regarding possible statutory and regulatory violations related to the sale of interment rights by regulated cemeteries prior to July 1, 2011.

HB 2022. Vehicle overweight vehicles and overweight fees. Technical amendment (to comport with HB 1825 and SB 1005).

HB 2037. Social work; title protection. The enrolled bill provides that it shall be unlawful for any person not licensed by the Board of Social Work to use the title "Social Worker" in writing or in advertising in connection with his practice unless he simultaneously uses the clarifying initials signifying a degree in social work. The bill provides exceptions for federally required and defined social workers in nursing homes and hospices and has a delayed effective date of July 1, 2013. The Governor's amendments are mostly technical; they also codify what was an enactment clause in the enrolled bill, clarifying that this bill does not require the Department of Social Services, or any other entity, to hire persons with approved degrees in social work.

HB 2042. Veterans Services Foundation. The Governor's amendments (i) provide for the annual report of the Veterans Services Foundation to be submitted to the Secretary of Veterans Affairs and Homeland Security rather than the Secretary of Public Safety, and (ii) require the Foundation's quarterly and annual reports to be submitted electronically.

HB 2066. Sex offenses prohibiting entry onto school or other property; penalty. This is a nonsubstantive, clarifying amendment that ensures that the provisions of the section apply, as intended, only to adults and that the exceptions for entry onto school property, etc. do not apply to school buses. This bill is identical to SB 1185.

HB 2072. Charter; City of Hopewell. The amendment attempts to restore language inadvertently deleted. However, the amendment as drafted appears to create a conflict with existing language. This bill is identical to SB 1159.

HB 2076. Office of the State Inspector General. The enrolled bill establishes a State Inspector General to investigate complaints alleging fraud, waste, abuse, or corruption by a state agency or nonstate agency or the officers and employees of such entities. The Governor's amendments (i) remove elected officials of political subdivisions from the provision authorizing limited investigation of criminal matters by the State Inspector General and (ii) make four other technical and clarifying amendments. This bill is identical to SB 1477.

HB 2103. Aboveground storage tanks. The enrolled bill requires the State Water Control Board to develop standards for facilities with aboveground storage tanks in the City of Fairfax having an aggregate capacity of one million gallons or greater, existing prior to January 29, 1992, to upgrade to meet best practices standards for new or retrofitted tanks. The Governor's amendments require the Board to review requirements for these facilities and, if necessary, to develop regulations requiring additional measures to prevent discharges. This bill is identical to SB 843.

HB 2106. Bond; GPS tracking. The Governor's amendment gives the court the explicit option of

requiring that the cost of the GPS monitoring of the defendant be paid by the defendant. In the bill as sent to the Governor, no express provision for payment is included. This bill is identical to SB 925.

HB 2145. Tax documents admissible in court. Technical amendment.

HB 2148. Trademark infringement. Technical amendment.

HB 2158. Bonds in recognizances. The Governor's amendment adds § 19.2-143 to the bill to make it clear that a county, city, or town has the authority to order a refund if a bond in recognizance in a criminal or juvenile case is payable to the county, city, or town.

HB 2160. Implied warranties on new homes; notice of breach. Technical amendment.

HB 2173. Drinking water community confidence reports; publication. The enrolled bill requires the Board of Health to include in its regulations governing waterworks, water supplies, and pure water a process whereby waterworks serving fewer than 10,000 people may seek and the Board may grant a waiver of the requirement that the waterworks mail copies of its consumer confidence report to each customer of the waterworks at least once annually and provides for an alternate means of notifying customers of the existence of the consumer confidence report in a newspaper of general circulation or by other means as the Board may deem appropriate. The Governor's amendment makes clear that the Board may grant a waiver of any such regulation requiring that the waterworks mail copies of its consumer confidence report to each customer at least once annually. This bill is identical to SB 1024.

HB 2176. Game and Inland Fisheries; introduction of new species. Technical amendment. This bill is identical to SB 1017.

HB 2191. Voluntary solar resource development fund. Technical amendments, including deleting a cross-reference to a provision no longer in the bill that would have authorized the Department of Mines, Minerals and Energy to expand the scope of eligible renewable energy projects. This bill is identical to SB 975.

HB 2216. Laboratory results; authority to receive directly. The enrolled bill allows a laboratory to provide a copy of the report of the results of a test directly to the insurance carrier, health maintenance organization, or self-insured plan that provides health insurance or similar coverage to the patient. The Governor's amendments clarify that results may be released to an insurance carrier, health maintenance organization, or self-insured plan only with the prior authorization of the patient. This bill is identical to SB 1116.

HB 2229. Health professionals; competency assessments. The enrolled bill changes the requirement for assessing physicians who have had three medical malpractice judgments or claims in a 10-year period so that it only affects actively practicing physicians. The bill also changes the amount required to trigger the assessment from \$10,000 to \$75,000 and allows the Board of Medicine to post the number of assessments done on its website, rather than through a report to the General Assembly. The Governor's amendments clarify that three separate judgments or claims of more than \$75,000 each are required to trigger the assessment.

HB 2230. Definition of "based aircraft" as used in Title 5.1. The Governor's amendment replaces the term "based aircraft" with "aircraft based in this Commonwealth."

HB 2251. Elections; pollbooks. The Governor's amendment clarifies that the State Board may approve certain materials used in the case of an electronic pollbook failure rather than directly furnish the materials.

HB 2253. Health professions; reciprocity exemption from licensing. The enrolled bill provides an exemption for the requirement that health professionals be licensed for a practitioner who is in good standing with the applicable regulatory agency in another state and who is treating a patient who is being transported to or from Virginia for care. The Governor's amendment limits the application of this exemption to out-of-state practitioners who are transporting someone to or from a Virginia hospital for care, rather than to or from anywhere in Virginia.

HB 2255. Disclosure of health records; dispensing of controlled substances. The enrolled bill clarifies that nothing in the Health Records Privacy Act prohibits a health care provider who dispenses a controlled substance to a patient from disclosing information obtained from the Prescription Monitoring Program to another health care provider when such disclosure is related to the care or treatment of the patient. The enrolled bill also provides that nothing shall prevent a person who prescribes or dispenses a controlled substance from redisclosing information obtained from the Prescription Monitoring Program to another prescriber or dispenser who prescribes or dispenses a controlled substance to a recipient. The Governor's amendment is technical, conforming language clarifying that the bill applies to a provider who prescribes or dispenses medication, throughout the bill. This bill is identical to SB 1029.

HB 2282. Department of General Services; centralized fleet; alternative fuels. The enrolled bill requires the Director of the Department of General Services, the Governor's senior advisor on energy, and the Secretary of Administration to develop a plan for the replacement of state gasoline-fueled vehicles with vehicles using alternative fuels. The Governor's amendments (i) replace the Governor's senior advisor on energy with the Secretary of Natural Resources and (ii) clarify that the replacement plan includes vehicles owned and operated by the state.

HB 2285. Tourism zones; tax revenues for tourism projects. Technical amendment.

HB 2316. Clean energy manufacturing incentive grant program. Currently, a producer of advanced biofuels must have produced at least one million gallons of neat biofuels in Virginia in a calendar year in order to be eligible for a biofuels production incentive grant for that year. The Governor's amendment requires that such a producer meet the threshold of producing at least one million gallons of such fuels before September 30, 2011, in order to be eligible for the incentive grant in any calendar year. Technical amendments are included. This bill is identical to SB 1360.

HB 2324. Investment in research and technology in the Commonwealth. Technical amendments. This bill is identical to SB 1485.

HB 2335. Insurance premiums tax; retaliatory costs tax credit. Technical amendment. This bill is identical to SB 1359.

HB 2361. Child abduction. The enrolled bill provides that property used in conjunction with a violation of subsection D of § 18.2-47 (parental abduction) is subject to forfeiture to the Commonwealth. The Governor's amendments expand the list of crimes to which property is subject to forfeiture to any violation of § 18.2-47 (abduction), § 18.2-48 (abduction with intent to extort or for immoral purposes), or § 18.2-48.1 (abduction by prisoners) where the victim of the abduction is a child. This bill is identical to SB 1141.

HB 2370. Multiple-year hunting licenses. Technical amendments.

HB 2385. Barge and rail usage tax credit. The Governor's amendments (i) clarify that the tax credit will be based upon the total number of 20-foot equivalent units (TEUs) moved by barge or rail and not the increase in the usage of TEUs to move cargo and (ii) reduce the tax credit from \$50 per TEU to \$25 per TEU. This bill is identical to SB 1282.

HB 2387. Powers and duties of the Criminal Justice Services Board and the Department of Criminal Justice Services. The Governor's amendments provide that (i) any locality may establish, or contract for the creation of, a local or regional detoxification center program and (ii) the chief judge of the general district court in the jurisdiction that will be served by the facility shall approve the facility for the diversion of public inebriates from arrest and jail pursuant to § 18.2-388. The district court approval provision is taken from § 9.1-164, a section repealed by this bill. This bill is identical to SB 1163.

HB 2413. Operation of all-terrain vehicles. Technical amendment.

HB 2434. Health benefits exchange. The Governor's amendments provide that the Virginia Exchange shall ensure that no qualified health insurance plan that is sold or offered for sale through an exchange established or operating in Virginia provides coverage for abortions.

This limitation does not apply to an abortion performed when the life of the mother is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when the pregnancy is the result of an alleged act of rape or incest. Governor's amendments also state that (i) the provisions of this act constitute the election of the Commonwealth to prohibit abortion coverage in qualified health plans offered through an exchange in the Commonwealth and (ii) this act shall not be construed or implied to recognize the constitutionality of the federal health care legislation enacted in 2010.

HB 2457. Abandoned and salvage vehicles; licensees; penalty. The Governor's amendment changes the proposed penalty for any violation of the chapter on salvage, nonrepairable, and rebuilt vehicles from a Class 1 misdemeanor and a civil penalty not to exceed \$2,500 for a first violation and a Class 5 felony and suspension of any license issued under the chapter for a second and subsequent violation to the following: First violations shall constitute a Class 1 misdemeanor, and second and subsequent violations shall constitute a Class 5 felony. Upon receipt of any such conviction, the Commissioner may suspend, revoke, cancel, or refuse to renew the license of any licensee under this chapter, and the Commissioner may also assess a civil penalty against such licensee not to exceed \$2,500 for any conviction.

HB 2462. Certain misdemeanor offenses by minors. Technical amendment.

HB 2467. Health insurance coverage for autism spectrum disorder. A Governor's amendment provides that the requirement that insurers provide coverage for autism spectrum disorder will expire if the provision limiting the annual benefit to a maximum of \$35,000 is invalidated by state or federal law or by a court of competent jurisdiction. Other amendments proposed by the Governor (i) require that any behavior analyst who provides or supervises applied behavior analysis be licensed by the Board of Medicine and be independent of the prescribing practitioner; (ii) clarify that the provision barring an insurer from requesting a review of treatment more than once in any 12 months also applies to requests

for an independent review; (iii) provide that the requirement that the contract, policy, or plan cover the cost of obtaining a review of treatment also applies to an independent review; and (iv) state that the ability of insurers to undertake usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment for autism spectrum disorder includes prior authorization procedures. This bill is identical to SB 1062.

HB 2471. Coal mine safety. Technical amendments. This bill is identical to SB 1310.

HB 2479. Virginia Liaison Office. The Governor's amendment removes the repeal of the Code section containing a policy statement supporting the enactment of pooled purchasing of health insurance efforts. This bill is identical to SB 1414.

HB 2510. Virginia Higher Education Opportunity Act of 2011. The enrolled bill establishes the Virginia Higher Education Opportunity Act of 2011 for the purpose of fueling strong economic growth in the Commonwealth and preparing Virginians for the top job opportunities in the knowledge-driven economy of the 21st century. The bill provides for (i) a new higher education funding policy; (ii) the calculation of the state general fund share of an institution's basic operations and instruction funding need; (iii) per student enrollment-based funding; (iv) targeted economic and innovation incentives; (v) the creation of a STEM Public-Private Partnership; and (vi) the creation of a Higher Education Advisory Committee. The Governor's amendments (a) allow both the Governor and the Advisory Committee, rather than just the Advisory Committee, to designate additional members to the Advisory Committee; (b) add to the duties of the Advisory Committee a review of the role of nonpublic institutions in addressing the goals set forth in the bill; and (c) change the due date for the institutional plan due in 2011 from June 1 to July 1, and allow the Governor to modify, delay, or suspend the requirements of this plan for 2011 only. This bill is identical to SB 1459.

HB 2519. Virginia Water Protection Permit. The enrolled bill requires natural resources agencies that

provide comments on the issuance of Virginia Water Protection Permits to provide these comments within 45 days or be deemed to have approved the permit. The Governor's amendment states that if the agency doesn't provide its comments in 45 days it has waived its right to comment. This bill is identical to SB 1021.

HB 2527. Transportation funding. The Governor's amendments (i) remove the requirement that the interest on loans from the Virginia Transportation Infrastructure Bank (Bank) not be less than the yield on United States Treasury securities, and (ii) replace the Secretary of Transportation with the Commonwealth Transportation Board as the entity to determine eligibility of the transportation projects to be funded by the Bank, and (iii) expands the criteria used to make such determinations. This bill is identical to SB 1446.

HB 2531. Virginia port volume increase income tax credit. The Governor's amendments remove the discretion of the Virginia Port Authority to determine the amount of the credit to be allocated to taxpayers and provide that taxpayers who increase their port cargo volume by a minimum of five percent over the base year will be allocated a tax credit equal to \$50 for each 20-foot equivalent unit (TEU) above the base year port cargo volume. The amendments provide for a major facility to be allocated a tax credit in its first calendar year equal to \$50 for each TEU transported through a port facility. Finally, the amendments provide that if qualifying requests for tax credits exceed the annual limit of \$3.2 million in credits, then the tax credits will be prorated among the qualifying taxpayers requesting credits. This bill is identical to SB 1481.

SB 757. Pneumatic gun regulations. Pursuant to the enrolled bill, a locality may not adopt an ordinance that prohibits the shooting of pneumatic guns on private property, with the consent of the owner of the property, if reasonable care is taken to prevent a projectile from crossing the bounds of the property. The intent of the bill was also to invalidate any existing local ordinance that conflicts with this new law. However, the bill as enrolled, would inadvertently invalidate any local ordinance -- concerning any subject matter and not just regulations regarding pneumatic guns -- adopted prior to 2004. The

Governor's amendment would correct this unintended consequence, and would amend the bill so that only local ordinances in conflict with this new provision would be invalidated.

SB 799. Community revitalization fund; City of Richmond. Technical amendment. This bill is identical to HB 1668.

SB 827. Electronic notaries. The Governor's amendment clarifies the precise sources of specifications by which Personal Identity Verification cards used in digital certificates must comply in order to be used as confirmation of "satisfactory evidence of identity" in electronic notarization.

SB 839. Homestead exemptions. The Governor's amendment expands from a "family" firearm to any firearm, not to exceed \$3,000 in value, that may be held exempt from creditor process. This bill is identical to HB 1422.

SB 843. Aboveground storage tanks. The enrolled bill requires the State Water Control Board to develop standards for facilities with aboveground storage tanks in the City of Fairfax having an aggregate capacity of one million gallons or greater, existing prior to January 29, 1992, to upgrade to meet best practices standards for new or retrofitted tanks. The Governor's amendments require the Board to review requirements for these facilities and, if necessary, develop regulations requiring additional measures to prevent discharges. This bill is identical to HB 2103.

SB 854. Sales of secondhand building materials. Technical amendments.

SB 925. Bond; GPS tracking. The Governor's amendment gives the court the explicit option of requiring that the cost of the GPS monitoring of the defendant be paid by the defendant. In the bill as sent to the Governor, no express provision for payment is included. This bill is identical to HB 2106.

SB 946. Video-monitoring system; school bus violations. The Governor's amendment requires that any video recording of an offending driver made by a camera

on a school bus include a recording of the activation of one of the school bus-mounted warning devices (flashing red lights, etc.). This bill is identical to HB 1911.

SB 964. Coastal resource management. The enrolled bill requires the Marine Resources Commission to establish and implement a general permit regulation that authorizes and encourages the use of living shorelines as the preferred alternative for stabilizing tidal shorelines. The enrolled bill directs the localities in Tidewater Virginia beginning in 2013, to incorporate comprehensive coastal resource management guidance developed by the Virginia Institute of Marine Science into their next scheduled review of their comprehensive plans. The Governor's amendment requires these localities to consider the guidance during their next scheduled review of their comprehensive plan.

SB 975. Voluntary solar resource development fund. Technical amendments, including deleting a cross-reference to a provision no longer in the bill that would have authorized the Department of Mines, Minerals and Energy to expand the scope of eligible renewable energy projects. This bill is identical to HB 2191.

SB 987. Property tax exemption for disabled veterans. The bill implements the constitutional amendment adopted by voters in November 2010 that provides a property tax exemption for veterans who are 100 percent disabled. The Governor's amendment clarifies that the exemption is effective for tax years beginning on or after January 1, 2011. This bill is identical to HB 1645.

SB 999. Local incentives for the design, development, or production of goods for national defense. Technical amendments. This bill is identical to HB 1822.

SB 1017. Game and Inland Fisheries; introduction of new species. Technical amendment. This bill is identical to HB 2176.

SB 1021. Virginia Water Protection Permit. The enrolled bill requires natural resources agencies that provide comments on the issuance of Virginia Water Protection Permits to provide these comments within 45

days or be deemed to have approved the permit. The Governor's amendment states that if the agency doesn't provide its comments in 45 days it has waived its right to comment. This bill is identical to HB 2519.

SB 1024. Drinking water community confidence reports; publication. The enrolled bill requires the Board of Health to include in its regulations governing waterworks, water supplies, and pure water a process whereby waterworks serving fewer than 10,000 people may seek and the Board may grant a waiver of the requirement that the waterworks mail copies of its consumer confidence report to each customer of the waterworks at least once annually and provides for an alternate means of notifying customers of the existence of the consumer confidence report in a newspaper of general circulation or by other means as the Board may deem appropriate. The Governor's amendment makes clear that the Board may grant a waiver of any such regulation requiring that the waterworks mail copies of its consumer confidence report to each customer at least once annually. This bill is identical to HB 2173.

SB 1026. Care of agricultural animals. The Governor's amendment prohibits owners of agricultural animals to engage in animal fighting.

SB 1029. Disclosure of health records; dispensing of controlled substances. The enrolled bill clarifies that nothing in the Health Records Privacy Act prohibits a health care provider who dispenses a controlled substance to a patient from disclosing information obtained from the Prescription Monitoring Program to another health care provider when such disclosure is related to the care or treatment of the patient. The bill also provides that nothing shall prevent a person who prescribes or dispenses a controlled substance from redisclosing information obtained from the Prescription Monitoring Program to another prescriber or dispenser who prescribes or dispenses a controlled substance to a recipient. The Governor's amendment is technical, conforming language clarifying that the bill applies to a provider who prescribes or dispenses medication, throughout the bill. This bill is identical to HB 2255.

SB 1057. Reports by executive branch entities to the General Assembly. The enrolled bill authorizes state

entities required to submit a report to multiple legislative branch entities to develop a consolidated report containing all required information. The Governor's amendment removes a limitation of 100 printed hard copies of such annual or biennial reports to the Governor and General Assembly and provides that no hard copies of such annual or biennial reports may be printed unless requested by a member of the General Assembly under the existing procedure for making such requests.

SB 1059. Master Settlement Agreement; regulation of cigarette manufacturers. Technical amendments.

SB 1062. Health insurance coverage for autism spectrum disorder. A Governor's amendment provides that the requirement that insurers provide coverage for autism spectrum disorder will expire if the provision limiting the annual benefit to a maximum of \$35,000 is invalidated by state or federal law or by a court of competent jurisdiction. Other amendments proposed by the Governor (i) require that any behavior analyst who provides or supervises applied behavior analysis be licensed by the Board of Medicine and be independent of the prescribing practitioner; (ii) clarify that the provision barring an insurer from requesting a review of treatment more than once in any 12 months also applies to requests for an independent review; (iii) provide that the requirement that the contract, policy, or plan cover the cost of obtaining a review of treatment also applies to an independent review; and (iv) state that the ability of insurers to undertake usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment for autism spectrum disorder includes prior authorization procedures. This bill is identical to HB 2467.

SB 1063. Service members and veterans services. The first Governor's amendment removes an arguably redundant description of veterans and service members as being "in the criminal justice system." In the same sentence, the language acknowledges that treatment is to be provided to such persons "who are offenders or defendants in the criminal justice system." An additional Governor's amendment rewrites the headline of a new Code section (§ 9.1-173.1) to read "Procedures for treatment of veterans and active service members." The original headline read "Criminal justice procedures for

treatment of veterans and active service members." Note that the title of the bill reads "relating to criminal justice procedures for veterans and active military service members." This bill is identical to HB 1691.

SB 1069. Virginia Code Commission. The Governor's amendment clarifies that the Governor or his designee will serve as a member of the Virginia Code Commission.

SB 1116. Laboratory results; authority to receive directly. The enrolled bill allows a laboratory to provide a copy of the report of the results of a test directly to the insurance carrier, health maintenance organization, or self-insured plan that provides health insurance or similar coverage to the patient. The Governor's amendments clarify that results may be released to an insurance carrier, health maintenance organization, or self-insured plan only with the prior authorization of the patient. This bill is identical to HB 2216.

SB 1124. Administration of gross premium tax on insurance companies. Technical amendments.

SB 1130. Taxation; obsolete Virginia tax code language deleted. When the bill came to House Finance and additional changes were made, the incorrect version was used in the substitute that came out of the committee and then the House. The Governor's amendment in the nature of a substitute contains all of the changes originally intended by the Senate and the House Finance Committee.

SB 1141. Child abduction. The enrolled bill provides that property used in conjunction with a violation of subsection D of § 18.2-47 (parental abduction) is subject to forfeiture to the Commonwealth. The Governor's amendments expand the list of crimes to which property is subject to forfeiture to any violation of § 18.2-47 (abduction), § 18.2-48 (abduction with intent to extort or for immoral purposes), or § 18.2-48.1 (abduction by prisoners) where the victim of the abduction is a child. This bill is identical to HB 2361.

SB 1159. Charter; City of Hopewell. The amendment attempts to restore language inadvertently deleted. However, the amendment as drafted appears to create a conflict with existing language. This bill is identical to HB 2072.

SB 1163. Powers and duties of the Criminal Justice Services Board and the Department of Criminal Justice Services. The Governor's amendments provide that (i) any locality may establish, or contract for the creation of, a local or regional detoxification center program and (ii) that the chief judge of the general district court in the jurisdiction that will be served by the facility shall approve the facility for the diversion of public inebriates from arrest and jail pursuant to § 18.2-388. The district court approval provision is taken from § 9.1-164, a section repealed by this bill. This bill is identical to HB 2387.

SB 1185. Sex offenses prohibiting entry onto school or other property; penalty. This is a nonsubstantive, clarifying amendment that ensures that the provisions of the section apply, as intended, only to adults and that the exceptions for entry onto school property, etc., do not apply to school buses. This bill is identical to HB 2066.

SB 1191. Motor vehicle dealers and manufacturers. The Governor's amendment provides that the subdivision requiring dealers to construct improvements to facilities or to install new signs or other franchisor image elements shall not apply to any program that is in effect with more than one dealer in the Commonwealth on the effective date of the subdivision or to any renewal or modification of such a program. The Governor's amendment also adds an emergency clause. This bill is identical to HB 1696.

SB 1195. Illegal gambling; amends definition. The Governor's amendment adds an emergency clause. This bill is identical to HB 1584.

SB 1221. Local rezoning actions; limited review by VDOT. The bill as passed provides for a more limited review of proposed rezonings by VDOT when a property has already been subject to a VDOT review in connection with a comprehensive plan review. The Governor's amendment specifies that the previous review must have included a traffic impact statement that met the requirements of a rezoning submittal and that the rezoning shall be consistent with the assumptions contained in that previous traffic impact statement.

SB 1224. Temporary Assistance for Needy Families. The enrolled bill provides that the Department of Social Services is designated as the state agency responsible for coordinating state efforts related to supporting public agencies and charitable and community groups seeking to assist low-income Virginians in their efforts to become self-sufficient and establishes the Temporary Assistance for Needy Families Fund to supplement the Department's administration of the Temporary Assistance for Needy Families block grant and assist the Commonwealth in maximizing program funds by leveraging individual, corporate, and charitable donations. The Governor's amendment reduces the maximum amount of funds in the Temporary Assistance for Needy Families Fund that may be used to pay expenses related to the Department's administration of the program from 12 percent to 10 percent.

SB 1263. Secretary of Veterans Affairs and Homeland Security. The enrolled bill moves the Secure Commonwealth Panel under the newly created Secretary of Veterans Affairs and Homeland Security. The Governor's amendment clarifies that existing appointments to the Secure Commonwealth Panel that have not expired as of July 1, 2011, are not affected by the move. This bill is identical to HB 1773.

SB 1265. Professional Soil Scientists and Wetland Professionals, Board for; licensed soil scientists. The amendments are technical in nature. This bill is identical to HB 1734.

SB 1279. Eligibility for in-state tuition charges. Technical amendment. This bill is identical to HB 1848.

SB 1281. Regulation of motor carriers by DMV; commercial driver's licenses. The Governor's amendment removes an amendment made to § 58.1-2402 providing for a tax upon the sale or use of motor vehicles in Virginia of zero percent of the sale price of each truck, tractor truck, trailer, or semitrailer with a gross weight rating of 26,001 pounds or more. This bill is identical to HB 1945.

SB 1282. Barge and rail usage tax credit. The Governor's amendments (i) clarify that the tax credit will

be based upon the total number of 20-foot equivalent units (TEUs) moved by barge or rail and not the increase in the usage of TEUs to move cargo and (ii) reduce the tax credit from \$50 per TEU to \$25 per TEU. This bill is identical to HB 2385.

SB 1310. Coal mine safety. Technical amendments. This bill is identical to HB 2471.

SB 1359. Insurance premiums tax; retaliatory costs tax credit. Technical amendment. This bill is identical to HB 2335.

SB 1360. Clean energy manufacturing incentive grant program. Currently, a producer of advanced biofuels must have produced at least one million gallons of neat biofuels in Virginia in a calendar year in order to be eligible for a biofuels production incentive grant for that year. The Governor's amendment requires that such producer meet the threshold of producing at least one million gallons of such fuels before September 30, 2011, in order to be eligible for the incentive grant in any calendar year. Technical amendments are included. This bill is identical to HB 2316.

SB 1375. Board for Contractors; regulation of building analysts. The Governor's amendments (i) provide that the emergency regulations that the bill requires the Board to adopt will remain in full force and effect until replaced by final regulations and (ii) require the Board for Professional and Occupational Regulation to evaluate the regulation of residential building energy analysts and submit a report by November 1, 2013, to the Governor and the relevant House and Senate committee chairs on whether a different degree of regulation should be imposed.

SB 1384. State's tax code; advances conformity with federal law. Technical amendment.

SB 1414. Virginia Liaison Office. The Governor's amendment removes the repeal of the Code section containing a policy statement supporting the enactment of pooled purchasing of health insurance efforts. This bill is identical to HB 2479.

SB 1446. Transportation funding. The Governor's amendments (i) remove the requirement that the interest on loans from the Virginia Transportation Infrastructure

Bank (Bank) not be less than the yield on United States Treasury securities and (ii) replace the Secretary of Transportation with the Commonwealth Transportation Board as the entity to determine eligibility of the transportation projects to be funded by the Bank, and (iii) expands the criteria used to make such determinations. This bill is identical to HB 2527.

SB 1459. Virginia Higher Education Opportunity Act of 2011. The enrolled bill establishes the Virginia Higher Education Opportunity Act of 2011 for the purpose of fueling strong economic growth in the Commonwealth and preparing Virginians for the top job opportunities in the knowledge-driven economy of the 21st century. The bill provides for (i) a new higher education funding policy; (ii) the calculation of the state general fund share of an institution's basic operations and instruction funding need; (iii) per student enrollment-based funding; (iv) targeted economic and innovation incentives; (v) the creation of a STEM Public-Private Partnership; and (vi) the creation of a Higher Education Advisory Committee. The Governor's amendments (a) allow both the Governor and the Advisory Committee, rather than just the Advisory Committee, to designate additional members to the Advisory Committee; (b) add to the duties of the Advisory Committee a review of the role of nonpublic institutions in addressing the goals set forth in the bill; and (c) change the due date for the institutional plan due in 2011 from June 1 to July 1, and allow the Governor to modify, delay, or suspend the requirements of this plan for 2011 only. This bill is identical to HB 2510.

SB 1462. VDOT regulations; transportation planning; subdivision streets. Technical amendments.

SB 1477. Office of the State Inspector General. The enrolled bill establishes a State Inspector General to investigate complaints alleging fraud, waste, abuse, or corruption by a state agency or nonstate agency or the officers and employees of such entities. The Governor's amendments (i) remove elected officials of political subdivisions from the provision authorizing limited investigation of criminal matters by the State Inspector General and (ii) make four other technical and clarifying amendments. This bill is identical to HB 2076.

SB 1481. Virginia port volume increase income tax credit. The Governor's amendments remove the discretion of the Virginia Port Authority to determine the amount of the credit to be allocated to taxpayers and provide that taxpayers who increase their port cargo volume by a minimum of five percent over the base year will be allocated a tax credit equal to \$50 for each 20-foot equivalent unit (TEU) above the base year port cargo volume. The amendments provide for a major facility to be allocated a tax credit in its first calendar year equal to \$50 for each TEU transported through a port facility. Finally, the amendments provide that if qualifying requests for tax credits exceed the annual limit of \$3.2 million in credits, then the tax credits will be prorated among the qualifying taxpayers requesting credits. This bill is identical to HB 2531.

SB 1483. State and local government entities. Technical amendments.

SB 1485. Investment in research and technology in the Commonwealth. Technical amendments. This bill is identical to HB 2324.

Governor's Vetoes

HB 1459. Remedies; limitation on recovery in certain medical malpractice actions. The enrolled bill increases from \$2 million to \$2.05 million, on July 1, 2012, the cap on the recovery in actions against health care providers for medical malpractice. Thereafter, the cap is increased by \$50,000 annually with the last increase on July 1, 2031. The Governor's explanation for the veto states "Virginia currently has a climate that has effectively stabilized malpractice premiums, and attracted health care service providers to the Commonwealth. Virginia's \$2 million cap is the highest all-encompassing cap in the nation, and was last raised in 2008. Raising the cap for medical malpractice judgments to \$3 million over the next twenty years, without further reforms in the medical malpractice litigation system, will not meaningfully protect against health care cost increases. Federal health reform law mandates, currently in litigation, will cost Virginia an estimated \$2 billion over the next 10 years, and is creating great uncertainty in the health care system. Thus, adding to system costs at this time without

other offsets should not occur. While I commend the affected stakeholders for working diligently together, increasing the medical malpractice cap will ultimately lead towards higher health care costs for doctors, hospitals, businesses, and most importantly, patients." This bill is identical to SB 771.

HB 1738. Reporting of water withdrawals. The Governor vetoed the enrolled bill that authorizes the State Water Control Board to impose a civil penalty, not to exceed \$1,000, on any person who fails to register and report certain water withdrawal information. This requirement would apply to any person who withdraws more than one million gallons in any single month for crop irrigation or who withdraws during a single month a daily average that exceeds 10,000 gallons per day.

SB 771. Remedies; limitation on recovery in certain medical malpractice actions. The enrolled bill increases from \$2 million to \$2.05 million, on July 1, 2012, the cap on the recovery in actions against health care providers for medical malpractice. Thereafter, the cap is increased by \$50,000 annually with the last increase on July 1, 2031. The Governor's explanation for the veto states "Virginia currently has a climate that has effectively stabilized malpractice premiums, and attracted health care service providers to the Commonwealth. Virginia's \$2 million cap is the highest all-encompassing cap in the nation, and was last raised in 2008. Raising the cap for medical malpractice judgments to \$3 million over the next twenty years, without further reforms in the medical malpractice litigation system, will not meaningfully protect against health care cost increases. Federal health reform law mandates, currently in litigation, will cost Virginia an estimated \$2 billion over the next 10 years, and is creating great uncertainty in the health care system. Thus, adding to system costs at this time without other offsets should not occur. While I commend the affected stakeholders for working diligently together, increasing the medical malpractice cap will ultimately lead towards higher health care costs for doctors, hospitals, businesses, and most importantly, patients." This bill is identical to HB 1459.

SB 966. Public schools; physical education requirement. The enrolled bill requires at least 150

minutes of physical education per week on average during the regular school year for grades K through eight, with a similar goal for high school students. This requirement would go into effect beginning with the 2014-2015 school year and would not apply to any half-day kindergarten. The Governor's explanation states that he is vetoing the measure because it is an overly burdensome unfunded mandate on the local school divisions.

SB 1119. Permit compliance. The Governor vetoed the enrolled bill that increases the limit of civil penalty issued by a special order of the Director of the Department of Environmental Quality from \$10,000 to \$10,000 for an initial violation, \$15,000 for a second violation of the same provision, and \$30,000 for the third or subsequent violation of the same provision.

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***Bills Returned by the Governor after Sine Die to
the Regular Reconvened Session (1986-2011)***

| YEAR | GOVERNOR | AMENDMENTS | VETOES | UNSIGNED AFTER SINE DIE | TOTAL SENT TO GOVERNOR | PERCENT RETURNED AFTER SINE DIE |
|-------------|-----------------|-------------------|---------------|----------------------------------------|---------------------------------------|------------------------------------------------|
| 1986 | Baliles | 51 | 4 | 55 | 648 | 8.5 |
| 1987 | | 85 | 1 | 86 | 724 | 11.9 |
| 1988 | | 107 | 8 | 115 | 915 | 12.6 |
| 1989 | | 77 | 7 | 84 | 752 | 11.2 |
| 1990 | Wilder | 82 | 8 | 90 | 980 | 9.2 |
| 1991 | | 83 | 19 | 102 | 742 | 13.7 |
| 1992 | | 82 | 13 | 95 | 916 | 10.4 |
| 1993 | | 110 | 13 | 123 | 1010 | 12.2 |
| 1994 | Allen | 160 | 20 | 180 | 995 | 18.1 |
| 1995 | | 153 | 11 | 164 | 867 | 18.9 |
| 1996 | | 151 | 9 | 160 | 1066 | 15.0 |
| 1997 | | 155 | 11 | 166 | 933 | 17.8 |
| 1998 | Gilmore | 147 | 24 | 171 | 939 | 18.2 |
| 1999 | | 118 | 13 | 131 | 1062 | 12.3 |
| 2000 | | 60 | 16 | 76 | 1089 | 7.0 |
| 2001 | | 91 | 7 | 98 | 882 | 11.1 |
| 2002 | Warner | 74 | 1 | 75 | 899 | 8.3 |
| 2003 | | 87 | 4 | 91 | 1046 | 8.7 |
| 2004 | | 60 | 2 | 62 | 1035 | 6.0 |
| 2005 | | 45 | 1 | 46 | 949 | 4.8 |
| 2006 | Kaine | 123 | 7 | 130 | 958 | 13.6 |
| 2007 | | 106 | 10 | 116 | 958 | 12.1 |
| 2008 | | 36 | 1 | 37 | 889 | 4.2 |
| 2009 | | 101 | 12 | 113 | 886 | 12.8 |
| 2010 | McDonnell | 102 | 0 | 102 | 871 | 11.7 |
| 2011* | | 132 | 5 | 137 | 892 | 15.4 |

* Two bills also were returned and approved with Governor's amendments during the 2011 Regular Session.
Totals include HB 1500, but do not include line item vetoes to the Budget Bill.

Sources: House and Senate Journals and Acts of Assembly.

G o v e r n o r ' s A m e n d m e n t s a n d V e t o e s

Governor's Amendments and Vetoes
2011 General Assembly Session

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